

In the matter of:  
Chestnut Coal Company  
No. 13 Slope  
I.D. No. 36-09475

Petition for Modification  
  
Docket No. M-2007-053-C

PROPOSED ORDER OF DISMISSAL

On July 31, 2007, Chestnut Coal Company filed a petition pursuant to 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. § 811(c), and 30 C.F.R. § 44 *et seq.*, for the modification of the application of 30 C.F.R. § 75.360, a mandatory safety standard. When the petition was filed, the name of affected mine was No. 11 Slope; effective August 21, 2007, the name of the mine was changed to No. 13 Slope.

The petitioner requests modification of 30 C.F.R. § 75.360, as it applies to underground anthracite mines, to allow the visual examination of mine seals while riding into the mine on a hoisted slope entry conveyance (gunboat) in the mine's main intake aircourse combined with air quality and quantity measurements where air enters the slope and where it splits at the gangway(s).

On October 15, 2008, during the MSHA investigation of the requested modification, the petitioner indicated that the mine has no mine seals and does not intend to install any seals along the slope, meaning that there will never be seals subject to preshift examination under 30 C.F.R. § 75.360(b)(5). Therefore, the petition investigator concluded that no modification of the standard is needed and petition should be dismissed.

ORDER

Therefore, pursuant to the authority delegated by the Secretary of Labor to the Administrator for Coal Mine Safety and Health, Chestnut Coal Company's Petition for Modification of 30 C.F.R. § 75.360 at No. 13 Slope mine is hereby:

DISMISSED.

Any party to this action desiring a hearing on this matter must file in accordance with 30 C.F.R. § 44 within 30 days. The request for hearing must be filed with the Administrator for Coal Mine Safety and Health, 1100 Wilson Boulevard, Arlington, Virginia 22209-3939.

If a hearing is requested, the request shall contain a concise summary of position on the issues of fact or law desired to be raised by the party requesting the hearing, including specific objections to the proposed decision. A party other than Petitioner who has requested a hearing may also comment upon all issues of fact or law presented in the petition, and any party to this action requesting a hearing may indicate a desired hearing site. If no request for a hearing is filed within 30 days after service thereof, the Order of Dismissal will become final.

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Stephen J. Gigliotti  
Chief, Safety Division for  
Coal Mine Safety and Health