

In the matter of
Jim Walter Resources, Inc.
No. 4 Mine
I.D. No. 01-01247

Petition for Modification

Docket No. M-2009-014-C

PROPOSED ORDER OF DISMISSAL

On May 7, 2009, Jim Walter Resources, Inc. 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. § 75.351(q)(2) to Petitioner's No. 4 Mine, located in Tuscaloosa County, Alabama.

On June 9, 2009, the Office of Standards, Regulations and Variances (OSRV) received comments from the United Mine Workers of America (UMWA). The UMWA protested the proposed petition in that the petitioner had not proposed an alternate method of achieving the result of the mandatory standard and that the proposal would not at all times guarantee no less than the same measure of protection afforded the miners by the present application of the standard.

On August 14, 2009, Jim Walter Resources, Inc. applied to OSRV for temporary relief pending a proposed decision and order for the submitted Petition for Modification.

On August 21, 2009, MSHA received a letter from the petitioner requesting the petition be withdrawn. As a result, the petition is no longer needed and should be dismissed.

Therefore, pursuant to the authority delegated by the Secretary of Labor to the Administrator for Coal Mine Safety and Health, Jim Walter Resources, Inc.'s Petition for Modification of 30 C.F.R. § 75.351(q)(2) to its No. 4 Mine is hereby:

DISMISSED.

Any party to this action desiring a hearing on this matter must file in accordance with 30 C.F.R. § 44.14, 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 Decision and Order will become final and must be posted by the operator on the mine bulletin board at the mine.

Marcus A. Smith
Acting Chief, Division of Safety for
Coal Mine Safety and Health