

In the matter of
Bledsoe Coal Corporation
(Formerly Leeco, Inc.)
Mine No. 4
I.D. No. 15-11065

Petition for Modification

Docket No. M-1997-044-C

PROPOSED DECISION AND ORDER

On March 31, 1997, a petition was filed seeking a modification of the application of 30 CFR 75.362(d)(2) to Petitioner's Mine No. 4 located in Perry County Kentucky. The Petitioner alleges that application of this standard will result in a diminution of safety to the miners and that the alternative method proposed in the petition will at all times guarantee no less than the same measure of protection afforded by the standard.

After a careful review of the entire record and other information referenced herein, this Proposed Decision and Order is issued.

Finding of Fact and Conclusion of Law

The petitioned portion of the regulation requires methane tests to be made at the face from under permanent roof support, using extendable probes or other acceptable means.

In the alternative to compliance with 30 CFR 75.362(d)(2), Petitioner proposes the following for roof bolters:

In working places before roof bolters are taken into the place or energized, methane tests shall be taken at the face from under permanent roof support or when such test is not appropriate because the last row of permanent support is sufficiently back from the face, using a probe with a maximum extension of 20 feet.

Subsequent to this filing, MSHA, on July 7, 2003, promulgated changes to the mandatory safety standards governing the requirement for making periodic methane tests at face areas from under permanent roof support during roof bolting activities. This new regulation eliminated the need for petitions for modification of 30 CFR 75.362(d)(2) as it applies to making periodic methane tests at face areas during roof bolting

activities and was effective August 8, 2003.

Therefore, pursuant to the authority delegated by the Secretary of Labor to the Administrator for Coal Mine Safety and Health, Bledsoe Coal Corporation's Petition for Modification of 30 CFR 75.362(d)(2) as it applies to making periodic methane tests at face areas during roof bolting activities is dismissed without prejudice.

Any party to this action desiring a hearing on this matter must file in accordance with 30 CFR 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 shall 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.

Terry L. Bentley
Chief, Division of Safety
Coal Mine Safety and Health