

In the matter of
Independence Coal Company, Inc.
Jack=s Branch Buffalo Creek Mine
I.D. No. 46-08513

Petition for Modification

Docket No. M-2003-007-C

PROPOSED DECISION AND ORDER

On January 27, 2003, a petition was filed seeking an amend the special terms and conditions used in granting the modification request for the use of high-voltage continuous mining machines under Docket No. M-1998-063-C. The petitioner's mine is in Boone County, West Virginia.

The Petitioner alleges that the amended alternative method outlined in the petition will at all times guarantee no less than the same measure of protection afforded by the standard.

MSHA personnel conducted an investigation of the petition and filed a report of their findings and recommendations with the Administrator for Coal Mine Safety and Health. After a careful review of the entire record, including the petition, and MSHA=s investigative report and recommendation, this Proposed Decision and Order (PDO) is issued

Finding of Fact and Conclusion of Law

The amended alternative method proposed by the Petitioner will not guarantee at least the same measure of protection afforded the miners under Docket No. M-1998-063-C.

The petitioner, Independence Coal Company, Inc. requests that the high-voltage trailing cable be treated just as a 995-volt trailing cable. The petitioner submitted new terms and condition that were essentially the same as the original granting terms and conditions with the exception that the special requirements for handling, hanging, guarding and storing the 2400-volt trailing cable were removed. The petitioner did not offer addition safety precautions in the amended alternative method to off-set or replace the protections provided by the provision removed from the granting terms and conditions.

On the basis of the petition and the findings of MSHA=s investigation, Independence Coal Company, Inc. is denied the amendment to Docket M-1998-063-C to its Jack=s Branch Buffalo Creek Mine.

ORDER

Wherefore, pursuant to the authority delegated by the Secretary of Labor to the Administrator for Coal Mine Safety and Health, and pursuant to Section 101(c) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C., Sec. 811(c), it is ordered that Independence Coal Company, Inc.=s Petition for Modification of the application of 30 CFR 75.1002 in the Jack=s Branch Buffalo Creek Mine is hereby denied.

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.

John F. Langton
Acting Administrator
for Coal Mine Safety and Health