

In the matter of  
Foggy Mountain Coal Company  
No. 1 Mine  
I. D. No. 15-17813

Petition for Modification  
  
Docket No. M-2003-056-C

PROPOSED ORDER OF DISMISSAL

On August 25, 2003, a petition was filed seeking a modification of the application of 30 CFR 75.503(18.41(f)) to Petitioner's No. 1 Mine located in Pike 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 for a mobile battery-powered machine, a plug padlocked to the receptacle will be acceptable in lieu of an interlock provided the plug is held in place by a threaded ring or equivalent mechanical fastening in addition to the padlock.

In the alternative to compliance with 30 CFR 75.503 (18.41(f)), Petitioner proposes the following:

The use of permanently installed, spring loaded locking devices to prevent unintentional loosening of battery plugs from battery receptacles.

Subsequent to this filing, MSHA, on June 23, 2003, promulgated changes to the mandatory safety standards governing the requirement for a plug padlocked to the receptacle for mobile battery-powered equipment. This new regulation eliminated the need for petitions for modification of 30 CFR 75.503 (18.41(f)) which allows spring loaded locking devices to be used as an acceptable means of securing plug and receptacle type connectors on mobile battery-powered equipment and was effective August 22, 2003.

Therefore, pursuant to the authority delegated by the Secretary of Labor to the Administrator for Coal Mine Safety and Health, Foggy Mountain Coal Company, Inc's Petition for Modification of 30 CFR 75.503 (18.41(f)) 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.

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