

May 11, 2007

In the matter of:  
Chestnut Coal Company  
No. 10 Slope  
ID No. 36-07059

Petition for Modification

<u>Docket No.</u>	<u>30 CFR Standard</u>	<u>Granted</u>	<u>Finalized</u>
M-1981-095-C	75.1714	December 19, 1986	January 30, 1987

### PROPOSED DECISION AND ORDER TO REVOKE

MSHA's Proposed Decision and Order (PDO) to grant the petitioner's requested modification of 30 CFR 75.1714 permitted the subject mine to provide miners with approved filter-type self-rescuers in lieu of approved self-contained self-rescuers (SCSRs).

The Chestnut Coal Company's Petition for Modification was granted, conditioned upon compliance with the following special terms and conditions:

1. The evacuation time from any active workings to the surface shall not exceed 12 minutes.
2. Changes in conditions or practices, such as an increase in evacuation time, an increase in the number or size of units of electrical equipment underground, the proximity of mines with workings above or below the [subject] mine, an increase in the methane liberation, or a change in vein thickness, must be reported to the District Manager so an evaluation can be made to determine whether the changes adversely affect the basis on which [the] petition is granted.

MSHA has determined that conditions and travel distances in Chestnut Coal Company's No. 10 Slope have substantially changed: The deepest penetration of the mine is now 1,300 feet. It takes MSHA inspectors 45 minutes to travel the alternate escapeway and 15 minutes to travel the main escapeway and miners were not carrying or wearing filter-type self-rescuers. At the time of MSHA's investigation of the petition, travel distances ranged from 1,025 feet in the intake escapeway to 1,075 in the return emergency escapeway and travel times were 8 minutes and 9 minutes 20 seconds, respectively, as walked and timed by MSHA personnel. When the investigation was made at the No. 10 Slope, travel time out of the mine was not expected to exceed 12 minutes. The increase in evacuation time was not reported to the District Manager as required by the terms and conditions of the decision to grant the modification.

As a result of the changes in travel times out of the mine, MSHA has determined that the mining conditions have changed and that the findings of MSHA's investigation, which originally supported the modification, are no longer valid. In addition, neglecting to report the increase in

travel time to the District Manager represents a failure to comply with the terms and conditions of the PDO to grant the modification. 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 Health Act of 1977, 30 U.S.C. 811(c), the modification as it applies to the referenced mine is hereby:

## REVOKED

As a result of this order to revoke, Chestnut Coal Company's No. 10 Slope must now comply with all requirements of 30 CFR 75.1714(a), Availability of approved self-rescue devices; instruction in use and location, which states,

Each operator shall make available to each miner who goes underground, and to visitors authorized to enter the mine by the operator, an approved self-rescue device or devices which is adequate to protect such person for 1 hour or longer.

In addition to the requirements of § 75.1714 above, the subject mine must also comply with all requirements of 30 CFR 75.1714-4 (Additional Self-Contained Self-Rescuers) which reads, in § 75.1714(a)(1),

(a) Additional SCSRs in work places. In addition to the requirements in §§ 75.1714, 75.1714-1, 75.1714-2, and 75.1714-3 of this part, the mine operator shall provide the following:

(1) At least one additional SCSR, which provides protection for a period of one hour or longer, for each person at a fixed underground work location.

Pursuant to 30 CFR 44.52, revocations of the granted modifications will become final 30 days after service of this Proposed Decision and Order to Revoke, unless a hearing is requested on the Decision and Order. 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 the 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 Order to Revoke will become final.

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Michael G. Kalich  
Acting Chief, Division of Safety  
Coal Mine Safety and Health