

CCASE:  
MSHA V. PEABODY COAL  
DDATE:  
19920714  
TTEXT:  
July 14, 1992  
SECRETARY OF LABOR  
MINE SAFETY AND HEALTH  
ADMINISTRATION (MSHA)

v.

Docket No. KENT 91-1231

PEABODY COAL COMPANY

ORDER

BY THE COMMISSION:

This matter arises under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. • 801 et seq. (1988) and involves an alleged violation of 30 C.F.R. □ 75.301 by Peabody Coal Company ("Peabody"). After an adverse decision by the Commission administrative law judge, Peabody filed a Petition for Discretionary Review, which the Commission granted. Subsequently, the Secretary filed a Notice of Intent to Vacate Citation and Request Dismissal and a subsequent Motion to Dismiss Appeal. In the Notice of Intent, the Secretary explained that the Department of Labor's Mine Safety and Health Administration ("MSHA") promulgated a final rule, scheduled to take effect on August 16, 1992, that will effectively moot the issues raised in the instant case and that continued litigation of this case risks confusion and a waste of resources. On June 15, 1992, MSHA vacated the disputed citation. Peabody has indicated that it has no objection to the granting of the Secretary's motion. We conclude that adequate reasons have been presented supporting vacation of the underlying citation and dismissal of this proceeding, and grant the motion. See, e.g., Climax Molybdenum Co., 2 FMSHRC 2748, 2750 (October 1980); Youghioghny & Ohio Coal Co., 7 FMSHRC 200, 203 (February 1985); BethEnergy Mines, Inc., 12 FMSHRC 1751, 1753-54 (September 1990).  
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Accordingly, the citation involved in this proceeding and the assessed civil penalty are vacated with prejudice. The Commission's direction for review is vacated and this proceeding is dismissed.

Ford B. Ford, Chairman  
Richard V. Backley, Commissioner  
Joyce A. Doyle, Commissioner  
Arlene Holen, Commissioner  
L. Clair Nelson, Commissioner