

In the matter of:
Canyon Fuel Company, LLC
Dugout Canyon Mine
I.D. No. 42-01890

Petition for Modification

Docket No. M-2003-067-C

PROPOSED DECISION AND ORDER

On September 8, 2003, Canyon Fuel Company, LLC filed a petition to amend the Petition for Modification of the application of 30 C.F.R. § 75.350, docket number M-2000-171-C, at its Dugout Canyon Mine in Carbon County, Utah. The petitioner alleges that the current petition poses a diminution of safety to the miners and the proposed alternative method in the amendment will at all times guarantee no less than the same measure of protection afforded by the standard.

MSHA personnel investigated the petition and reported their findings and recommendations to 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 recommendations, this Proposed Decision and Order is issued.

Finding of Fact and Conclusion of Law

The petitioned standard, 30 C.F.R. § 75.350, prohibits belt aircourses from being used to provide air to working sections or to areas where mechanized mining equipment is being installed or removed except as otherwise permitted by the standard. The standard requires that the area of the mine with a belt aircourse be developed with three or more entries; the area of the mine petitioned is developed with two entries.

The petitioner alleges that the proposed administrative controls would provide a safer working environment for the miners at the Dugout Canyon Mine in areas containing elevated levels of hydrogen sulfide.

The investigation report revealed that in order to protect miners on the longwall face from exposure to hydrogen sulfide, the petitioner proposes to course the air out the belt entry. While this would mitigate the exposure to hydrogen sulfide for the miners on the longwall face, the proposed amendment would not provide adequate protection to miners working outby in the belt entries. The proposed amendment would also limit the intake to one entry.

Emergency evacuation routes are limited by two-entry mining systems. Maintaining the belt entry air as an alternate intake aircourse as required by the current petition provides additional protection to the miners on the longwall. This additional protection is needed in the event of an emergency such as a fire or tailgate blockage.

Consequently, the amendment proposed by the petitioner does not provide for the same measure of protection afforded by the existing modified standard. On the basis of the petition and the findings of MSHA's investigation, Canyon Fuel Company, LLC is not granted an amendment of the current petition for application of 30 C.F.R. § 75.350 to its Dugout Canyon 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 Canyon Fuel Company, LLC's Petition for Modification to amend the application of 30 C.F.R. § 75.350 to its Dugout Canyon Mine is hereby:

DENIED.

Any party to this action desiring a hearing on this matter must file in accordance with 30 C.F.R. § 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 the petitioner who has requested a hearing may 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.

Charles J. Thomas
Acting Deputy Administrator for
Coal Mine Safety and Health