

January 10, 2007

In the matter of:
Canyon Fuel Company, LLC
SUFCO Mine
ID No. 42-00089
and
West Elk Mine
ID No. 05-03672

Petition for Modification

Docket No. M-2006-077-C

PROPOSED ORDER OF DISMISSAL

On August 31, 2006, Canyon Fuel Company, LLC filed a petition pursuant to 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. § 811(c), and 30 CFR 44 et seq., for the modification of the application of 30 CFR 75.1909(c)(2) to its SUFCO Mine, located in Sevier County, Utah and its West Elk Mine, located in Gunnison County, Colorado. The petitioner alleged that the alternative method proposed in the petition would at all times guarantee no less than the same measure of protection afforded by the standard.

Petitioner sought a modification of 30 CFR 75.1909(c)(2), which provides that all self-propelled nonpermissible heavy-duty diesel-powered equipment (as defined in §75.1908(a)), except rail-mounted equipment, must have a supplemental braking system that

- (2) Safely brings the equipment when fully loaded to a complete stop on the maximum grade on which it is operated;

Petitioner proposed an alternate method to allow the use of Getman 220 tractors towing a fully loaded Uintah 2m shield trailer. Petitioner proposed to supplement the braking system on the tractor, automatically lower the trailer load to provide supplemental braking action, and train personnel to recognize appropriate speeds for different road conditions and slopes. In addition, petitioner proposed to train maintenance personnel to recognize all hazards with the components of the supplemental braking system.

On December 18, 2006, MSHA received a letter from the petitioner requesting that the petition be withdrawn. MSHA learned that the operator has designed a braking system for the Getman tractors that will bring the equipment into compliance with the standard. As a result, the petition is not needed and should be dismissed without prejudice.

Therefore, pursuant to the authority delegated by the Secretary of Labor to the Administrator for Coal Mine Safety and Health, Canyon Fuel Company, LLC's Petition for Modification 30 CFR 75.1909(c)(2) at the SUFCO Mine and West Elk Mine is hereby:

DISMISSED.

Any party to this action desiring a hearing on this matter must file in accordance with 30 CFR 44 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 Order of Dismissal will become final.

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