

In the matter of
Bridger Coal Company
Bridger Underground Coal Mine
I.D. No. 48-01646

Petition for Modification

Docket No. M-2007-058-C

PROPOSED DECISION AND ORDER

On July 31, 2007, Bridger Coal Company filed a Petition for Modification under Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. § 811(c) and 30 C.F.R. pt. 44. The petition sought a modification of the application of mandatory standard 30 C.F.R. §§ 75.1902(c)(2)(i)-(iii) at Bridger Coal Company's Bridger Coal Underground Mine (Bridger Mine), I.D. No. 48-01646, an underground coal mine located in Sweetwater County, Wyoming¹.

30 C.F.R. §§ 75.1902(c)(2)(i)-(iii), provides:

- (c)(2) The temporary underground diesel fuel storage area must be located –
- (i) Within 500 feet of the loading point;
 - (ii) Within 500 feet of the projected loading point where equipment is being installed; or
 - (iii) Within 500 feet of the last loading point where equipment is being removed.

The petitioner proposes an alternative method whereby the temporary diesel transportation unit would be stored no more than 1,000 feet outby the section loading point, or the projected loading point during equipment installation, or the last designated loading point during equipment removal. The Petitioner alleges that the alternative method outlined in the petition will at all times guarantee not less than the same measure of protection afforded by the standard.

The MSHA District Office conducted an investigation and filed a report with the Administrator for Coal Mine Safety and Health. After a careful review of the entire record, including the petition and MSHA's investigative report, this Proposed Decision and Order is issued.

¹ When the first petition was submitted on January 17, 2006, Bridger Mine was operated by Pacific Minerals. Effective April 10, 2007, the official business name of the operator of the Bridger Mine became Bridger Coal Company.

Finding of Fact and Conclusion of Law

Pacific Minerals previously submitted this alternative method of compliance with the standard in a petition assigned Docket No. M-2006-004-C. That petition was denied by MSHA on July 10, 2007. No request for a hearing or appeal was received and the decision became final on August 9, 2007.

In that petition, Pacific Minerals proposed to locate the temporary underground diesel fuel storage area within 1,000 feet of the section loading point, or the projected loading point during equipment installation, or the last designated loading point during equipment removal. Pacific Minerals proposed to equip the diesel fuel transportation unit with an MSHA-approved automatic fire suppression system installed to meet the requirements of 30 C.F.R. § 75.1911 and to equip the diesel fuel storage tank with an MSHA-approved automatic fire suppression system installed to meet the requirements of 30 C.F.R. § 75.1911. Pacific Minerals also stated that the temporary diesel fuel storage area would be examined twice each shift by a certified person, as required by 30 C.F.R. § 75.362, when work was being performed in by the temporary diesel fuel storage area and that a preshift examination of the diesel fuel storage area would be conducted as required by 30 C.F.R. § 75.360. Pacific Minerals proposed to locate the temporary diesel fuel storage area in an area where the mine roof, mine ribs and mine floor are well rock dusted, where the roof is supported to meet the requirements of 30 C.F.R. § 75.202, and where there were no extraneous combustible materials or ignition sources. Further, Pacific Minerals stated that the temporary diesel fuel storage area would be identified at each entrance with signs stating that this is a diesel fuel storage area.

MSHA concluded that although Pacific Minerals' alternative method may address hazards associated with fuel transportation and spillage, the hazards that may result from failure to observe and correct potential fire hazards as a result of the greater distance between the miners and the temporary underground diesel fuel storage area would adversely affect overall mine safety.

The petitioner again proposes this alternative method but has added three provisions, which were not included in Docket No. M-2006-004-C. They are as follows:

- (e) The temporary diesel fuel storage area will be monitored with an automated AMS that will give an alarm to the responsible person on the surface should it detect an elevated Carbon Monoxide level.
- (f) The self propelled fuel transportation unit will be equipped with either two (2) additional #10 fire extinguishers or (1) additional #20 extinguisher to that required by 30 CFR 75.1906(h).

- (g) The diesel fuel storage tank will be equipped with either two (2) additional #10 fire extinguishers or one (1) additional #20 fire extinguisher to that required by 30 CFR 75.1903(b).

The petitioner claims that the Bridger Mine uses pillars measuring 80 feet x 200 feet in the longwall gate roads due to ground control requirements and that the size of the pillars limits the space available to store all of the necessary longwall components and the temporary diesel transportation unit.

30 C.F.R. § 75.1902 provides requirements for the safe underground storage of diesel fuel, a combustible. This standard is intended to minimize the risks associated with fire hazards in the areas where the diesel fuel is stored. The standard establishes 500 feet from the loading point as the maximum distance from which miners would be able to observe and correct a fire hazard. Maintaining the temporary underground diesel fuel storage tanks within 500 feet of the section loading point is intended to assure that the tanks are located close enough to miners so that any hazards that develop can be addressed promptly. Within a distance of 500 feet, miners are able to react quickly to control spills or take action, such as redirecting ventilation, should a fire hazard develop.

The provisions that the petitioner added, which were not included in Docket No. M-2006-004-C, would not provide additional protection to miners when the diesel transportation unit is more than 500 feet away from the locations specified in 30 C.F.R. §§ 75.1902(c)(2)(i)-(iii). This is because when the unit is further than 500 feet away from these locations,, it must comply with all of the requirements for permanent diesel fuel storage sites.

With regard to the three new provisions, 30 C.F.R. §§ 75.1912(b), (c), and (g) would already require that a permanent diesel fuel storage area at the mine be monitored with an AMS because the mine uses an AMS as a fire detection system along belt entries and other installations. Likewise, equipping the self-propelled transportation units and diesel fuel storage tanks with additional fire extinguishers would add modest fire fighting capability to a temporary storage area. However, additional fire extinguishers would not provide the fire-fighting capability included in the automatic fire suppression and noncombustible construction requirements of 30 C.F.R. §§ 75.1903(a)(1)-(7) and (b)(1) or (2), required at a permanent underground diesel fuel storage facility. The petition also would allow the site to be appreciably further from the working section's fire fighting equipment and much larger portable fire extinguishers.

Finally, the petition also specified that the fuel transportation unit would be self-propelled. However, if the fuel transportation unit is self-propelled, the vehicle is considered heavy-duty equipment and would already be required, under 30 C.F.R. § 75.1909(h), to have an automatic fire suppression system.

The conditions at Bridger Mine that prompted MSHA's denial on July 10, 2007 have not changed. The petition does not provide an alternative method of compliance that will at all times guarantee no less than the same level of protection to the miners.

ORDER

Wherefore, pursuant to the authority delegated 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., § 811(c), it is ordered that a modification of 30 C.F.R. §§ 75.1902(c)(2)(i)-(iii) based upon an alternative method of fire detection and suppression on a temporary diesel transportation unit in lieu of the requirements for permanent diesel fuel storage sites at Bridger Coal Company's Bridger 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 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