

**June 13, 2006**

In the matter of:  
Canyon Fuel Company, LLC

Petition for Modification

West Elk Mine  
I.D. No. 05-03672

SUFCO Mine  
I.D. No. 42-00089

Skyline Mine No. 3  
I.D. No. 42-01566

Dugout Canyon Mine  
I.D. No. 42-01890

Docket No. M-2005-080-C

PROPOSED DECISION AND ORDER

On December 5, 2005, a petition was filed seeking a modification of the application of 30 CFR 75.1909(b)(6) to Petitioner's Skyline Mine No. 3 and Dugout Canyon Mine, located in Carbon County, Utah; SUFCO Mine, located in Sevier County, Utah; and the West Elk Mine, located in Gunnison County, Colorado. The Petitioner proposes an alternative method outlined in the petition that will at all times guarantee no less than the same measure of protection afforded by the standard.

At submittal, the petition requested the modification to apply only to a single Getman Roadbuilder (Model RDG-1504-S, Serial No. 6787). During the MSHA investigation conducted on January 31, 2006, the petitioner requested the petition be amended to include an additional Getman Roadbuilder, Serial No. 6818.

MSHA personnel conducted an investigation of the petition and filed a report of their findings 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.

Finding of Fact and Conclusion of Law

Section 75.1909(b)(6) provides that all self-propelled non-permissible diesel-powered equipment must have, in addition to all other requirements, service brakes that act on each wheel of the vehicle such that failure of any single component, except the brake actuation pedal or other similar actuation device, must not result in complete loss of service braking capability.

Petitioner proposes an alternate method in lieu of the front wheel brakes on the Getman RDG-1504-S Roadbuilders, Serial Nos. 6786 and 6818. Petitioner's proposed alternative method was limited to training the operators to lower the moldboard in an emergency, training the operators to recognize the appropriate speeds for different roadway conditions, and limiting the maximum speed of the road graders to 10 MPH.

The alternative method proposed by Canyon Fuel Company, LLC (as amended by MSHA) will at all times guarantee no less than the same measure of protection afforded the miners under 30 CFR 75.1909(b)(6). The diesel graders will be equipped with devices that limit speed to 10 mph and the grader operators will be trained to lower the moldboard in emergency conditions. These terms and conditions will provide a level of safety equivalent to the standard requirement that each wheel of the grader be equipped with service brakes.

On the basis of the petition and the findings of MSHA's investigation, Canyon Fuel Company, LLC is granted a modification of the application of 30 CFR 75.1909(b)(6) to its West Elk Mine, SUFCO Mine, Skyline Mine No. 3, and 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 of the application of 30 CFR 75.1909(b)(6) in the West Elk Mine, SUFCO Mine, Skyline Mine No. 3, and Dugout Canyon Mine is hereby:

GRANTED, conditioned upon compliance with the following terms and conditions:

1. This Proposed Decision and Order is limited in application to the Getman diesel road graders, Model RDG-1504-S, Serial Nos. 6787 and 6818.
2. The maximum speed on the diesel graders must be limited to 10 mph by:
  - (a) permanently blocking out the gears or any gear ratios that provide higher speeds. The device must limit the vehicle's speed in both forward and reverse; and
  - (b) using transmissions and differentials geared in accordance with the equipment's manufacturer that limit the maximum speed to 10 mph.
3. Prior to implementing the alternative method:
  - (a) the diesel graders must be inspected by MSHA to determine compliance with the terms and conditions of the Proposed Decision and Order;
  - (b) grader operators must be trained to recognize appropriate levels of speed for different road conditions and slopes;
  - (c) grader operators must be trained to lower the moldboard (grader blade) to provide additional stopping capability in emergencies; and
  - (d) grader operators must be trained to recognize the transmission gear blocking device and its proper application and requirements.
4. The grader must comply with all other applicable requirements of the Federal Mine Safety and Health Act of 1977 and the applicable requirements of 30 CFR, Parts 75 and 77.
5. Within 60 days after this Proposed Decision and Order becomes final, the Petitioner must submit proposed revisions for its approved 30 CFR Part 48 training plan to the Coal Mine Safety and Health District Manager. These revisions must specify initial and

refresher training regarding the terms and conditions stated in the Proposed 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 must 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 must 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.

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John F. Langton  
Deputy Administrator for  
Coal Mine Safety and Health