

In the matter of:
Canyon Fuel Company, LLC
Sufco Mine
I.D. No. 42-00089

Petition for Modification

Docket No. M-2010-048-C

PROPOSED DECISION AND ORDER

On December 27, 2010, a petition was filed seeking a modification of the application of 30 C.F.R. § 75.1002-1(a) to Petitioner's Sufco Mine located in Sevier County, Utah.

Petitioner is seeking a modification of the application of mandatory safety standard 30 C.F.R. § 75.1002-1(a); however, the modification should have been filed under 30 C.F.R. § 75.1002(a). The petitioned standard, 30 C.F.R. § 75.1002-1(a), does not exist. Section 75.1002(a) requires all electric equipment located within 150 feet of pillar workings or longwall faces must be permissible. Petitioner seeks a modification of the standard to allow the use of low-voltage or battery powered electronic testing and diagnostic equipment within 150 feet of pillar workings or longwall faces. Equipment would include laptop computers, oscilloscopes, vibration analysis machines, cable fault detectors, etc. Petitioner proposed to use such non-permissible equipment under specific conditions and while continuously monitoring for methane.

30 C.F.R. § 75.1002(a) states:

Electric equipment must be permissible and maintained in a permissible condition when such equipment is located within 150 feet of pillar workings or longwall faces.

The following definitions are also relevant to the petition. 30 C.F.R. § 18.2 defines "permissible equipment" as:

... a completely assembled electrical machine or accessory for which a formal approval has been issued, as authorized by the Administrator, Mining Enforcement and Safety Administration under the Federal Coal Mine Health and Safety Act of 1969 (Pub. L. 91-173, 30 U.S.C. 801 or, after March 9, 1978, by the Assistant Secretary under the Federal Mine Safety and Health Act of 1977 (Pub. L. 91-173, as amended by Pub. L. 95-164, 30 U.S.C. 801).

In addition, 30 C.F.R. § 18.2 defines “intrinsically safe” as:

... incapable of releasing enough electrical or thermal energy under normal or abnormal conditions to cause ignition of a flammable mixture of methane or natural gas and air of the most easily ignitable composition.

Further, 30 C.F.R. § 75.2 defines “permissible” as applied to electric face equipment, as:

... all electrically operated equipment taken into or used in by the last open crosscut of an entry or a room of any coal mine the electrical parts of which, including, but not limited to, associated electrical equipment, components, and accessories, are designed, constructed, and installed, in accordance with the specifications of the Secretary, to assure that such equipment will not cause a mine explosion or mine fire, and the other features of which are designed and constructed, in accordance with the specifications of the Secretary, to prevent, to the greatest extent possible, other accidents in the use of such equipment. ...

The petition alleges that application of Section 75.1002(a) would result in a diminution of safety to miners and that the alternative method proposed in the petition regarding the use of non-permissible electronic testing and diagnostic equipment within 150 feet of pillar workings or longwall faces will at all times guarantee no less than the same measure of protection afforded by the standard. In support of its petition, the petitioner submits that the proposed alternative method will always guarantee no less than the same protection afforded by the standard.

MSHA personnel conducted an investigation of the petition and filed a report of their findings and recommendations with the Administrator for Coal Mine Safety and Health. After careful review of the entire record, including the petition and MSHA’s investigative report and recommendations, and comments from United Mine Workers of America (UMWA), this Proposed Decision and Order is issued.

Finding of Fact and Conclusion of Law

MSHA’s investigation found that the Sufco Mine is opened into the Upper Hiawatha coal seam through eight surface openings. The mine employs 385 people and operates seven days per week. The miners are not represented by a union.

Petitioner sought a modification of the standard to allow the use of low-voltage or battery powered electronic testing and diagnostic equipment within 150 feet of pillar workings or longwall faces. Equipment would include laptop computers, oscilloscopes, vibration analysis machines, cable fault detectors, etc. Petitioner proposed to use such

non-permissible equipment under specific conditions and while continuously monitoring for methane.

The UMWA Health and Safety Representative submitted comments on the requested modification. The comments indicated that only approved permissible equipment should be allowed. Those comments were considered. However, MSHA has granted over 30 petitions since 1995 that allowed the use of non-permissible electronic testing and diagnostic equipment under controlled conditions. In each case, MSHA determined that complying with the elements listed in the approved petition provided at least the same measure of protection as the standard.

The alternate method proposed by the Petitioner (as amended by the recommendations of MSHA) will at all times guarantee no less than the same measure of protection afforded the miners under 30 C.F.R. § 75.500(d).

The modification requested in this petition applies only to 30 C.F.R. § 75.1002(a) and does not allow the use of the listed non-permissible electronic testing and diagnostic equipment taken into or used in by the last open crosscut as per § 75.500(d) or for use of the listed non-permissible electronic testing and diagnostic equipment in the return air outby the last open crosscut as per 30 C.F.R. § 75.507-1.

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 C.F.R. § 75.1002(a) to its Sufco Mine only for the use of the non-permissible electronic testing and diagnostic equipment listed in Item 1 below.

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's Petition for Modification of the application of 30 C.F.R. § 75.1002(a) in the Sufco Mine is hereby:

GRANTED, for the use of low- voltage or battery powered non-permissible electronic testing and diagnostic equipment located within 150 feet of pillar workings or longwall faces, under controlled conditions, for testing and diagnosing the mining equipment, conditioned upon compliance with the following terms and conditions:

1. The use of non-permissible low-voltage or battery powered electronic testing and diagnostic equipment shall be limited to laptop computers; oscilloscopes; vibration analysis machines; cable fault detectors; point temperature probes; infrared temperature devices and recorders;

insulation testers (meggers); voltage, current and power measurement devices and recorders; pressure and flow measurement devices; signal analyzer devices; ultrasonic measuring devices; electronic component testers and electronic tachometers. Other testing and diagnostic equipment may be used if approved in advance by MSHA's District Office.

2. Non-permissible electronic testing and diagnostic equipment shall be used within 150 feet of pillar workings or longwall faces only when equivalent permissible equipment is not available.
3. All electronic test and diagnostic equipment shall be used only by qualified persons as specified in 30 C.F.R. § 75.153 and in accordance with the manufacturer's recommended safe use procedures. The qualified person must examine the equipment prior to being used to ensure the equipment is being maintained in a safe operating condition. The examination results shall be recorded in the weekly examination of electrical equipment book and shall be made available to an authorized representative of the Secretary and the miners at the mine.
4. A qualified person as defined in existing 30 C.F.R. § 75.151 shall continuously monitor for methane immediately before and during the use of non-permissible electronic test and diagnostic equipment within 150 feet of pillar workings or longwall faces.
5. Non-permissible electronic testing and diagnostic equipment shall not be used if methane is detected in concentrations at or above 1.0 percent methane. When 1.0 percent or more of methane is detected while the non-permissible electronic equipment is being used, the equipment shall be de-energized immediately and the non-permissible electronic equipment withdrawn further than 150 feet from pillar workings.
6. All hand-held methane detectors shall be MSHA approved and maintained in permissible and proper operating condition as defined in existing 30 C.F.R. § 75.320.
7. Except for the time necessary to troubleshoot under actual mining conditions, coal production in the section shall cease. However, coal may remain in the equipment in order to test and diagnose the equipment under "load".
8. Non-permissible electronic test and diagnostic equipment shall not be used to test equipment when float coal dust has accumulated on

previously rockdusted surfaces, accumulated on equipment and/or when float coal dust is in suspension.

9. Qualified personnel engaged in the use of electronic test and diagnostic equipment shall be properly trained to recognize the hazards and limitations associated with the use of electronic test and diagnostic equipment.
10. Each piece of equipment subject to this petition shall be inspected by an Authorized Representative of the Secretary prior to initial placement in service.
11. Cables supplying power to low-voltage test and diagnostic equipment shall be continuous in length or provided with a "twist lock" connector when located within 150 feet of pillar workings or longwall faces.
12. Within 60 days after the Proposed Decision and Order becomes final, Canyon Fuel Company, LLC shall submit proposed revisions for its approved 30 C.F.R. Part 48 training plan to the Coal Mine Safety and Health District Manager. In addition to training regarding the requirements specified in item nos. 7 and 8, these proposed revisions shall 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 C.F.R. 44.14 within 30 days. The request for the 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
Deputy Administrator for
Coal Mine Safety and Health