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DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations, 30 CFR part 44, govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below.

DATES: All comments on the petitions must be received by the Office of Standards, Regulations, and Variances on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit your comments, identified by “docket number” on the subject line, by any of the following methods:

1. **Electronic Mail:** zzMSHA-comments@dol.gov. Include the docket number of the petition in the subject line of the message.
2. **Facsimile:** 202-693-9441.
3. **Regular Mail or Hand Delivery:** MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202-5452,

Attention: Sheila McConnell, Acting Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations, and Variances at 202-693-9447 (Voice), barron.barbara@dol.gov (E-mail), or 202-693-9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M-2015-015-C.

Petitioner: Canyon Fuel Company, LLC, Three Gateway Center, Suite 1340, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222.

Mine: Sufco Mine, MSHA I.D. No. 42-00089, located in Sevier County, Utah.

Regulation Affected: 30 CFR 75.1713-1(b) (Arrangements for emergency medical assistance and transportation for injured persons; agreements; reporting requirements; posting requirements).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance for the existing standard because the application of the standard results in a diminution of safety. The petitioner proposes to:

1. Contract for transportation services to be available at all times when it is feasible to fly to the 4 East Portal and airlift miners from there.
2. Construct a “safe house” at the 4 East Portal for miners exiting that portal. The portal will contain food, water, medical supplies, and communication equipment.
3. Submit proposed revisions for its approved part 48 training plan to the District Manager within 60 days after the Proposed Decision and Order (PDO) becomes final. These proposed revisions will specify initial and refresher training regarding the terms and conditions stated in the PDO. The petitioner states that:
 - Canyon Fuel is a large mine with a number of portals to the outside, either for transportation of miners or ventilation. The 4 East Portal was constructed to the outside in approximately 1991.

- For approximately 24 years, Canyon Fuel has routed its alternate escapeway to this portal as the safest and shortest route out of the mine.
- The escapeway at issue has been designated as an escapeway for a number of years. It has been inspected every quarter by MSHA inspectors and no issue has been raised.
- The escapeway is the shortest most practical route to the nearest mine opening suitable for the safe evacuation of miners. The alternative routes that would be available would be two to three times longer. The route to the 4 East Portal is also the least difficult of the alternate routes to travel. Such routes would require five or six self-contained self-rescuer “changeouts” as opposed to two. The route that Canyon Fuel would have to use for other routes is not as safe as the current secondary escapeway.
- In discussions with MSHA, concerning such designation, Citation Nos. 8483666 and 84807666 were issued on May 22, 2015 and May 26, 2015, respectively, pursuant to Section 104(a) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. Section 814(a), alleging violations of 30 CFR 75.1713-1(b) and 30 CFR 75.380(a), requiring the availability of transportation from the 4 East Portal. Such citations are subjects of notices of contest.

The petitioner asserts that the proposed alternative method will at times guarantee no less than the same measure of protection afforded by the existing standard.

Dated: July 27, 2015.

Sheila McConnell,
Acting Director,

Office of Standards, Regulations, and Variances.

Billing Code: 4510.43-P

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