



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: This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by the party listed below.

DATES: All comments on the petition must be received by MSHA's 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: S. Aromie Noe, Acting Deputy 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 petition 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: S. Aromie Noe, Office of Standards, Regulations, and Variances at 202-693-9440 (voice), noe.song-ae.a@dol.gov (email), or 202-693-9441 (facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

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. 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 for filing petitions for modification.

II. Petition for Modification

Docket Number: M-2021-001-C

Petitioner: Patton Mining LLC., 12051 9th Avenue Hillsboro Illinois (ZIP 62049)

Mine: Deer Run Mine, MSHA I.D. No. 11-03182, located in Montgomery County, Illinois

Regulation Affected: 30 CFR 75.1909 (Nonpermissible diesel-powered equipment; design and performance requirements). 30 CFR 75.1909(b)(6) requires self-propelled nonpermissible diesel-powered equipment to have service brakes that act on each wheel of the vehicle and that are designed such that failure of any single component, except the brake actuation pedal or other similar actuation device will not result in a complete loss of service breaking capacity.

Modification Request: This petition is for a Getman Grader Model No. RDG-1504C, Serial No. 6718. The petitioner requests a modification of the existing standard to permit an alternative method of compliance in lieu of having front brakes for the Getman grader.

The petitioner states that:

(1) Road conditions in a coal mine tend to become very rough to travel on and can pose a serious hazard that exposes miners to an array of injuries. Road graders have proven to be the best type of mining equipment to maintain underground and surface roadways in the mining industry safe for travel.

(2) The addition of front brakes could cause a loss of control if, for some unknown reason, one of the maintained brakes would lock up during operation. This could cause the grader to veer hard in one direction. Furthermore, the size, weight and location of the front brakes would put repair personnel in positions that could subject them to injury.

As an alternative to the existing standard, the petitioner proposes the following:

(a) No service brakes will be added to the front wheels of the Getman Grader Model No. RDG-1504C, Serial No. 6718 in Deer Run Mine. In lieu of having front brakes, the grader will be maintained with 12.00 x 20.00 tires that will limit the speed of the grader to 10 miles per hour.

(b) The grader will not travel up or down the slope unassisted. If an instance arises that requires the grader to be taken out of the mine, an additional piece of equipment, with adequate braking capacity, will be utilized to assist in removing the grader out of the mine and returning it back into the mine, via the mine slope.

(c) All grader operators will be trained to recognize appropriate levels of speed for the different road conditions.

(d) All grader operators will be trained to lower the moldboard in emergency situations and prior to exiting the operator compartment.

The petitioner asserts that the proposed alternative method will provide a level of safety equivalent to that provided by the existing standard.

Song-ae Aromie Noe,

Acting Deputy Director,

Office of Standards, Regulations, and Variances.

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