

*FR Notice:* 75 FR 3253 (January 20, 2010).

*Petitioner:* Prairie State Generating Company, LLC, 4274 County Highway 12, Marissa, Illinois 62257.

*Mine:* Lively Grove Mine, MSHA I.D. No. 11-03193, located in Washington County, Illinois.

*Regulation Affected:* 30 CFR 75.1909(b)(6) (Nonpermissible diesel-powered equipment; design and performance requirements).

• *Docket Number:* M-2009-001-M  
*FR Notice:* 74 FR 23745 (May 20, 2009).

*Petitioner:* General Chemical (Soda Ash) Partners.

*Mine:* General Chemical Mine, MSHA I.D. No. 48-00155, located in Sweetwater County, Wyoming.

*Regulation Affected:* 30 CFR 57.22305 (Approved equipment (III mines) and 30 CFR 18.35 (Portable (trailing) cables and cords).

Dated: January 10, 2011.

**Patricia W. Silvey,**  
*Certifying Officer.*

[FR Doc. 2011-686 Filed 1-13-11; 8:45 am]

**BILLING CODE 4510-43-P**

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

#### Petitions for Modification of Existing Mandatory Safety Standards

**AGENCY:** Mine Safety and Health Administration (MSHA), Labor.

**ACTION:** Notice.

**SUMMARY:** Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification filed by the parties listed below to modify the application of existing mandatory safety standards published in Title 30 of the Code of Federal Regulations.

**DATES:** All comments on the petitions must be received by the Office of Standards, Regulations and Variances on or before February 14, 2011.

**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](mailto:zzMSHA-comments@dol.gov). Include the docket number of the petition in the subject line of the message.
2. *Facsimile:* 1-202-693-9441.
3. *Regular Mail:* MSHA, Office of Standards, Regulations and Variances,

1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209-3939,  
*Attention:* Roslyn B. Fontaine, Acting Director, Office of Standards, Regulations and Variances.

4. *Hand-Delivery or Courier:* MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209-3939, *Attention:* Roslyn B. Fontaine, Acting Director, Office of Standards, Regulations and Variances.

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. Individuals who submit comments by hand-delivery are required to check in at the receptionist desk on the 21st floor.

Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

#### FOR FURTHER INFORMATION CONTACT:

Barbara Barron, Office of Standards, Regulations and Variances at 202-693-9447 (Voice), [barron.barbara@dol.gov](mailto:barron.barbara@dol.gov) (E-mail), or 202-693-9441 (Telefax). [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 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-2010-044-C.

*Petitioner:* Emerald Coal Resources, LP, Three Gateway Center, Suite 1340, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222-1000.

*Mine:* Emerald Mine, MSHA I.D. No. 36-05466, located in Greene County, Pennsylvania.

*Regulation Affected:* 30 CFR 75.1700 (oil and gas wells).

*Modification Request:* The petitioner requests a modification of the existing

standard to permit an alternative method of compliance with the standard with respect to vertical degasification wells with horizontal laterals into the underground coal seam. The Emerald Mine proposes to plug vertically drilled degasification gas wells in order to mine through them. The petitioner proposes to use the following procedures when mining through vertically drilled degasification boreholes with horizontal laterals to permit mining through the boreholes: (a) Plugging Procedures: (1) The borehole will be filled with flexible gel prior to the anticipated mine through. Alternative grouting methods including cementations or polyurethane grout may be used; (2) a packer will be installed at a location in the lateral to ensure that an appropriate amount of the lateral will be filled with gel; (3) any water present in the hole will be tested for chlorides prior to the time of the gelling. The gel quality will be adjusted to compensate for the chloride concentration; (4) a triplex piston pump will be utilized to pump (1.75) times the calculated hole volume of gel underground. The calculated volume of gel will be pumped until the volume of gel is depleted, (100-140) psi pressure is realized, or until gel leakage is observed along the ribs underground. The gel will be pumped through the drill string and inflated packer equipped with a one-way check valve. After the calculated (1.75) times the hole volume of gel has been pumped, a robber wiper will be run down the string under the wiper to the top of the packer will be the final gel injection pressure. The one-way check valve will prevent the gel to flow back into the drill string; and (5) the volume of fill required will be calculated and (1.75) times that amount will be pumped unless the (100-140) psi pressure is reached; (b) Procedures for mining through degasification boreholes that are plugged as specified: (1) Prior to mining within 300 feet of the boreholes or lateral, MSHA, the Bureau of Deep Mine Safety, and a representative of the miners will be notified. This notification will be both verbally and through a letter accompanied by a drawing of the borehole location and a copy of a certification that plugging has occurred as specified in this petition; (2) the District Mine inspector from the Bureau of Deep Mine Safety, MSHA District Manager, and a representative of the United Mine Workers of America will be notified in sufficient time prior to the mining through to have representatives present during the actual mining through operations if they so choose; (3) at the beginning of the shift in which a

borehole or lateral will be mined through, all personnel working underground will be informed of the cut through and of the communication procedure to be used. Management will insure that all personnel can be promptly informed of any problem that might develop during the borehole or lateral mine through; (4) when mining approaches to within 10 feet of cutting into the plugged borehole or lateral (10 feet is the radius from the hole plot) a designated person in each operating section will be posted within hearing distance of the section phone until the mine through is complete and an "all clear" command is given. All miners in the mine will be working in known locations within easy reach of a communications system. Mining can continue between shifts and during shift changes. The communications systems will be checked at the beginning of the shift and when within 10 feet of the cut through. Preshift examinations by certified persons may continue as required during the borehole mine through; (5) the mining through will be done with only the miners actually engaged in the mining through operation on the split of air. Those people necessary for safe, efficient continuous miner operation will be permitted to work on the same split of air and the borehole will be permitted to work on the same split of air and the borehole or lateral mine through, including the people working on haulage, conveyors, ventilation, roof control, etc. All other miners will be in splits of air not being used to ventilate the section of the mine through. When the distance from the face to the borehole or lateral reaches 10 feet, all workers will be notified and no mining will be done within 20 feet on either side until all persons (except those mentioned above) have been withdrawn to another split or air; (6) Firefighting equipment, including fire extinguishers and rock dust will be available at the mine through site, and enough fire hoses will be available to reach the entire working face. Sufficient supplies of ventilation materials will be available near the working face; (7) The methane monitor on the continuous miner will be calibrated on the shift prior to the mining through operation; (8) A drivage sight will be installed at the last breakthrough to ensure intersection of the borehole or lateral and again, if necessary, to ensure that the last sight is not farther than 50 feet from the borehole or lateral. The anticipated mine through location will be identified underground by known survey points; (9) When mining is in progress, tests for

methane will be made with a handheld methane detector at least every 10 minutes from the time that mining is within 30 feet of the borehole or until lateral is intersected; (10) A permissibility check will be made on the section face equipment on the shift prior to the mining through operation or immediately prior to mining into the 10 foot radius surrounding the borehole or lateral. The permissibility check done immediately prior to mining will suffice until the well is mined through; (11) If methane is detected 1-foot from the rib and 1-foot above the intersected borehole or lateral at 1 percent or greater, mining will cease and steps will be taken to reduce the methane concentration to below 1 percent to resuming mining; (12) When mining through the area identified to be within the 10 foot radius of the borehole or lateral, no one will be permitted to work on the return/inby inside of the borehole or lateral until the borehole or lateral is completely mined through and determined to be safe; (13) When the borehole or lateral is contacted, all face equipment inby the last open crosscut will be deenergized, and the place thoroughly examined and determined safe before mining is resumed. The section auxiliary fan will continue to operate as long as the methane concentration in the working place remains at less than 1 percent. Any casing will be removed and no open flame will be permitted in the area until adequate ventilation has been established around the borehole or lateral. Communications will be made throughout the mine when the borehole or lateral is completely mined through and determined to be safe; (14) The mining through operation will be under the direct supervision of the mine foreman or a certified person designated by the mine foreman. Instructions concerning the mining through operation will be issued by the mine foreman or a certified person designated by him to be in charge, rather than others, to avoid confusion; (15) If a void is encountered at the mine through and the methane reading is less than 1 percent, mining may continue. If methane levels are greater than 1 percent, mining will cease. To correct the situation, a mechanical or air packer will be installed in the rib toward the wellhead. This packer may be sealed in to prevent leakage from the wellhead side of the mined through hole. A mechanical or air packer will be installed on the inby side of the mined through hole. The void may be water infused or grouted to seal the opening when additional hole intercepts and

mine through are anticipated (*i.e.*, No. 2 and No. 1 entries); (16) The above mining procedure will be reviewed with all personnel involved in the mining through operation prior to the intersection of the plugged borehole or lateral. A drawing will be provided for each well to be mined through. This drawing will be reviewed with all personnel engaged in the actual mine through of the borehole or lateral. The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded the miners under the existing standard.

*Docket Number:* M-2010-045-C.

*Petitioner:* Rhino Eastern LLC, P.O. Box 260, Bolt, West Virginia 25817.

*Mine:* Eagle No. 1 Mine, MSHA I.D. No. 46-08758, located in Raleigh County, West Virginia.

*Regulation Affected:* 30 CFR 75.1101-1(b) (Deluge-type water spray systems).

*Modification Request:* The petitioner requests a modification of the existing standard to permit deluge-type water spray systems to be used without blow-off dust covers on the nozzles. The petitioner states that: (1) Weekly inspections and functional tests of its complete deluge-type water spray system are currently being conducted at the mine; (2) each nozzle is provided with a blow-off dust cover; (3) due to frequent inspections and functional testing of the system, the dust covers are not necessary because the nozzles can be maintained in an unclogged condition through weekly use. This will eliminate a potential hazard when reaching across or removing guarding to replace the caps; (4) it is burdensome to recap the large number of covers weekly after each inspection and functional test. The petitioner proposes to continue its weekly inspection and functional testing of the complete deluge-type water spray system at the Eagle No. 1 Mine, and to remove the blow-off dust covers from the nozzles. The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded the miners as would be provided by the existing standard.

*Docket Number:* M-2010-046-C.

*Petitioner:* Cobra Natural Resources, LLC, P.O. Box 40, Wharncliffe, West Virginia 25651.

*Mine:* Mountaineer Alma A Mine, MSHA I.D. No. 46-08730, located in Mingo County, West Virginia.

*Regulation Affected:* 30 CFR 75.1101-1(b) (Deluge-type water spray systems).

*Modification Request:* The petitioner requests a modification of the existing standard to permit deluge-type water

spray systems to be used without blow-off dust covers on the nozzles. The petitioner states that: (1) Weekly inspections and functional tests of its complete deluge-type water spray system are currently being conducted at the mine; (2) each nozzle is provided with a blow-off dust cover; (3) due to frequent inspections and functional testing of the system, the dust covers are not necessary because the nozzles can be maintained in an unclogged condition through weekly use; (4) it is burdensome to recap the large number of covers weekly after each inspection and functional test. The petitioner proposes to continue its weekly inspection and functional testing of the complete deluge-type water spray system at the Eagle No. 1 Mine, and to remove the blow-off dust covers from the nozzles. The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded the miners as would be provided by the existing standard.

*Docket Number:* M-2010-047-C.

*Petitioner:* Canyon Fuel Company, LLC, 597 South SR24, Salina, Utah 84654.

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

*Regulation Affected:* 30 CFR 75.500(d) (Permissible electric equipment).

*Modification Request:* The petitioner requests a modification of the existing standard as it applies to low-voltage or battery-powered non-permissible electronic testing and diagnostic equipment within 150 feet of pillar workings under controlled conditions. The petitioner proposes to use non-permissible low-voltage or battery-powered electronic testing and diagnostic equipment that would be limited to laptop computers, oscilloscopes, vibration analysis machines, cable fault detectors, point temperature probes, infrared temperature devices and recorders, pressure and flow measurement devices, signal analyzer devices, ultrasonic measuring devices, electronic component testers and electronic tachometers. The petitioner states that: (1) Permissible approved voltage measuring instruments are available and must be used when possible; (2) other testing and diagnostic equipment may be used if approved in advance by MSHA's District Office; (3) all other testing and diagnostic equipment used in or inby the last open crosscut will be permissible; (3) all non-permissible testing and diagnostic equipment used in or inby the last open crosscut will be examined by a certified person before

use to ensure equipment is being maintained in a safe operating condition; (4) examination results will be recorded in the examination book before the equipment is used and will be made available to an authorized representative of the Secretary and the miners at the mine; (5) a qualified person will continuously monitor for methane immediately before and during the use of non-permissible electronic testing and diagnostic equipment in or inby the last open crosscut; (6) non-permissible electronic testing and diagnostic equipment will not be used if methane is detected in concentrations at or above 1.0 percent methane. When 1.0 percent or more methane is detected while the non-permissible electronic equipment is being used, the equipment will be immediately de-energized and withdrawn to outby the last open crosscut; (7) all hand-held methane detectors will be MSHA approved and maintained in permissible and proper operating condition as defined in existing 30 CFR 75.320; (8) coal production will cease, except for the time necessary to troubleshoot under actual mining conditions. Coal may remain in or on the equipment in order to test and diagnose the equipment under a load. This change will require production to cease except during actual testing. Accumulations of coal and combustible materials referenced in 30 CFR 75.400 will be removed before testing begins to provide additional safety to miners; (9) non-permissible electronic test and diagnostic equipment will not be used to test equipment when float coal dust is in suspension; (10) all electronic and diagnostic equipment will be used in accordance with the manufacturer's recommended safe use procedures; (11) qualified personnel engaged in the use of electronic test and diagnostic equipment will be properly trained to recognize the hazards and limitations associated with the use of electronic test and diagnostic equipment; (12) any piece of equipment subject to this petition will be inspected by an authorized representative of the Secretary prior to initially placing it in service underground; (13) within 60 days after this petition for modification becomes final, the petitioner will submit proposed revisions for their approved 30 CFR Part 48 training plan to the District Manager. In addition to the requirements specified in Item No. 8 and 9, these proposed revisions will specify initial and refresher training regarding compliance with the terms and conditions stated in the Proposed Decision and Order; (14) cables supplying power to low-voltage test and

diagnostic equipment will only be used when permissible testing and diagnostic equipment are unavailable. The petitioner asserts that the proposed alternative method will guarantee no less than the same protection afforded by the standard.

*Docket Number:* M-2010-048-C.

*Petitioner:* Canyon Fuel Company, LLC, 597 South SR24, Salina, Utah 84654.

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

*Regulation Affected:* 30 CFR 75.1002 (Installation of electric equipment and conductors; permissibility).

*Modification Request:* The petitioner requests a modification of the existing standard as it applies to low-voltage or battery-powered non-permissible electronic testing and diagnostic equipment within 150 feet of pillar workings under controlled conditions. The petitioner proposes to use non-permissible low-voltage or battery-powered electronic testing and diagnostic equipment that would be limited to laptop computers, oscilloscopes, vibration analysis machines, cable fault detectors, point temperature probes, infrared temperature devices and recorders, pressure and flow measurement devices, signal analyzer devices, ultrasonic measuring devices, electronic component testers and electronic tachometers. The petitioner states that: (1) Permissible approved voltage measuring instruments are available and must be used when possible; (2) other testing and diagnostic equipment may be used if approved in advance by MSHA's District Office; (3) all other testing and diagnostic equipment used in or inby the last open crosscut will be permissible; (3) all non-permissible testing and diagnostic equipment used in or inby the last open crosscut will be examined by a certified person before use to ensure equipment is being maintained in a safe operating condition; (4) examination results will be recorded in the examination book before the equipment is used and will be made available to an authorized representative of the Secretary and the miners at the mine; (5) a qualified person will continuously monitor for methane immediately before and during the use of non-permissible electronic testing and diagnostic equipment in or inby the last open crosscut; (6) non-permissible electronic testing and diagnostic equipment will not be used if methane is detected in concentrations at or above 1.0 percent methane. When 1.0 percent or more methane is detected while the non-permissible electronic

equipment is being used, the equipment will be immediately de-energized and withdrawn to outby the last open crosscut; (7) all hand-held methane detectors will be MSHA approved and maintained in permissible and proper operating condition as defined in existing 30 CFR 75.320; (8) coal production will cease, except for the time necessary to troubleshoot under actual mining conditions. Coal may remain in or on the equipment in order to test and diagnose the equipment under a load. This change will require production to cease except during actual testing. Accumulations of coal and combustible materials referenced in 30 CFR 75.400 will be removed before testing begins to provide additional safety to miners; (9) non-permissible electronic test and diagnostic equipment will not be used to test equipment when float coal dust is in suspension; (10) all electronic and diagnostic equipment will be used in accordance with the manufacturer's recommended safe use procedures; (11) qualified personnel engaged in the use of electronic test and diagnostic equipment will be properly trained to recognize the hazards and limitations associated with the use of electronic test and diagnostic equipment; (12) any piece of equipment subject to this petition will be inspected by an authorized representative of the Secretary prior to initially placing it in service underground; (13) within 60 days after this petition for modification becomes final, the petitioner will submit proposed revisions for their approved 30 CFR Part 48 training plan to the District Manager. In addition to the requirements specified in Item No. 8 and 9, these proposed revisions will specify initial and refresher training regarding compliance with the terms and conditions stated in the Proposed Decision and Order; (14) cables supplying power to low-voltage test and diagnostic equipment will only be used when permissible testing and diagnostic equipment are unavailable. The petitioner asserts that the proposed alternative method will guarantee no less than the same protection afforded by the standard.

*Docket Number:* M-2010-049-C.

*Petitioner:* Speed Mining, Inc., 1600 Laidley Tower, P.O. Box 553, Charleston, West Virginia 25322.

*Mine:* American Eagle Mine, MSHA I.D. No. 46-05437, located in Kanawha County, West Virginia.

*Regulation Affected:* 30 CFR 75.1403-5(g) (Criteria—Belt conveyors).

*Modification Request:* The petitioner requests a modification of the existing standard to allow less than 24 inches of

clearance at belt locations due to initial design and construction of the entries by the former owner of the mine. The petitioner states that: (1) Speed Mining is unable to maintain 24 inches of clearance because of the initial design and construction of the entries by the former owner of the mine; (2) approximately eight years ago, the former operator designed the section such that the track and conveyor belt would run in the same entry; (3) because the track and belt run together, and there is a need for some supplemental roof control along certain portions of the belt, it is impossible to provide 24 inches of clearance along the belt; (4) the requested modification has essentially been in place since the former operator's construction of the entries, with no objection from MSHA. Speed Mining is seeking to continue the former owner's practice. The petitioner further states that: (1) Adequate signs indicating close clearance will be installed on the inby and outby sides of the close clearance areas; (2) no work or travel will be allowed in the close clearance area while the belt is running; (3) belt cut-off switches will be installed on the inby and outby sides of the close clearance area; (4) the belt stoppage switches will be installed in a manner that will not allow the belt to be started at another location; (5) before any work is performed in the affected area, the power to the belt will be cut, locked and tagged; (6) signs will be installed to direct foot traffic traveling on the off side of the belt around the block until the close clearance area has been passed; (7) all employees who will be affected by this modification approval will be made aware of the stipulations. The petitioner asserts that the proposed alternative method will not result in a diminution of safety to the miners.

Dated: January 10, 2011.

**Patricia W. Silvey,**  
*Certifying Officer.*

[FR Doc. 2011-687 Filed 1-13-11; 8:45 am]

**BILLING CODE 4510-43-P**

## **NUCLEAR REGULATORY COMMISSION**

**[NRC-2011-0011]**

### **Draft Regulatory Guide: Issuance, Availability**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Issuance, Availability of Draft Regulatory Guide (DG)-1245.

**FOR FURTHER INFORMATION CONTACT:** Mark P. Orr, U.S. Nuclear Regulatory

Commission, Washington, DC 20555-0001, *telephone:* 301-415-7495 or e-mail *Mark.Orr@nrc.gov.*

### **SUPPLEMENTARY INFORMATION:**

#### **I. Introduction**

The U.S. Nuclear Regulatory Commission (NRC) has issued for public comment a draft guide in the agency's "Regulatory Guide" series. This series was developed to describe and make available to the public such information as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

The draft regulatory guide, entitled, "Inspection of Water-Control Structures Associated with Nuclear Power Plants," is temporarily identified by its task number, DG-1245, which should be mentioned in all related correspondence. DG-1245 is proposed Revision 2 of Regulatory Guide 1.127, dated March 1978.

This guide describes a basis acceptable to the NRC staff for developing an appropriate inservice inspection and surveillance program for dams, slopes, canals, and other water-control structures associated with emergency cooling water systems or flood protection of nuclear power plants.

#### **II. Further Information**

The NRC staff is soliciting comments on DG-1245. Comments may be accompanied by relevant information or supporting data, and should mention DG-1245 in the subject line. Comments submitted in writing or in electronic form will be made available to the public in their entirety through the NRC's Agencywide Documents Access and Management System (ADAMS).

**ADDRESSES:** You may submit comments by any one of the following methods. Please include Docket ID NRC-2011-0011 in the subject line of your comments. Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site Regulations.gov. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for