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MSHA/OSRV

Emergency Temporary Standard: Public Hearing Comments

Department of Labor

Mine Safety and Health Administration

30 CFR Parts 48, 50, 75

RIN 1219-AB46

**EMERGENCY MINE EVACUATION;
Final Rule**

April 24, 26, & 28, 2006

JIM Walter resources, inc.
BLUE CREEK COAL • BROOKWOOD, ALABAMA

AB46-HEAR-1E-SUBMISSION

The employees of Jim Walter Resources, Inc. (JWR) understand the effect of a mine disaster and our heart felt thoughts and prayers are with those affected by these events this year. In 2001, we experienced a disaster at our No. 5 Mine that took the lives of 13 of our friends and coworkers. Living through our disaster further substantiates our interest in certain aspects of this latest Emergency Temporary Standard (ETS).

Part 50-Notification

When dealing with a mine emergency early notification is essential to both state and federal agencies. But, does MSHA really want mine site's Responsible Person to be distracted from the importance of managing an emergency scene to make a call that could result in losing precious minutes?

The ETS, requires operators to notify MSHA "immediately/at once" (within a 15 minutes maximum) of a 30 CFR Part 50.2(h) Accident. It is MSHA's belief that early notification will enhance appropriate emergency response; however, when faced with a serious event, operators cannot rely on MSHA to remotely manage the first minutes of their mine emergency. Operators should be allowed to manage their event until it is controllable or the need for additional support is identified. During these early stages, the 15 minute requirement can be intrusive and actually impair critical emergency management.

MSHA's strengths are in second and third tiered response. We recommend that the 15 minute notification period required by this ETS be revised to allow flexibility for the operator to manage situations involving serious injuries, entrapment and other related emergencies that require undivided attention in the early stages of response. In contrast, we support immediate notification for fatalities and accidents with the potential of requiring a mine rescue and/or recovery response.

As stated earlier, the time required to comply with immediate notification has the potential to become even more intrusive. Per this ETS, an operator is obligated to contact their District Office when reporting a 30 CFR Part 50. 2 (h) accidents. If the District Office is unavailable, this ETS directs the operator to continue trying to make contact by following all prompts from their answering machines/services. If unsuccessful in contacting the local MSHA District Office, this ETS continues by requiring operators to use an

alternate number for contacting MSHA Headquarters 800 toll free line. This line has a 24 hour 7 day per week answering protocol.

Recently JWR's Safety Department called the MSHA Headquarters 800 toll free line to test the procedures and discuss information needed to train our Responsible Persons. After several rings our call was answered and we were promptly asked to hold. After nearly 2 minutes the operator again answered and placed us on hold for a second time. Later, when she returned, she asked for our complaint? We explained that we had no complaint, just wanted to learn more about the emergency call line protocols. We were informed that the person/s we needed was at lunch. She then offered to send them an e-mail with my request, which included a return request "As Soon As Possible". The original call was made at 11:40 A. M. CST and we received a return call from our District Manager at 3:05 P. M. During mine emergency situations where time is of the essence, a system such as it was, will not work.

We recommend that MSHA develop a universal call system to be used by all MSHA District Offices. To prevent unnecessary delay for "after business hours" calls, the system should be equipped with automatic roll over to the MSHA Headquarters 800 toll free line. We further recommend that District Offices and MSHA Headquarters 800 toll free line receiving the emergency calls be adequately staffed with persons trained to meet the intent of the service.

Were delays in emergency response, prior to this ETS, a failure of the existing regulations? We believe that requirements listed in 30 CFR Part 49 are clear. Rescue stations and teams are required to be within 2 hours of the mine/s they are responsible for. The agency's attempt to enhance response by requiring more prompt notification will not change response time to an emergency if a mine rescue team fails to respond in a timely manner. This requirement is the same for in-house and contracted mine rescue teams. It is the responsibility of the agency, operators and team members to insure compliance with this regulation.

MSHA can best serve our miners by evaluating each operator's emergency capabilities and facilitating, through enforcement when necessary, the development of appropriate procedures to meet today's existing standards. If mine rescue team response time issues were in part responsible for

generating this ETS, then that particular aspect of the regulation should be explored. If delayed mine rescue response is specific to contract mine rescue teams or their availability, then MSHA should consider additional requirements for operators' dependent on contracted mine rescue services.

MSHA has asked for comments on whether a revision should be made to cover all unplanned underground mine fires, or unplanned underground mine fires of particular types. We do not support this position and believe that the definition of accident as related to 50.2(h)6 is adequate to insure the safety of miners. A mine may deal with potential fire situations, such as smoldering material or hot rollers that are extinguished within a matter of moments after being discovered and these present no serious hazard to miners.

Lifelines

We support the use of lifelines installed in both the primary and secondary escapeways. When developing future recommendation we request that the agency consider potential hazards associated with installation of lifelines in entries where track mounted or mobile equipment is operated.

Tethers

We believe that tethers should be provided and miners trained to make an informed decision as to how and if they should be used. Since evacuation can be affected by conditions of the emergency, the use of tethers should not be mandatory.

75.1502 Mine Emergency Evacuation and Firefighting Program of Instruction.

Under this ETS, we recommend that 75.1502(1) be changed from a 90 day training requirement to a quarterly requirement. Quarterly training provides operators the flexibility to maximize the training of miners in emergency evacuation as well as to train miners in a more timely manner if they missed their scheduled drill.

The new paragraph 75.1502(c)(2) is added to enhance mine evacuation. We disagree with the agency's position that all people must travel the entire escapeway every 90 days as part of the training requirement. This is not training as the term is defined. Physically traveling an entry does not train a person on escape. Under the new ETS operators must establish continuous

lifelines throughout both primary and secondary escapeways. It would be more logical to train miners on escapeways as to the entrances from their work stations, physically locating the lifeline system, SCSR locations and physical issues in the escapeways. This would have the same effect upon training and education. Furthermore, the 6 weeks escapeway walk is still mandated requiring two miners and supervisor to walk the escapeway in its entirety.

Additional concerns with travel of escapeways by all employees are the physical condition of miners traveling the escapeway. The coal industry has an aging work force whose average age is in the early 50's. Requiring miners to walk escapeways would cause undue stress upon cardiovascular systems or increase the risk for personal injuries.

In the agency's Q and A Guidelines 2, it prohibits operators having a miner don a SCSR to establish the distances for SCSR storage due to the unnecessary strain on the miner's physical condition. Having a miner travel the entire escapeway for training purposes four times a year will subject them to the same undue physical stress. The ETS states in the same section, "that miners may have to travel through long and difficult underground travelways" confirming dangers associated with this task.

75.1502 Fire drills.

This ETS is concerned with the quality of fire drills and the efficiency of miners' ability to fight fires. This ETS eliminates the opportunity for underground miners to practice fire fighting skills on actual fires. We believe that underground mine fire fighting can be enhanced if this ETS would give credit for at least one fire fighting drill per year to be conducted on the surface of a coal mine where miners could actually fight fire with fire fighting equipment. The requirement for conducting "underground" fire drills in this ETS eliminates the ability for actual hands on fire fighting in an underground setting.

75.1502(c)3 Checklists. The addition of the four scenarios incorporated into the firefighting and evacuation drills insures miners' exposure to all aspects of an emergency drill. Required record keeping associated with these drills suffices for the need of a checklist.

75.1502(a)1(ii) scenarios. We disagree with the agency's position that, for training purposes, best options can be predetermined for a mine emergency

evacuation. Options for escape must be determined by the results of the issues facing the miners.

30 CFR Part 75.1714-4(c)

MSHA has rejected a request to design SCSR storage sites that can be accessed from either the primary or secondary escapeways when located in parallel entries. We believe allowing access to cached SCSRs from either the primary or secondary escapeways where possible is safe and reasonable. Miners and operators benefit from permitting such a design from having one known location rather than two separate caches in different areas. Manufacturers may not agree, yet storing large numbers of SCSRs increases potential fire hazards. Manufacturers of SCSRs are overwhelmed with orders and are projecting one year wait times on backorders. Allowing a cache to be accessed from either the primary or secondary escapeways would more accurately represent the number of additional self-rescuers needed in storage without reducing the number of SCSRs needed for escape. This reduction in SCSRs required in duplicate caches would increase an operator's ability to comply with the regulation in a timelier manner.

We recommend that MSHA reconsider allowing operators to cache SCSRs that can be accessed, where possible, from either the primary or secondary escapeways.

90 day tests for stored SCSRs should be revised to eliminate the shake test for CSE units not transported or worn/carried by miner.

Selection of storage sites.

MSHA has stated in the preamble that an operator may use any reliable method of choosing SCSR storage locations where miners can swap to another SCSR. There is inherent danger in swapping SCSRs in irrespirable atmospheres and further research should be done to identify other options to enhance survival. Multiple SCSRs may be only a short term solution.