

November 16, 2007

**Office of Standards, Regulations, and Variances
1100 Wilson Boulevard
Room 2350
Arlington, VA 22209-3939**

**RE: Mine Rescue Comments
RIN 1219- AB53**

Dear Ms. Silvey:

Foundation Coal Corporation and its affiliates offer the following comments on the mine rescue proposed regulations. Foundation Coal's affiliates presently have two mine rescue teams in Pennsylvania and two mine rescue teams in West Virginia. As written, the proposed regulations will require Foundation's affiliates to develop coverage to include at least one and possibly two additional rescue teams. These comments will specifically address Foundation and its affiliate's activities regarding mine rescue coverage, concerns with the proposed regulation as well as some additional general comments concerning the proposed regulation.

Foundation does not have any affiliates in Kentucky, Virginia or other states where state team concepts were left unaddressed by the Agency. By reference, Foundation fully supports the comments by the NMA concerning other issues not covered in these comments including the need for a more appropriate set of rules for state teams.

Section 49.11

The chart in Section 49.11 omits a type of mine rescue team coverage that has historically been a successful. That is, the use of a team from affiliated mines providing coverage to the other affiliated mines. As I read the chart teams that provide coverage for their own mine and an affiliated mine in the same geographic area would be considered as contract teams and be required to attend quarterly training sessions at each affiliate's mine. To illustrate:

Emerald Resources, LP and Cumberland Resources, LP are both affiliates of Foundation Coal Corporation. They are located within a few miles of each other. As I read this regulation, these operations would be required to train quarterly at each others operations (the

contract team scenario) or would need to transfer two employees from each mine rescue team to each other team in order to be considered a composite team. I don't believe that either of these options is in the best interest of mine rescue.

I would recommend that affiliated teams from the same parent company be required to train at the same level as composite teams.

Section 49.18

I suggest changing the training requirement in part (b) to read:

“... at least 64 hours of training annually, which shall consist of refresher training, given at a minimum of 8 hours **each quarter.**”

Mine Rescue training normally is high peak training in the warmer months of the year, and ebbs in the winter/holiday period. Provided the 64 hours of training is received each calendar year, allowing for a more limited amount of training per quarter will not impact the mine rescue team's efficiency.

I would also change (b) (2) to also read quarterly.

Section 49.20

I would recommend a change in the language of section (b) (2) (i). As presently written a composite team must consist of two teams from each covered mine. The use of the term “mine” is my concern. In many operations, a number of single unit small mines roll up to form a complex. Each of these “mines” has a separate MSHA ID number. All of them are interconnected by the same management team and support structure. In most cases workers are moved among these mines. I would suggest changing this section to read, “Include at least two members from each covered mine [or] groups of mines that form a complex”. This will provide the flexibility to provide a composition team that does not become defined as a contract team. (See chart in section 49.11).

Section 49.40

This section will also need modified to provide for composite teams from a group of mines or a complex.

Section 49.60

The following comment is not a regulation suggestion, but a suggestion to the Agency.

Presently mine rescue contests are funded by operators paying fees to enter and associations and/or organizations raising money to pay for the expenses. These organizations volunteer their time and most of the contributions come from operators and vendors. The Agency's primary participation, other than individual's working for the organization, is to provide judging. The number of judges provided by the Agency has been an issue in the past. As a voluntary participant, I have never questioned this practice. Now that the contests will become part of a regulatory standard, there needs to be a commitment from the agency to provide for appropriate funding or at a minimum the necessary staffing to judge these competitions. Competitions will include a larger number of teams and the Agency needs to provide enough judges and other personnel so that the competitions can be operated efficiently and end at an appropriate time. I have watched teams compete in meets where lock-up was at 7:00 AM and the field competition didn't end until late evening. MSHA must provide enough judges to avoid this problem.

Finally, I would like to support NMA's request for an implementation date of eighteen months after the regulations is final. This will allow for planning, purchasing and training of any new teams that will be needed to comply with the final requirements.

Sincerely,

John M. Gallick
VP Safety and Health
Foundation Coal Corporation