

From: coadavid [coadavidg@setel.com]
Sent: Friday, November 16, 2007 3:15 PM
To: zzMSHA-Standards - Comments to Fed Reg Group
Subject: Comments regarding RIN 1219-AB53

Attachments: Rescue Team Reg Comments.doc

Please find and record our comments regarding the subject proposal as found on the attachment to this message.

David A. Gooch, President
Coal Operators & Associates, Inc.
PO Box 3158
Pikeville, KY 41502-3158
Ph. Pikeville 606-432-2161
Fax Pikeville 606-432-2162
Ph. Frankfort 502-875-2410
Cell 606-424-8786
coadavidg@setel.com

1219-AB53-COMM-28



Coal Operators & Associates, Inc.
PO Box 3158
Pikeville, KY 41502-3158
Ph. 606-432-2161
Fax 606-432-2162

November 16, 2007

US Mine Safety & Health Administration
Office of Standards, Regulations & Variances
1100 Wilson Boulevard, Room 2350
Arlington, VA

VIA: Internet at zzMSHA-comments@dol.gov

RE: RIN 1219-AB53

To Whom It May Concern:

On behalf of the members of Coal Operators & Associates, Inc. (COA) thanks you for the opportunity to comment briefly on the proposed Mine Rescue Team rules published in the *Federal Register* on Thursday, September 6, 2007 and found at pages 51320 through 51337.

COA is a trade association based in Pikeville, KY that represents nearly two hundred member companies engaged in both the surface and underground mining, preparation, transportation, ownership and leasing of coal or providing goods and/or services to the region's coal mining industry. We represent several large publicly and privately owned mining companies as well as numerous small sized underground mining contractors.

STATE MINE RESCUE TEAMS

We fully appreciate and support your comments and intent to provide "credit" to state mine rescue teams composed of state employees whose duties include coalmine inspection, training, or other similar duties as found on p. 51321, III (A) (2).

Kentucky's Office of Mine Safety & Licensing (OMSL) currently has 11 highly trained and qualified mine rescue teams composed of inspectors, trainers and/or mine safety analysts. All mines in Kentucky are currently within one hour's response time

from a State mine rescue station. The Kentucky State Teams are listed as the primary responders for the more than 250 licensed underground coalmines in the state. The fact that OMSL field personnel have two-way radio communication serves to increase response time. The State Teams have an untarnished record of response, rescue and recovery. To lose these teams due to unintended consequences of the MINER Act or subsequent regulation is tantamount to setting coalmine rescue backwards thirty or more years in Kentucky.

We urge MSHA to, at the very least, finalize the above referenced language. However, COA believes that MSHA can and should do even more to provide credit to the Kentucky State Teams for the time spent in reviewing mining plans; providing routine and special inspections and conducting mine safety analysis at our underground coalmines.

Those who oppose any such effort to provide credit to the Kentucky State Teams as MSHA has proposed are doing so in an effort to impose extreme financial hardship on small mining companies as a means of eliminating mined tonnage in a highly competitive market. Such opposition is not in the interest of coalmine safety. It is not in the interest of providing skilled and trained mine rescue teams. It is not in the interest of Kentucky's approximately 15,000 coalminers. It is purely self-serving.

Absent the retention of the Kentucky State Teams, great financial hardship will be forced on numerous small and medium sized coalmine operators. A mine with 12 to 36 employees cannot feasibly recruit and equip two teams. Even if finances are not considered, it is only logical to assume that in the event of any major disaster the rescuers themselves would be some of those needing rescue.

Assembling composite teams has its own unique problems. Once trained, team members are easily lured to new employers with higher wages and more benefits. We have recently been informed that the major workers' compensation insurer for Kentucky mine operators has refused to provide coverage for composite team members if they are at a mine other than their employer's.

Just as MSHA is experiencing, Kentucky mine operators are operating with an aging workforce. The competition is fierce to attract and train new miners or experienced miners. For this reason COA cannot imagine how a contract team can be formed. If we cannot find willing, trainable, sober applicants for regular employment, then where are we to find experienced, trainable and sober members to staff a contract team? The history of contract mine rescue teams is a bleak page in the history of Kentucky coalmines and one that should not be resurrected. They were never effective.

The retention of the Kentucky State Rescue teams is imperative for Kentucky's coal miners. At this time, it is unsure whether OMSL will be able to meet statutory inspection requirements or other duties and still provide coalmine rescue.

IMPLEMENTATION TIME

We would urge MSHA to provide a minimum of 18 months for our coalmine operators to implement the finalized regulations and for our State Rescue Teams to react to the new requirements.

Several medium and large operators are in the process of building new teams or taking steps to provide mine rescue. However, you cannot properly equip and train a new team in a short amount of time and have any level of confidence in the team's capabilities. Some mine operators will possibly be able to comply with the new regulations in a shorter amount of time. Those teams created will be "paper tigers" that comply with a set of rules insofar as training, previous mining experience, response time and equipment, but will prove practically useless in the event of emergency. As experienced MSHA field personnel are aware, it takes more than a few training sessions and contests to put together a good rescue team that is competent.

FINAL COMMENTS

While there are other issues within the proposal that we could comment on we will not take the time to do so. Rather, we will endorse the comments submitted by the National Mining Association (NMA) regarding all issues other than the State Rescue Teams

Thank you again for allowing COA to provide comments on behalf of our member companies and their employees who depend upon Kentucky's State Mine Rescue Teams in times of emergency. Our system isn't broken and it doesn't need fixed.

Sincerely,

S/[*David A. Gooch*](#)

David A. Gooch
President