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TESTIMONY OF
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VICE PRESIDENT OF SAFETY

AND

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ARCH COAL, INC.

BEFORE THE
MINE SAFETY AND HEALTH ADMINISTRATION

ON THE

EMERGENCY TEMPORARY STANDARD
EMERGENCY MINE EVACUATION

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INTRODUCTION

Good morning. My name is Tony Bumbico. I'm the Vice President of Safety for Arch Coal, Inc (Arch). Arch is the second largest coal producer in the United States. Our corporate office is in St. Louis, Missouri. Arch's subsidiary companies have over 3,500 employees and operate mines in Colorado, Kentucky, Utah, Virginia, West Virginia, and Wyoming.

With me today is Doug Conaway. Doug is the Corporate Safety Director for Arch. We're here today in response to the Mine Safety and Health Administration's (MSHA) request for comments on the Emergency Temporary Standard (ETS) published on March 9, 2006 which contains regulations relevant to Emergency Mine Evacuation.

Our comments will be offered in two parts. I will discuss Arch's general position on the ETS. Following my comments, Doug will respond to some of the specific questions posed by MSHA in their Opening Comments.

Our comments today will reflect Arch's support of the testimony presented by the National Mining Association (NMA) at the April 28, 2006 hearing held in Arlington, Virginia. In addition, our testimony will express concerns that are specific to our operations. We appreciate the opportunity to comment, and hope that our comments will assist MSHA in future decisions related to this subject.

Arch supports the intent of the ETS. The objective of this regulatory initiative is to protect "miners from the grave dangers they face when they must evacuate a mine after an emergency occurs." Similar to other responsible operators, we are committed to continuously improving health and safety at our mines.

In particular, we support the agency's overall efforts to address several key issues related to self-escape and aided-rescue that were factors in the Sago and Alma tragedies. We extend our sympathies to the families of the Sago and Alma miners, and the other miners who have lost their lives this year.

As a company, Arch is committed to learn from these events. We continue to emphasize to our employees that self-escape is preferable to barricading when confronted with an emergency. In addition, we stand ready to work with MSHA and other responsible parties to improve the ability of miners to escape when a mine disaster occurs.

TRAINING: PART 48

In general, Arch supports the revised Part 48 training requirements. In this area, we have two concerns. The first relates to how these training requirements apply to visitors at mines that have multiple types of self-contained self-rescuers (SCSR). In our opinion, requiring visitors who are unfamiliar with mining to don multiple

SCSR units could prove confusing. We encourage MSHA to consider a more flexible approach in this area. Such an approach might focus on donning the principle SCSR unit assigned to the visitor, and using alternative types of training on supplemental SCSR units. An approach of this type might prove to be less confusing to visitors.

We have a similar concern with regard to SCSR training for certain types of independent contractors. As you're aware, some contractors are exposed to mine hazards on a regular and continuing basis. We feel that contractors in this category should receive the same type of SCSR training as miners. On the other hand, many contractors are only exposed to mine hazards on an infrequent and intermittent basis. In our opinion, contractors in this category should receive a level of SCSR training similar to the training provided to visitors.

We encourage MSHA to consider these SCSR training concerns when drafting the final rule.

NOTIFICATION: PART 50

The Accident Reporting (Part 50) revisions incorporated in the ETS are intended to facilitate rapid response by MSHA to serious mining accidents. Arch strongly supports this objective. We agree with the need to notify MSHA promptly to assist mine operators in dealing with mine emergencies. When accidents occur that threaten the safety of coal miners, a rapid emergency response is appropriate and essential.

In life threatening situations, or situations requiring a potential rescue and recovery response, it is essential to immediately dispatch emergency resources to the accident scene. While we agree with the intent of the ETS, we maintain that many of the immediately reportable accidents requiring fifteen (15) minute notification do not justify a rapid response. As a result, we recommend the development of a rapid response notification system that requires notification and response proportional to the nature of the accident.

The ETS requires that all immediately reportable accidents that occur on mine property, as defined by 30 CFR Part 50.2, be reported by the mine operator to MSHA within fifteen (15) minutes. Clearly, many of the events defined as immediately reportable should require a mine operator to notify MSHA within the proscribed fifteen (15) minutes. We contend, however, that each event must be evaluated on its' own merits. It makes no sense to contact MSHA within 15-minutes when the health and safety of miners is not at risk.

In 2005, MSHA was notified of approximately 2400 immediately reportable accidents. Approximately 90% of these 2400 incidents did NOT involve an injury to a miner. They involve accidents in two categories:

- Unplanned roof falls at or above the anchorage point, and
- Damage to hoisting equipment which interferes with its use for more than thirty (30) minutes.

Currently, MSHA documents the fact that they were notified of accidents that fall into these two categories. An MSHA inspector may (or may not) visit the mine site to conduct a follow-up investigation into these non-emergency events. The agency follows-up according to the seriousness of the accident reported. If an inspector does conduct a follow-up inspection related to these non-life threatening types of accidents, it may occur a day or two after the accident is reported.

It would be counter productive to contact MSHA within the required 15 minute time frame for these non-emergency events. It is not necessary to activate mine rescue personnel and local emergency response resources for all immediately reportable accidents. Early notification and rapid response should be in proportion to the seriousness of the accident. (It is also worth noting that many of the remaining 10% of the immediately reportable accident calls received by MSHA in 2005 did NOT involve an injury to a coal miner).

In our opinion, immediately reportable accident trends indicate that no benefit will be derived from early notification or rapid response for these types of non-emergency (non-injury) events. **The 15-minute notification period required by this ETS should be reserved for fatalities, serious injuries and accidents with the potential to require a mine rescue and/or recovery response.**

MSHA Notification Procedures

This ETS is solely focused on the 15-minute notification requirement following an immediately reportable accident. The ETS fails to address how MSHA will receive and respond to these notification calls. We are concerned that this omission will result in a system that unnecessarily delays an effective emergency response.

The current protocol requires a mine operator to call their MSHA District Office when an immediately reportable accident occurs. If that call is placed outside of business hours, the caller is forwarded to an answering service. The answering service provides the mine operator with other numbers to call to personally reach MSHA District Officials. If the caller can't reach one of those individuals, he/she is expected to contact MSHA Headquarters.

The MSHA notification protocol has built-in time delays. It requires mine operators to place multiple calls at a time when they should be focusing on responding to the emergency event. MSHA needs to eliminate their system of transferring calls and using answering machines to advise callers of other emergency response phone

numbers. In an emergency, each additional call that a mine operator has to make consumes precious time. MSHA should consider streamlining this process.

One method of making this system more efficient would be for MSHA to implement a protocol requiring operators to make a single call to an 800-number to notify the agency of an accident. As an alternative, MSHA could consider a system in which each MSHA District would provide mine operators with a list of emergency contact numbers. In addition, MSHA could assign staff to be "on call" to receive emergency calls. A mine operator should only be required to place one call to a designated person when an emergency occurs. That individual should have the ability to determine the severity of a situation, and the authority to direct an appropriate response. A notification system of this type would eliminate the built-in delays created by the current accident reporting protocol.

A notification system that fails to differentiate between serious and non-serious events will generate numerous "false alarms" and eventually lead to complacency. It may also contribute to the unavailability of emergency response resources when a legitimate emergency occurs.

We recommend that MSHA revise the Part 50 requirements in the ETS. The revised notification requirements should distinguish between serious and minor "immediately reportable" accidents. In addition, Arch recommends that MSHA develop an early notification/rapid response protocol that:

- Defines what constitutes a legitimate emergency and what response is required for each type of event.
- Defines the types of legitimate emergency situations that should be reported within fifteen (15) minutes.
- Defines the types of non-emergency (non-injury) accidents that do not require notification within fifteen (15) minutes.
- Establishes a clearly defined notification/response protocol that will minimize "false alarms".
- Provides enough flexibility to permit mine operators to investigate each immediately reportable accident and determine whether an emergency exists prior to calling MSHA.
- Establish a system within MSHA of receiving emergency notifications in the most effective manner.

An emergency notification/response protocol that incorporates these concepts will better serve the health and safety of our nation's coal miners. It will minimize "false alarms" and facilitate the deployment of emergency response resources to address "true" emergencies.

MANDATORY SAFETY STANDARDS: PART 75

Similar to the proposed changes in Part 50, the revisions proposed under Part 75, are intended to address legitimate concerns related to self-escape during a mine emergency. Arch agrees with many of the concepts contained in Part 75 of the ETS. We are concerned, however, that practical application of some provisions in Part 75 may be counterproductive and difficult to achieve.

Section 75.380(7) (i):

Arch supports the use of lifelines in escapeways as a means of facilitating self-escape. Research indicates that lifelines can be a significant aid to miners in an emergency situation, in particular when they encounter a smoke-filled environment. In fact, Arch's underground mines were using lifelines prior to the effective date of the ETS.

We have concerns, however, about the practicality of installing lifelines in main travelways. In some situations, the installation of lifelines in the travelways creates a potential hazard. This is especially true when the mine uses trolley wire to power haulage equipment. We also believe that lifelines installed in the main travelways at mines using diesel equipment will be very difficult to maintain. To date, we have not identified an effective method to install lifelines in the main travelways of our underground mines. In our opinion, there is no good way to install a lifeline in travelways that will be both accessible to miners and protected from heavy equipment.

In most instances, miners will use a mantrip (or similar vehicle) to exit the mine via the travelway in an emergency situation. In these situations, a lifeline would not be used. As a result, we recommend that MSHA reconsider its' position on requiring lifelines in escapeways that also serve as the main travelway of an underground mine. Or as an alternative, the agency should assist the Industry in developing appropriate methods to safely install and maintain lifelines in these areas of the mine.

Section 75.1502(c)(1):

Arch agrees with most aspects of the fire drill training requirements contained in Section 75.1502 (c) (1). In particular, we agree with the emphasis placed on scenario training. Training of this type will help improve the problem-solving and decision-making skills of miners that are so critical during a mine emergency.

We recommend, however, that MSHA revise the requirement to conduct fire drill training and mine emergency training every 90 days. In lieu of the 90-day requirement, we suggest that the training interval be modified to "once each quarter".

This change would not impact the quality of training. It would, however, provide more flexibility to large mines to accomplish the training in a more efficient manner.

Most of Arch's underground mines are large complexes. Trying to schedule 300 to 500 miners for training on SCSR transfers, escapeway systems, firefighting and evacuation drills will be difficult to achieve. We can accomplish this important task more effectively on a quarterly basis. This added flexibility, will enable us to schedule crews for training on a systematic basis. It would also help to address scheduling complicated by vacations and absenteeism. If MSHA is concerned that a person would be trained at the end of one quarter and at the beginning of the next, the agency could require that the training be accomplished during a "window" of time, as proposed by the operator's plan.

Section 75.1502(c)(2):

Arch opposes requiring all miners to walk the entire escapeway every 90 days. We do not believe that physically traveling the entire escapeway adds to the quality of training. In some cases, it may pose a hazard to miners.

We do believe that miners need to receive training on a quarterly basis that covers:

- Location of escapeway entrances from their workplace;
- Location of the lifeline systems;
- Location of SCSR caches;
- Unique physical escapeway characteristics; and
- Locations where important escape decisions will be made.

As stated during previous hearings on the ETS, MSHA needs to recognize that the coal industry has an aging workforce. The average age of our workforce is in the early-to-mid 50s. In some circumstances, walking escapeways could pose an unnecessary risk of illness or injury to these individuals.

As a result, Arch recommends that MSHA revise their proposed evacuation drill requirements. Miners should be permitted to travel their escape routes in vehicles, or walk short distances to the ventilation split where self-escape, decision-making training could be conducted. In our opinion, this change would enhance training, allow for training on unique escapeways conditions, and cover important topics such as the location of lifelines and SCSR caches.

Section 75.1502(c) (2)(ii):

Arch supports the use of hands-on training with respect to donning and transferring SCSR units. This type of training is effective and necessary to familiarize miners with the proper procedure for utilizing self-contained self-rescuers. In our opinion, however, SCSR training can be accomplished more effectively in a controlled

environment on the surface, as opposed to underground. We support the agency's recognition of this as reflected in the "Emergency Temporary Compliance Guide".

We suggest, however, that the training requirement for transferring SCSR units be modified with respect to operations that have multiple types of SCSR units. We propose that MSHA consider a training system that permits operators to alternate transfer training for different types of SCSR units on a quarterly basis. In essence we are recommending that mines with multiple types of SCSR units be required to train on one type of transfer each quarter.

Sections 75.1714-2 and 75.1714-4

Signage

With respect to the signage requirements for SCSR caches, Arch feels that the regulatory language is too restrictive. The term "SCSR" is an industry-wide term. It is used throughout the ETS. Section 75.1714-2(f), however, requires the word "SELF-RESCUER" or "SELF-RESCUERS" be used on storage cache signs. It serves no useful purpose to require mines with existing "SCSR" storage location signs to install signs stating "Self Rescuer." We recommend that the agency reconsider their position and permit the use of the term "SCSR" for storage caches.

SCSR Storage: Primary and Alternate Escapeways

Section 75.1714-4 (c) requires additional SCSR storage in the primary and alternate escapeways to augment other SCSR requirements in the ETS. A number of companies have proposed the use of airlocks located between adjacent escapeways for storage of SCSR units. The use of an airlock has the additional benefit of providing employees with an area isolated from the main air courses for the transfer of SCSR units. It could also be used to store other emergency supplies. Another alternative proposal would be to build an SCSR storage unit into a stopping to permit stored SCSR units to be accessed from either escapeway. Both of these proposals make practical sense.

In MSHA's "Emergency Temporary Compliance Guide", the agency rejected this concept. We remind the agency that Section 75.1714-4(c) does not require identical quantities of SCSR units be stored both in the primary and alternate escapeway. It requires "additional units in the primary and alternate escapeways." The concept outlined above is practical. It would place supplemental SCSR units in locations that satisfy both primary and alternate escapeway storage. We are requesting that MSHA reconsider its' position on this subject.

MSHA also requested comments on the appropriateness of using a "hardened room" or "safe haven" for storage of SCSR units. According to MSHA, a storage room of this type would have "positive ventilation from the surface through a borehole." My colleague, Doug Conaway, will address this question in more detail. The related

issue I wish to address concerns surface rights, and the practical means of gaining access to surface areas, in order to drill a borehole.

Many operations, particularly in the western states, are mining under significant cover, which at times exceeds 2,000 feet. The surface rights for many of these mines are controlled by the federal government. Gaining access to surface areas at these operations to drill boreholes, or install communication equipment, is not an easy task. It is a task complicated by regulations, the lack of access roads, rugged terrain, and difficult weather conditions.

If the agency intends to require the installation of additional boreholes, or the installment of communication systems on the surface, they need to consider this factor. The Industry needs a more efficient means of accessing surface rights for emergency response and other safety-related purposes. MSHA is encouraged to take this factor into consideration when formulating the final rule.

CLOSING

In closing, I want to thank you for the opportunity to comment on the ETS. At this point, Mr. Conaway will address some of the specific questions mentioned in the ETS and in the agency's Opening Comments, after which we would be available to respond to any questions.