



KENTUCKY STATE BOARD OF LICENSURE FOR
PROFESSIONAL ENGINEERS AND LAND SURVEYORS

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B. David Cox
Executive Director

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Office of Standards, Regulations and Variances
Mine Safety and Health Administration
1100 Wilson Boulevard, Room 2350
Arlington, VA 22209-3939

Re: Docket No. RIN 1219-AB52

An emergency temporary standard (ETS) on sealing abandoned areas in coal mines published by the Mine Safety and Health Administration (MSHA) on May 22, 2007 at 72 Federal Register 28796.

To Whom It May Concern:

The Kentucky State Board of Licensure for Professional Engineers and Land Surveyors (the "Board") would like to offer the following comments on §75.336(a)(2)(i) related to the possible interpretation of "... a professional engineer knowledgeable in structural engineering".

The language itself is acceptable but the Board is concerned that MSHA personnel could interpret the language to require that a structural engineer perform the work. In Kentucky, we do not license by discipline so there are no licensed structural engineers, or licensed electrical engineers, etc. All are licensed as professional engineers. Our Code of Professional Practice and Conduct (contained within regulation 201 KAR 18:142), requires that a licensee perform work only in his or her areas of competence. If the professional engineer is competent and knowledgeable in structural engineering as it relates to mine seals, then that person can perform the work. If the licensee is not, then he or she cannot legally perform that work in Kentucky. Performing work outside one's areas of competence would be a violation of our statutes and regulations subjecting the licensee to disciplinary action by the Board.

The Board would appreciate MSHA providing written guidance to their personnel on this issue to avoid future misunderstandings.

Sincerely,

B. David Cox
Executive Director

1219AB52-COMM-008

