

JEWELL SMOKELESS COAL CORPORATION

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MSHA
ATTN: Ms. Patricia Silvey, Director
Office of Standards, Regulations and Variances
1100 Wilson Blvd.
Room 2350
Arlington, VA 22209-3939

RE: RIN 1219-AB53

Dear Ms. Silvey:

We appreciate the opportunity to comment on this important potential regulation as it could have a dramatic effect on the future of mining especially in our area. The enclosed comments are ones our company wishes to make concerning the proposed regulations governing mine rescue teams.

Again, we appreciate the opportunity to comment on this most important regulation and we hope our comments will be taken into consideration.

Thank you in advance.

Sincerely,

JEWELL SMOKELESS COAL CORPORATION

A handwritten signature in black ink that reads "Gerald Kendrick". The signature is written in a cursive, flowing style.

Gerald Kendrick
Manager of Health and Safety

Jewell Smokeless Coal Corporation
Comments on Mine Rescue Teams Proposed Rules

Let us say at the start that we truly appreciate the opportunity to comment on these proposed regulations and that our company truly believes in training and properly equipped mine rescue teams.

The following comments are ones that our company would like to present for consideration. The comments address the questions and request for information.

We have no objection to creating a Subpart B containing existing standards and proposed new MINER Act provisions for underground coal mines.

We have watched as the number of teams has reduced over the past years, and it's been our hope that something could be done to facilitate an increase in the number of competent and qualified mine rescue teams and their capabilities. The old notion that mine rescue teams were no longer needed, which many of us heard for several years, faded into obscurity with the names of Sago, Aracoma and Kentucky Darby. It was our hope that the revision of part 49 would do just that. We believe that it will increase the number of teams available. However, we question whether the competency and qualification of those teams will occur.

We believe this can be achieved by MSHA and still comply with the intent of the MINER Act with the increase in teams and competency and qualification, by requiring each mine to be covered by two teams, as you have proposed, but not require two employees from each covered mine. This would increase the number of teams and hopefully be done in a way where you're not forcing miners to volunteer, and hopefully to grandfather in existing team locations even though they are located more than one hour from each covered mine.

In particular, mine rescue teams have traditionally been made up of volunteers from within the industry. We can not draft the men of the caliber needed into service as mine rescue team members. To be on a rescue team, you have to want to do it and those who do volunteer do it not for the recognition but do it out of a sense of duty to our fellow miners. This duty cannot be legislated or compelled. Attempting to force two individuals from each mine employing more than 36 employees to be on a mine rescue team, as required in 30 CFR 49.20 paragraph 2(i), will increase the number of teams, but we question whether these team members will be what the mining industry needs. Will they be the dedicated individuals who are committed to be the ones who enter a mine and attempt a rescue when all others are running out? We think this could be an issue. After all not all volunteers will make a good mine rescue team member and some who are qualified will not make a good team member as some may not work well with fellow team members. Just because a person is an underground miner doesn't make him a good mine rescue team member. It has been our experience, that it takes 3-4 years to develop a good mine rescue team and with all new inexperienced team members this could take longer.

We would ask that MSHA consider another type of team to be included in the regulations, and that would be strictly a company-sponsored team made up of employees of a single company, but not necessarily a single mine, nor two from each of the covered mines that the company owns, and that these teams be permitted to provide the primary coverage to the those mines. Our teams that exist today that are composite teams under 49.20 of the current proposal but we feel there needs to be another category included in the proposed regulations or this added to the category of a mine site team. If not, it is likely that most of these teams would have to break up so a

Comments on Proposed Rules on Mine Rescue Teams

company can achieve the two miners from each mine covered, something that we do not think is in the best interest of mine rescue.

Although our present composite mine rescue teams would not be considered new teams, the proposed regulations as written may force our teams to be re-organized to include new inexperienced team members per the requirements of mines with greater than 36 employees having 2 employees from each mine. We therefore respectfully request that the present mine rescue teams be allowed to continue with their present team members. As those team members go off the team for one reason or another, then team members from mines covered could be added to the team.

Our company has had two mine rescue teams since 1975 and has made efforts to involve team members from different disciplines to have a composite team made up of members who are diversified in many areas. Our present teams are composite teams under the proposed definitions and are composed of personnel experienced in the electrical, mechanical, safety, and engineering facets of mining. We feel support personnel in safety, engineering, and shops who are presently on our mine rescue teams and who work and/or go underground at all our underground operations should be considered employees of those mines for the purposes of this requirement. Our company feels this proposed regulation as written and requiring 1 to 2 mine rescue team members from each mine covered would be a detriment to our existing mine rescue program which in the past has won two national mine rescue championships and numerous awards in mine rescue competition across the nation. The proposed rule as written would require the basic dismantling of two experienced mine rescue teams who have worked and helped in actual mine emergency situations. This proposed rule would force our company to replace seasoned mine rescue team members with inexperienced team members just to meet the criteria set forth in the proposed regulation. It is for this reason we feel the companies with existing mine rescue teams should be allowed to keep their present team members. If a composite team was to cover several mines the number of team members could create a management challenge. Current mine rescue contest rules limit the number of team members who can participate in a contest and who can go to lock up. And what do the extra team members do? If an event occurs in a mine, which has two inexperienced members on the team providing coverage would those two members be required to participate in mine rescue effort or shall we allow two more experienced team members to participate? Contract team members are required to have a minimum of three years underground experience within the preceding ten-year period. The requirement should be waived for mine rescue team members to work at the surface operations that have previous underground experience and who were active members of mine rescue team prior to the enactment of the Act of these regulations. As future members are added or replaced, then those team members could come from covered mines or from support group personnel that have experience at all mines covered by the teams.

Additionally, the proposal in 30 CFR 49.12 paragraph (f) calls for teams to be available within one hour of ground travel time from the rescue station. As we've seen in the past two years, travel time and response time are not the issue. The existing teams have been able to respond with great speed when notified of an emergency. The real issue is notification, which the MINER Act and subsequent regulations have addressed. If the proposal stands, many current fully-equipped stations with well-trained and qualified teams will be forced to move from their current location and possibly lose members in the process. Our company at this time is not one of them as we are presently within the

Comments on Proposed Rules on Mine Rescue Teams

proposed one hour travel time to those mines we are covering.

I would like to ask the panel to consider a so-called grandfather clause for these existing teams and stations, which would allow the district manager to approve a travel time limit of greater than one hour, but in no case greater than the two-hour ground travel requirement in the existing regulations, and only for these existing teams.

The additional practice time required in 30 CFR 49.20 paragraph (c) may make it difficult for some current members to stay on a team. Our team, like many others, is made up of a combination of miners, both hourly and salary individuals who work together as a team. However, the training proposed at each covered mine may cause many volunteers to second guess their time commitments. If they do continue on a team, there will be many men taken away from their regular jobs, and would likely be replaced, while training, with an individual who is not as experienced with that miner's workplace or his equipment and likely to have a higher risk of injury as a result of being placed in this work area or job. In our case additional qualified employees would have to be hired, if we can find them, to replace those team members on the team while they are in training and away from their regular jobs. It is estimated, due to our pay scale and benefits, to cost our company approximately \$100,000 per employee per year for each added employee.

Our company's mine rescue teams presently cover several smaller mines with less than 36 employees and 2 mines with multiple sections with greater than 36 employees. The smaller operations have very simple ventilation systems and uncomplicated mining methods that would require virtually little training in those. Potentially, this proposed regulation as written, could increase the training requirements of our mine rescue teams by 600% from 6 days/year to as much as 40 days/year. To require 1 to 2 mine rescue team members from each mine for a composite team for that period of time would place an extreme burden on those mines with less than 36 employees and is unrealistic to have those people away from their regular jobs for that many days in a year's time. If required to be away from their regular job for such a long period of time, others must take over those job requirements which increases the risks of accidents to those replacement employees.

We would ask that the proposed regulation be reconsidered or refined to require a limited number of team members, but not all team members, visit the covered mines to familiarize them with their location, the maps, equipment and functions of that operation. The training requirement should be considered to be met by having at least two members from each mine familiarize themselves with operations, the physical conditions and ventilations at the covered mine who would then be required to brief the remaining team members. These two team members could rotate regularly so that all members gain firsthand familiarity with each mine covered. Team members who routinely work at the mine covered by their teams should be allowed to substitute their job experience for 50 percent of the training requirements. State-sponsored composite team members should be considered state employees including being credited for the time in training at the mine in which they work.

If we look at a mine rescue team as you would a local or municipal fire department, do we require them to train at each structure they cover? Of course not. This would limit or eliminate many volunteer departments because of the time required to train at each structure, and it just completely is not necessary. As with a structure fire, a mine fire changes everything. And places visited by the team members may not even be there, or

be radically changed. This requirement would add nothing to or change the way a mine rescue team would approach a fire, and in fact, may destroy more teams than it helps create. We do, however, want it understood that we believe training underground is of the utmost importance.

Our company supports the proposed provision of allowing experience of State sponsored mine rescue teams to substitute for 50% of the training requirements.

At this point-in-time our existing mine rescue station would not have to be moved as we can meet the 1 hour ground travel time to our company mines as well as our contract mine operations that we provide mine rescue coverage for.

Although none of our contract mines that we cover, 8 presently, are more than 1 hour ground travel time from our mine rescue station. Many small operators in our part of the country (Southwest Virginia) are more than 1 hour ground travel time from any mine rescue station. To be covered under this proposed requirement would place an extreme burden on them. They are presently covered under the Virginia State program. Under the present Virginia State Program, certain larger company mine rescue teams have contracted to be state designated teams and those small mines are presently covered by those teams. The new regulations would eliminate this program and many small operators may have no choice but to go out of business. An exception should be granted or provided to allow state programs that are currently in place to continue and to allow those present mine rescue teams to continue to serve those remote mine locations as designated state mine rescue teams.

Although our company is not one of them, we foresee that many companies will have to add teams and rescue stations to comply with the 1 hour ground travel time from their respective mines as many had based their present teams and stations on the present 2 hour ground travel time requirements. Virginia has more than adequate mine rescue coverage with experienced highly competent teams who participate in the designated mine rescue program. Complying with these proposed rules in the MINER Act will totally eliminate this program. We would recommend that those states that have a program in place at the inception of the regulations be allowed to continue with that program even though it may not meet the full intent of the MINER ACT.

We feel the training at individual mines can be useful in some ways such as meeting with key individuals and discussing those items listed, ventilation, firefighting capabilities, mine maps, SCSR storage plans and seal locations. This training can be accomplished by splitting the team to train at these operations and then rotate those participants each time, exposing all members to an overview of the operation and location annually.

When we talk about practicing underground at each individual mine we see little need for such training and at most should be voluntary, but I do support an existing standard to train underground at least once each six months. As experienced mine rescue team members know, when you arrive at a mine the condition of the mines are assumed not to exist as they did before the accident and you make a recovery plan of how to enter the mine based on the mine maps, your prior expertise and experience, not on a mandated underground mine visit. For example, with the development or retreating in a mine the mine air courses very likely may not be accessible when you go for your next visit or come to an event. Does the New York Fire Department practice firefighting in every building they provide services for? The answer is no, because it's not necessary. It does not add to the way they fight the fire. It would be a ridiculous requirement. Such a requirement of the mine rescue environment could be instrumental in destroying the

Comments on Proposed Rules on Mine Rescue Teams

mine rescue structure as it stands.

The training requirement should be considered to be met by having at least two members from each mine familiarize themselves with operations, the physical conditions and ventilation at the covered mine who would then be required to brief the remaining team members. These two team members could rotate regularly so that all miners gain firsthand familiarity with each mine. Team members who routinely work at the mine covered by their teams should be allowed to substitute their job experience for 50 percent of the training requirements. State-sponsored composite team members should be considered state employees including being credited for the time in training at the mine which they work.

Our company feels the team members on composite teams should be given 50 percent credit for their training associated with their assigned mine. It is our opinion that travel time and response time have never been issues in mine rescue, event or situation. Therefore, to avoid disruption in any operation and effectiveness of existing mine rescue teams and stations, we would recommend that existing teams be allowed to maintain their stations at their existing location, even though they may be two hours from some mines. This would require a waiver of the one hour travel time requirement for these existing teams. However, any mine rescue station is established after the MINER Act was passed would have to comply with the one hour travel time. We also believe that MSHA's district managers should be allowed to waive this requirement to no more than two hour travel time provided it would not reduce the safety of that operation. As noted earlier, travel time has never been an issue in mine rescue situations. We feel the problem is not just getting new teams, but it's been trying to hold the teams together that we already have. When talking about building new stations or adding stations or moving stations, have we considered the fact that when a plan is put together to open up a new coal mine will we have to add the cost of putting in a new station just to meet the one hour travel time when it could very well be covered within 75 minute travel time away or even the two-hour travel time would make a difference between an operation being put into operation or not.

Our company feels the present amount of training (40 hours) is sufficient for mine rescue team members. This coupled with the requirement of having teams required to attend 2 mine rescue contest per year has already increased that training. In our case, our composite teams would have to receive additional training and time spent at each and every mine we cover (as many as 13). With the present requirements for continuing education training, annual refresher training, and other additional training as required, we feel additional mine rescue training time could have a detrimental effect on obtaining future new mine rescue team members.

As to proposed regulation 49.18, credit should be given for other relevant training completed by the team members such as fire brigade training, participation in mine rescue response drills, et cetera.

Our company is not familiar with state programs other than Virginia's mine rescue program. Virginia has a very good mine rescue program to assist mines and particularly small mines, that cannot afford to establish mine rescue teams of their own. Virginia has come up with a plan to provide this coverage at a reasonable cost to those operations that opt to participate. We fear this program is very likely in jeopardy due to the new proposed regulations and placing those small operations in danger of having no coverage by mine rescue teams and putting them out of business. These small

Comments on Proposed Rules on Mine Rescue Teams

operations in Southwest Virginia furnish valuable jobs and income to coal miners and the economy in our region.

Many small mines in Southwest Virginia and most that our teams presently cover have less than 20 persons employed. It would place an economic burden on those small mines to have 1 to 2 people per team from that mine. If a company with two existing experienced mine rescue teams cover these mines, why should those mines have to have employees participate on a mine rescue team? Even under the Virginia State Designated Mine Rescue Program only highly qualified teams within the state are used to cover those small mines under the program. Again, if a company already has experienced mine rescue teams in place and cover other company mines or small mines of other companies, why would there be a need to add an individual from each of those covered mines as there would be no mine rescue apparatus for them to use. The proposed regulations require 12 apparatus to be kept at the mine rescue station and 6 team members per team. If the company providing services to those mines have experienced team members, why would there be a need to add an inexperienced person from each covered mine? Most small mines in Southwest Virginia have some very good miners but that does not mean they would make good mine rescue team candidates or that any of them would be interested in becoming a mine rescue team member. We presently have 14 apparatuses and 13 team members.

Training at a small mine with a simple ventilation system would require limited training and therefore team training at a small mine would not require as much training as a mine with more complex systems. Team visits to those small underground mines once annually would be more than sufficient in those situations. The other visit to the mine site could be to receive updates on mining conditions encountered, any changes to the ventilation system, location of SCSR storage locations, firefighting equipment etc. As an option, the mine operator could be mandated to visit the covering mine rescue station on a regular basis to update the mine rescue team members on their mine during a required training session.

We sometimes forget that mine rescue team membership is voluntary and only a few will make good mine rescue team members.

Our composite mine rescue teams presently cover 11 underground mines with less than 20 employees. These small mines have simple uncomplicated ventilation systems and would require limited training at those facilities as compared to a mine with much more complex systems. We feel that in small mine cases that one underground visit annually at those mines covered is sufficient to become familiar with the mine location, ventilation system, escapeways, mining methods, etc. Locally there are mines that have miles and miles of workings with multiple complex ventilation schemes and multiple air shafts. There are several hundred employees at some of those mines. These mines have no problem in having two mine rescue teams from that mine due to numbers of employees. Their training times under the regulations would be such a small amount compared to a company like ours that is composed of mine rescue team members from several locations and cover several company and contract mines. If the training for mine rescue teams at large complex mines is sufficient for them, the same training for mine rescue teams covering small mines with simple ventilation systems is surely sufficient for them. It is for this reason we feel that one visit annually at each mine covered by a mine rescue team is sufficient for an experienced team to become familiar with that operation. Under today's scenarios, there has never been to our knowledge, a problem recruiting mine rescue teams from any company during an emergency event. We foresee, under these

Comments on Proposed Rules on Mine Rescue Teams

proposed regulations, that future recruitment of teams in an emergency situation may be a problem as many companies may be reluctant to send their teams to another company or location they do not cover due to these requirements.

Teams that have not received training or are unfamiliar with a mine experiencing problems may not go to that location in an emergency due to the lack of training as required by the proposed regulations at that mine.

We agree with the criteria presented here for a local mine rescue contest and we feel all judges should be required to be trained annually in the National Mine Rescue Rules and demonstrating their proficiency.. Many contests, especially in Virginia so we have been told, have had some problems getting state and MSHA employees to volunteer their services at mine rescue contests.

As an alternative to the requirements for mine rescue teams to participate in local mine rescue contests credit should be given those teams that participate in fire fighting training at the MSHA Academy or at the Lake Lynn Facility. Other considerations could be training such as that at the Ansul Fire Training School.

Under 75.101 we feel there are some items listed in the proposed regulations that a responsible person would be required to be trained on annually. Some of those items we feel the responsible person does not need to perform. Our belief is that the responsible person needs annual training on (1) deploying fire fighting equipment, (2) Initiating an emergency mine evacuation, (3) contacting emergency personnel and mine rescue teams, and (4) communicating appropriate information relating to the emergency and to some extent directing firefighting personnel. Such items as organizing a command center, directing mine rescue personnel, establishing a fresh air base, deploying mine rescue personnel, providing for mine gas sampling and analysis, establishing security should be left to others once the emergency is recognized and the appropriate personnel notified. The responsible person will be better served to allow him to concentrate on the emergency at hand such as evacuating personnel and or directing firefighting personnel and ensuring they have equipment they need.

Thank you in advance for the opportunity to comment on these most important proposed regulations that will have a major impact on both mine rescue teams as well as many small operators in this part of the country.