
From: Chris Hamilton <CHamilton@wvcoal.com>
Sent: Tuesday, December 15, 2015 3:41 PM
To: E-Rulemaking - MSHA
Subject: RE: RIN 1219-AB78; Docket No. MSHA-2014-0019

Pls accept this version of our comments. The earlier version had a omission. Thanks, Chris

December 15, 2015

Sheila McConnell
Acting Director - Office of Standards, Regulations, and Variances
MSHA/DOL
1100 Wilson Boulevard, Room 2350
Arlington, VA 22209
December 15, 2015
Submitted by: E-Mail
RIN: 1219-AB78
Docket Number: MSHA-2014-0019

Comments of the West Virginia Coal Association to MSHA's Proposed Rule for Proximity Detection Systems for Mobile Machines in Underground Coal Mines to Prevent Deaths and Injuries -- December 15, 2015.

The West Virginia Coal Association appreciates the opportunity to comment on the proposed rule-making for Proximity Detection Systems for Mobile Machines in Underground Coal Mines to Prevent Deaths and Injuries.

The West Virginia Coal Association is comprised of Coal producing companies that account for approximately ninety-five percent of the coal produced in West Virginia. Our membership also includes land companies, equipment manufacturers, mine supply and maintenance companies and a host of mine vendors. This past August we celebrated our 100th Anniversary.

The West Virginia Coal Association is part of a nine state region which comprises the "Appalachian" coal basin that has experienced decreased production and overall productivity since President Obama and the current federal Administration has taken office. The record suggests a deliberate plan on behalf of our federal government to curtail,

reduce and eventually eliminate coal produced within this region. It is our sincere hope that this proposed rule is not a component of that plan.

The state of West Virginia is the nation's leading underground mining state and consequently the state impacted the most by MSHA's proposed rule subject to this rule-making.

As an initial comment, we wholeheartedly embrace the comments submitted by the National Mining Association. We work hand in hand with NMA and many of our member companies participated in the construction of their comments.

Consistent with NMA, we also suggest that the timeline for compliance be extended sixty (60) months to accommodate manufacturing, operational and installation demands and capabilities.

As you're undoubtedly aware, the companies operating in the Appalachian Basin are transitioning from austerity to survival. Dailey news accounts of mine closures, layoffs and bankruptcies are rampant and there is no indication of this trend changing anytime soon. There are approximately 10,000 miners out of work in West Virginia alone. That number is more than doubled throughout this region.

With this gloom and doom backdrop, we respectfully ask MSHA to factor the financial health and economic fragility of the industry into the scope and implementation of the final rule.

We submit for your consideration, a copy of a similar rule recently promulgated by the West Virginia Board of Coal Mine Health & Safety addressing the same topic.

As it relates to section haulage equipment, the rule affords mine operators with local and mine specific decision allowing by permitting a decision among options, namely, proximity devices or cameras to be installed on outby equipment. The decision is predicated on operational, budgetary and, mine layout and design and general geologic conditions.

Specifically, West Virginia Title 36 series 57 Rule titled: "Rules Governing Proximity Detection Systems and Haulage Safety Generally" was developed by representatives of mine management, labor and state mining officials, and requires in pertinent part:

36-57-6. Requirements for Section Haulage Equipment

6.1. By July 1 2017, scoops, diesel powered equipment and other battery powered section haulage equipment operating in-by the section loading point not provided with compatible proximity detection systems shall at a minimum:

6.1.a. Employ cameras; or

6.1.b. Be equipped with other alternatives as recommended by the West Virginia Board of Coal Mine Health & Safety and approved by the director that provide warnings to equipment operators and or persons who are traveling in the area.

As noted in 36-57-6, the West Virginia rule focuses on battery and diesel-powered equipment as the industry implements and gains operating experience with this relatively new technology and the opportunity to work out any unintended consequences or operations and maintenance issues typically experienced when new mining technologies are introduced into the workplace.

The rational basis for initially selecting and equipping non-trailing equipment with additional safety enhancements is based on the fact that underground haulage routes are better defined and well-established with mining personnel than travel routes of cable-free equipment.

The West Virginia rule arguably relies on technology (cameras) with a higher degree of safety given that when cameras are functioning, the actual vision of an operator is enhanced during the operation of mining equipment as opposed to proximity technology which offers no visual enhancement and requires a person to be in close proximity to a serious hazard or death before the safety device is activated. The West Virginia rule is additionally superior due to the fact that it precipitates an evaluation of local, site-specific conditions before selecting the most appropriate safest technology option.

Implementation of MSHA's proposal in West Virginia could lead to a diminished safety environment by incentivizing mine operators to forgo the consideration of cameras on underground equipment in lieu of opting to install a proximity device at a later date. It would also set up a situation where two rules exist, one under state law and a second issued under state law addressing the same topic, which in and of itself typically creates confusion and compliance difficulties at the mine level.

We appreciate the opportunity to submit our comments and sincerely request you comport your final rule with the existing West Virginia Rule.

Thank you.