
From: Allen Dupree [mailto:adupree@alphanr.com]
Sent: Monday, September 08, 2008 7:52 AM
To: zzMSHA-Standards - Comments to Fed Reg Group
Subject: Comments on Proposed Belt Rule - Alpha Natural Resources

Please find attached comments on the subject proposed rule.

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AB59-COMM-8



Patricia W. Silvey, Director
MSHA, Office of Standards, Regulations, and Variances
1100 Wilson Blvd., Room 2350
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Dear Ms. Silvey:

We sincerely appreciate the opportunity to provide comments to you, the other members of the panel, and MSHA regarding the proposed rule, dated June 19, 2008, entitled "Safety Standards Regarding the Recommendations of the Technical Study Panel on the Utilization of Belt Air and the Composition and Fire Retardant Properties of Belt Materials in Underground Coal Mining; Conveyor Belt Combustion Toxicity and Smoke Density; Proposed Rules". We are confident that the panel has carefully examined the information used to develop the rule, and will also consider comments given by all parties during the comment period. On behalf of Alpha Natural Resources and its family of companies, I would like to thank the panel in advance for their efforts in the development of this proposed rule, and we look forward to working with MSHA on this important issue. If you have any questions regarding these comments, please feel free to contact me at your convenience at (276) 619-4059 or adupree@alphanr.com.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Allen Dupree', written over a horizontal line.

Allen Dupree, PE
Vice President, Health and Safety

Comments on Proposed Rule

75.323 (In preamble) - MSHA is requesting comments on including a requirement in the final rule which would limit methane levels in the belt entry to prevent gas liberated on a conveyor belt or from the belt entry from increasing the methane content on the working section. MSHA is considering requiring that operators take action when methane is between 0.5 and 1.0 percent.

In regard to methane concentrations in the belt conveyor entries, numerous layers of protection are already afforded to the miners working in these locations, including the working sections, through current regulations. The current regulations recognize that methane is inherent to coal mines and provide protection from oxygen/methane mixtures that could potentially jeopardize miners' safety. Further lowering of these standards does not significantly improve safety for miners. Throughout its history, the current regulation has provided an effective and proven measure of protection for miners and requires methane to be maintained well below concentrations that would present a hazard to miners.

Under current regulations, miners on the working section are protected from excessive methane through duplicative and layered requirements, including:

- Section 75.323(b)(1) currently limits methane to below 1.0 percent in intake air courses;
- Section 75.342(a)(1) requires methane monitors to be installed on mining equipment used to extract coal, which give a warning at 1.0 percent;
- Section 75.360 requires that prior to anyone working in an area, a pre-shift examination, including tests for methane, be conducted on roadways and travel ways, working sections, including working places, approaches to worked out areas, ventilation controls, high spots along intake air courses where methane is likely to accumulate, and underground electrical installations;
- Section 75.362(a)(1) requires that an on-shift examination, including tests for methane, be conducted once during each shift on working sections;
- Section 75.362(b) requires an examination for hazardous conditions be conducted along each belt conveyor during each shift that coal is produced;

- Section 75.362(d) contains stringent requirements to test for methane at the face (i) at the start of each shift, in each working place before equipment is energized, (ii) immediately before equipment is energized, taken into, or operated in a working place, and (iii) at 20-minute intervals during operation of equipment in the working face;
- Additionally, Section 75.362(f) requires that during each shift coal is produced a certified person test for methane in each return split of air, from each working section.

The current regulations already limit the methane in intake air courses to below 1.0 percent. The belt air course should be considered an additional supply of intake air to the working section. This requirement has effectively provided protection to miners on working sections for years. Reducing the limits of methane allowed in the belt conveyor entries to 0.5 percent provides no measurable increase in protection than what is already provided by MSHA's regulations. In light of the numerous safety requirements regarding methane, the perceived benefits of this proposal do not equate to a measurable increase in safety.

Additionally, attempts to maintain methane concentrations in the belt conveyor entry below concentrations in the primary escape way will often create undesired pressure differentials from the belt entry into the primary escape way. In some cases, depending on the inherent methane liberation of each mine, a belt air course could exceed 0.5 percent without any coal on the belt conveyor. Our position is that the maximum allowable limits of methane for intake air courses should also be applied to belt air courses. This current regulation, combined with strict methane limits and tests already in place for the working section, provide an effective and proven measure of protection for miners and limit methane concentrations to levels well below those that would present a hazard to miners.

75.351(q)(2) – In addition to the required annual training outlined in (q)(1) for Atmospheric Monitoring System (AMS) operators, the proposed section requires that at least once every six months, all AMS operators must travel to all working sections to retain familiarity with underground mining systems, including haulage, ventilation, communication, and escape ways.

We feel that based upon the responsibilities of the AMS operator, this requirement is unnecessary and would eliminate some qualified and experienced persons from operating AMS. We agree that AMS operators should be familiar with underground mining operations; however, some mines employ former underground miners who are

no longer physically able to travel underground as their AMS operator. A requirement to go underground once every 6 months would eliminate these employees from consideration for this duty, even though such miners often bring years of knowledge and experience to the AMS position. The assumed benefit from this requirement weighed against the loss of many experienced miners who are currently operating AMS does not justify the proposed requirement under (q)(2). Additionally, the responsible person already required by MSHA regulations is available to take charge and make critical decisions in addition to the AMS operator.

75.1103-8(a) - Proposed rule requires that sensor and warning device systems be examined at least once each shift when belts are operated as part of a production shift. A functional test shall be made every 7 days. Inspection and maintenance of such systems shall be by a qualified person. This should be clarified in that “examination” and “inspection” are used interchangeably. In addition, does a functional test every 7 days mean that each individual sensor, CO or thermal, must have CO gas or heat applied as part of the testing procedure? Presently CO systems are on a monthly schedule for testing and calibrating of sensors. A weekly schedule would add a great burden as far as testing, especially at larger mines, and it would not improve miner safety. The requirement for functional testing should remain at the current monthly schedule.

75.1731(a) – The proposed rule requires that damaged rollers and other malfunctioning belt conveyor components must be immediately repaired or replaced. The wording of this proposed regulation is disconcerting from both a compliance and enforcement perspective. This proposed requirement is extremely open to conflicting interpretations, as to the meaning of the words “damaged” and “malfunctioning” and does not allude to any indication that the components are creating a hazard or unsafe condition. To eliminate or reduce such uncertainty, it would be better from both an enforcement and compliance perspective if the regulation was more clearly defined as applying to a damaged or malfunctioning component which creates a hazardous or unsafe condition.

Suggested wording for the proposed regulation should be revised to clearly state the intent as describe in the preamble such as: “Damaged rollers and other malfunctioning belt conveyor components which create a hazardous or unsafe condition shall be immediately repaired or replaced”.

Currently, Section 75.362(b) states that during each shift that coal is produced, a certified person shall examine for hazardous conditions along each belt conveyor haulageway where a belt conveyor is operated. Examiners are trained to detect and focus on hazardous and unsafe conditions, and this is another example of why the

phrase: “which create a hazardous or unsafe condition” is a clarification that should be added to the terms: “damaged” and “malfunctioning”. Absent such clarification, the proposed regulation would open the possibility of widespread inconsistent enforcement actions concerning examinations, even though an examiner’s primary purpose is to detect hazardous conditions. Under the current regulation, examiners are not required to detect damaged and malfunctioning components that do not create a hazardous or unsafe condition.

The proposed regulations also states that the subject components must be immediately repaired or replaced; however, the regulation does not state that a hazard or unsafe condition exists. If one roller is damaged but not in an unsafe condition, the proposed rule could be literally read to require it to be immediately replaced, even though it may be safer to replace components with a two-man crew. Why is the term “immediately” associated with a requirement that does not mention any unsafe or hazardous condition? This proposed regulation is too vague, allowing inconsistent interpretation, and yet requires immediate replacement of conditions that do not pose an immediate safety hazard.

Also, in current Section 75.1725(a) belts must be maintained in a safe operating condition or removed from service immediately. We feel that the current 75.1725(a) standard effectively protects miners from the hazardous condition of concern and that the proposed regulation is overly broad and vague. We respectfully suggest that the proposed regulation be clarified to more accurately reflect the Secretary’s intent, which in its present form is not clearly reflected or defined. The current language of this proposed regulation has the distinct potential of becoming a compliance and enforcement catastrophe.

75.1731(c) - This proposal requires that noncombustible materials not be allowed to accumulate in the belt conveyor entry. The language of this proposed regulation is exceptionally vague and utterly impossible to consistently apply from both a compliance and enforcement standpoint. If the intent is to eliminate potential frictional ignition sources, as stated in the preamble, then we respectfully request that the regulation be clarified to address accumulations of noncombustible materials that may create sources of friction. In its current form, the proposal is completely open to conflicting interpretations of the terms “accumulation” and “noncombustible” and compliance with such a regulation such is virtually impossible. As written, accumulations of noncombustible materials could include rock, metal belt structure, concrete block used in stopping construction and these noncombustible items may be located in a crosscut not exposed to any moving belt components or near travel ways. We respectfully

request that the language be more clearly defined to address hazards from any such noncombustible accumulations.

Suggested wording for the proposed regulation should be revised to clearly state the intent as describe in the preamble such as: “Noncombustible materials shall not be allowed to accumulate in a manner that could create a potential source of frictional ignition in the belt conveyor entry”.

In reference the statement in the preamble that accumulations of noncombustible materials may pose potential tripping hazards in the belt entry, Section 75.1403-5(g) plainly states that a **clear** travel way at least 24 inches wide should be provided on **both** sides of all belt conveyors. This requirement currently protects miners from any potential tripping hazards in the belt conveyor entry.

The proposed regulation in its present form will absolutely create a myriad of legal issues from both a compliance and enforcement perspective.