

Received by OSRV 11/16/2007



Alpha Natural Resources

**ALPHA NATURAL RESOURCES**

One Alpha Place  
P. O. Box 2345  
Abingdon, VA 24212  
Phone: 276.619.4410 Fax: 276.628.2951  
www.alphanr.com

Committed to Running Right

# FAX

To: PAT SILVEY	From: VAUGHN GROVES
Fax: 202-693-9441	Pages: 11 (Including Cover)
Phone:	Date: 11/16/07
Re: RIN 1219-AB53	

- Urgent  
  Reply ASAP  
  Please Comment  
  Please Review  
  FYI

Comments:

COMMENTS ON MINE RESUE

TEAMS - PROPOSED REGULATIONS

BY

ALPHA NATURAL RESOURCES

BY VAUGHN R. GROVES

2ND ATTEMPT

**NOTICE PROPRIETARY AND CONFIDENTIAL INFORMATION**

The pages comprising this facsimile contain proprietary and confidential information. This information is intended solely for the use of the individual entity named as the recipient hereof. If you are not the intended recipient, be aware that any disclosure, copying, distribution, or use of this transmission is prohibited. If you have received this transmission in error, please notify us by telephone immediately so that we may arrange to retrieve this transmission at no cost to you.



*Via Facsimile (202.693.9441)*

November 16, 2007

Patricia W. Silvey  
Director, Office of Standards, Regulations, and Variances  
U.S. Department of Labor  
Mine Safety and Health Administration  
1100 Wilson Boulevard  
Room 2350  
Arlington, VA 22209-3939

Re: Comments of Alpha Natural Resources, LLC on MSHA's Proposed Rules  
for Mine Rescue Teams (72 Fed. Reg. 51320; RIN 1219-AB53)  
and Mine Rescue Equipment (72 Fed Reg. 51338; RIN 1219-AB 56)

Dear Ms. Silvey:

Set forth below, please find the comments of Alpha Natural Resources, LLC and its affiliated companies ("Alpha") on MSHA's two Notices of Proposed Rulemaking published in the Federal Register for September 6, 2007. Alpha also supports and incorporates the comments already provided to MSHA by the National Mining Association.

First, as has already been reflected in oral comments made at the public hearing in Lexington, Kentucky and Charleston, West Virginia by our employees and mine rescue professionals, Barry Compton, Paris Charles, James Murray and Kenneth Perdue, Alpha is very supportive of mine rescue and the established mine rescue program. Alpha has five established teams. In fact, two of the four teams in Virginia provide coverage to other underground mines in Virginia through cooperative effort with the Virginia Department of Mines and Minerals.

However, as our mine rescue professionals have already testified, they are truly concerned that the regulations as proposed could actually diminish the effectiveness of our teams and other teams and could result in experienced members leaving existing and established mine rescue teams. In particular, as James Murray, a member of our Cobra Natural Resources team, said so well at his testimony -- mine rescue teams are made up

Patricia W. Silvey  
Page 2  
November 16, 2007

of volunteers and “we do it out of a sense of duty to our fellow miner and this duty cannot be legislated or compelled.”

In light of the concern of our professionals, we would propose the following suggestions to the proposed regulations which we hope would result in our teams being able to retain the current professionals and hopefully recruit new professionals.

Our suggestions and rationale are as follows:

**I. Sec. 49.12. Availability of mine rescue teams.**

Section 49.12(b) as proposed provides as follows:

(b) Each mine rescue team shall consist of five members and one alternate who are fully qualified, trained, and equipped for providing emergency mine rescue service. Mine rescue teams for anthracite coal mines, which have no electrical equipment at the face or working section, shall consist of at least three members per team and one alternate that may be shared between both teams.

We believe that the word “at least” was inadvertently left out of this section. We believe Section 49.12(b) should read as follows:

(b) Each mine rescue team shall consist of *at least* five members and one alternate who are fully qualified, trained, and equipped for providing emergency mine rescue service. Mine rescue teams for anthracite coal mines, which have no electrical equipment at the face or working section, shall consist of at least three members per team and one alternate that may be shared between both teams.

This would be consistent with the requirement for anthracite coal mines that is referred to in the second sentence of Section 49.12(b) and provides for “... *at least* three members ...” This would also be consistent with Table 49.50 of the proposed regulations that set forth in numbered paragraph (1) “Except where alternative compliance is permitted, team has *at least* five members and one alternate.”

From a practical standpoint, if a team provides coverage for several mines and each covered mine must include at least two members, then a team covering four mines would have to have *at least* eight members on it. The addition of the “*at least*” language suggested above would permit this result.

Patricia W. Silvey  
Page 3  
November 16, 2007

## II. Section 49.12. Availability of mine rescue teams.

Section 49.12(f) provides that:

- (f) No mine served by a mine rescue team shall be located more than 1 hour ground travel time from the mine rescue station with which the rescue team is associated.

For the reasons set forth below, we would suggest a modification to Section 49.12(f) as follows:

- (f) No mine served by a mine rescue team shall be located more than 1 hour ground travel time from the mine rescue station with which the rescue team is associated. ***The 1 hour ground travel time is waived for mines that are being provided coverage by an existing mine rescue station as long as the ground travel time is not greater than 2 hours.***

In support of this position, our mine rescue professionals believe it would be in the best interest for the regulations to grandfather existing stations (i.e. waive the requirement for existing stations) even though they may be more than one hour from a covered mine. For example, our Company's subsidiaries have established secure mine rescue stations at five locations:

1. Paramount Coal Company Virginia Mine Rescue Team located in Wise, Virginia.
2. Dickenson-Russell Coal Company Mine Rescue Team located in Carbo, Virginia.
3. Brooks Run Mine Rescue Team located in Beckley, West Virginia.
4. Cobra Natural Resources Mine Rescue Team located in Wharncliffe, West Virginia
5. Kingwood Mining Company Mine Rescue Team located in Preston County, West Virginia.

If this requirement is not waived (grandfathered), the Brooks Run and Cobra stations will all have to be relocated just to meet the one hour limit, and it is likely the Paramount and Dickenson-Russell teams will have to relocate. If we have to relocate these stations, we have already been advised by several members that they would not travel to a new location, thus losing experienced mine rescue members for little or no reason. Also, the new locations are likely to be less secure, since they will not be on currently controlled mine site areas. A new location may also become a deterrent to attract new team members for future longevity of the team. We believe a waiver (grandfathering) for an established team would be for the best interest of mine rescue even though such a team may be more than 1 hour from a covered mine.

Patricia W. Silvey  
Page 4  
November 16, 2007

### III. Section 49.16. Equipment and maintenance requirements.

Section 49.16(a)(1) as proposed provides as follows:

(a)(1) Twelve self-contained oxygen breathing apparatus, each with a minimum of 2 hours capacity (approved by MSHA and NIOSH under 42 CFR part 84, subpart H), and any necessary equipment for testing such breathing apparatus;

We believe that as an alternative to twelve self-contained oxygen breathing apparatus, each with a minimum of 2 hours' capacity, a company mine rescue team should be able to have six self-contained breathing apparatus, each with a minimum of 4 hours' capacity, since this would give the same breathing capacity. Therefore, our mine rescue professionals believe that Section 49.16(a)(1) should read as follows:

(a)(1) Twelve self-contained oxygen breathing apparatus, each with a minimum of 2 hours' capacity *or six self-contained oxygen breathing apparatus, each with a minimum of 4 hours capacity* (approved by MSHA and NIOSH under 42 CFR part 84, subpart H), and any necessary equipment for testing such breathing apparatus;

### IV. Section 49.20. Requirements for all mines.

Section 49.20(b)(1) as proposed provides as follows:

(b)(1) Mine-site team. Members who work at the mine and participate in mine rescue training at the mine at least annually at semi-annually at small mines.

For the reasons set forth below, we would recommend that subsection 49.20(b)(1) be modified to read as follows:

(b)(1) Mine-site team. Members who work at the mine and participate in mine rescue training at the mine at least annually at semi-annually at small mines *and personnel that oversee multiple mines and are engaged in activities involving management, engineering, safety and training are considered to work at the mines they represent.*

This change would permit mine rescue personal, like engineers, safety directors and maintenance chiefs who are not assigned to a mine, but who work in multiple mines and know the mines and the mines workings well to be on a mine rescue team. These miners are critical to the effectiveness of the mine rescue team and bring a great deal of knowledge about the mine(s) with them. Otherwise others with less knowledge may have to serve on the team.

Patricia W. Silvey  
Page 5  
November 16, 2007

**V. Section 49.20. Requirement for all coal mines.**

Section 49.20(b)(2)(iii) provides as follows:

(b)(2)(iii) Participate in mine rescue training at each covered mine at least semi-annually at large and small mines.

For the reasons set forth below, we would recommend that subsection 49.20(b)(iii) be modified to read as follows:

(b)(2)(iii) Participate in mine rescue training at ~~each~~<sup>a</sup> covered mine at least semi-annually at large and small mines.”

Rationale for suggested revision:

1. First, the mining industry supports mine rescue training at a mine, including underground training. In fact, Section 49.18 currently provides, and the proposed regulations retain, the obligation pursuant to Section 49.18(b)(1) that:

“Refresher training shall include:

Sessions underground at least once each 6 months.”

2. Also, Section 49.20(b)(2)(iii) needs to be consistent with the other subsections of Section 49.20.

(1) In particular, subsection 49.20(b)(3)(ii) regarding a Contract team requires training only “... at a covered large mine and at a covered small mine at least semi-annually.” This proposed subsection 49.20(b)(3)(ii) does not require training at “each covered mine” as proposed in subsection 49.20(b)(iii).

(2) Likewise, proposed subsection 49.20(b)(4), relating to a State-sponsored team, only requires “... mine rescue training at a covered large mine at least annually and at a covered small mine at least semi-annually,” but does not required training “at each covered mine.”

Patricia W. Silvey

Page 6

November 16, 2007

3. We are not suggesting that mine rescue teams should not train at a covered mine or train underground; however, we do not believe training at "each covered mine" is practical or necessary because:
  - (1) Our mine rescue teams are trained to assume that when they arrive on site the conditions of the mine are assumed to not exist as they did before the accident;
  - (2) The mine rescue team makes their recovery plan of how to enter the mine based on the mine maps and your general experience – not on a mandated mine visit; and
  - (3) Also, some states require 3 mine rescue teams to be on site prior to exploration. All of these teams will use search and exploration tactics and therefore prior knowledge provides little, if any, benefit to these teams.
  - (4) Both MSHA and the State representatives will brief each team upon their arrival and prior to any team entering the mine--MSHA is charged by the MINER Act with directing the rescue efforts.

Therefore, our mine rescue professionals believe training at each covered mine would have little or no benefit.

4. In lieu of training at each covered mine, one or more members of the mine rescue team that covers the mine should be familiar with:
  - (1) Location of the mine;
  - (2) The mine's map, including ventilation and escape way layout;
  - (3) Seal locations;
  - (4) SCSR storage plans;
  - (5) Safe havens or refuge chambers;
  - (6) Fire fighting capabilities;
  - (7) De-watering capabilities;
  - (8) Charging stations and electrical supply locations; and
  - (9) Transportation capabilities.

Patricia W. Silvey  
Page 7  
November 16, 2007

The above can be accomplished by the mine manager or representative at the covered mine meeting with one or more members of the mine rescue team or certified team trainer providing the coverage and reviewing all the pertinent information. However, training at each of the covered mines would not be necessary and would be of little use to the mine rescue team in the event of an emergency as stated in the foregoing reasons.

5. In considering changes to the regulations, it has been pointed out to me by our mine rescue professionals that mine rescue team members are volunteers. If additional training is required as proposed, many of our members are concerned that this could cause trained and qualified mine rescue team members to quit the mine rescue team due to the amount of time required to train "at each covered mine."

For example, assuming:

- (1) Two composite teams were the mine rescue teams of record for a mine:

- i. The first composite team covers 5 mines as the primary team for these 5 mines and as a back-up team for the mines referred to in (ii) below. To comply with the proposed regulations this team would have to be comprised of at least 10 miners and a trainer.

- ii. The second composite team covers 4 mines as the primary team for these 4 mines and as a back-up for the mines referred to in (i) above. To comply with the proposed regulations this team would have to be comprised of at least 8 miners and a trainer.

- iii. If each team has to train semi-annually at each covered mine, this would require 36 training sessions for the teams --- this is derived from our interpretation of the proposed regulation that each team has to train semi-annual at each mine -- so you have 9 mines to cover with two teams and this equals 36 training sessions.

- (2) With 36 training sessions, this would mean that mine rescue members could be away from their respective jobs for 36 days annually, plus contest requirements. This could mean that a highly qualified member of a mine rescue team, such as Barry Compton of our Dickenson-Russell team, may not be able to perform mine rescue duties and his other job duties as a

Patricia W. Silvey  
Page 8  
November 16, 2007

superintendent of a mine. As such, this requirement could potentially result in the elimination of one of the most qualified members of an existing team, and an individual vital in leading and training new mine rescue members.

(3) This training, as discussed above, would have little benefit, and is likely to take away from other beneficial training the teams currently perform (that is not required by any law), such as MERD exercises, fire brigade training, and advance rescue fire fighting.

(4) As pointed out by Barry Compton at the Lexington, Kentucky hearing and James Murray at the Charleston, West Virginia hearing, fire departments do not train in each building they cover. If they were required to, this would likely cause the departure of many of the volunteer firefighters know training in each structure is just not necessary.

#### **VI. Section 75.1501. Emergency evacuations.**

We support the National Mining Association's suggestions that this entire section be removed for the reasons stated by the National Mining Association. However, if portions of proposed Section 75.1501 are to determined to by MSHA as necessary, we would propose Section 75.1501(a)(2) be removed, as noted below, in its entirety because we believe it is not practical or logical for a person on every shift to be trained in the items listed in Section 75.1501(a)(2).

~~—(2) The responsible person shall be trained annually in mine emergency response. Training shall include knowledge in the following:~~

- ~~—(i) Organizing a command center;~~
- ~~—(ii) Directing firefighting personnel;~~
- ~~—(iii) Deploying firefighting equipment;~~
- ~~—(iv) Directing mine rescue personnel;~~
- ~~—(v) Establishing fresh air base;~~
- ~~—(vi) Deploying mine rescue teams;~~
- ~~—(vii) Providing for mine gas sampling and analysis;~~
- ~~—(viii) Establishing security;~~
- ~~—(ix) Initiating an emergency mine evacuation;~~
- ~~—(x) Contacting emergency personnel; and~~
- ~~—(xi) Communicating appropriate information related to the emergency.~~

Patricia W. Silvey  
Page 9  
November 16, 2007

We believe a Responsible Person on each shift could perform and be trained on the following:

1. Knowledge of the assigned location and expected movements of the miners underground;
2. The operation of the mine ventilation system;
3. The location of the mine escapeways;
4. The mine communications system;
5. Any mine monitoring system if used;
6. Locations of firefighting equipment;
7. The mine's Emergency Response Plan;
8. The Mine Rescue Notification Plan; and
9. The Mine Emergency Evacuation and Firefighting Program of Instruction.

All as set-forth in Section 75.1501(a)(1).

For example, as Kenneth Perdue testified in Charleston, West Virginia, it is not logical, practical or necessary for a person on every shift to be trained on how to (i) organize a command center, (ii) direct mine personnel (notify yes – direct no), (iii) establish a fresh air base, (iv) deploy a mine rescue team (notify yes – deploy no), etc.

As a practical note, a company should have a group of people trained to do these things, but there is not a need or necessity to have this expertise on each shift at each of the 653 coal mines in the US.

## **VII. Estimated costs to the industry.**

On pages 51327 and 51328 of the proposed regulations, Tables 2, 3 and 4 set out estimates of the various costs for the proposed regulations for the over 40,000 miners and 653 underground mines in the US. From the information we have developed in our Company, we believe these costs are understated. As a result of the proposed regulations, we are in the process of establishing an additional 2 mine rescue teams and 1 station in West Virginia. Our cost for this one station and 2 teams and 1 station to cover 5 mines is as follows:

Patricia W. Silvey  
 Page 10  
 November 16, 2007

Rental Property: Estimated \$600.00 Monthly	\$ 7,200.00 annually
Equipment: 12 Breathing Apparatus/ Station Equipment & supplies	\$300,000.00
Initial Training: 32 hrs. x 12 e'ees @ \$23.00/hr.	\$ 8,832.00
Instructor: Annually salary	\$ 80,000.00
Annual Training 64 hours x 24 people @ \$23.00/hr	\$ 35,328.00
Replacement Labor 24 people @ \$45.00 ph x 64 hours...	\$ 69,120.00
Transportation equipment	\$ 30,000.00
Total.....	\$530,480.00

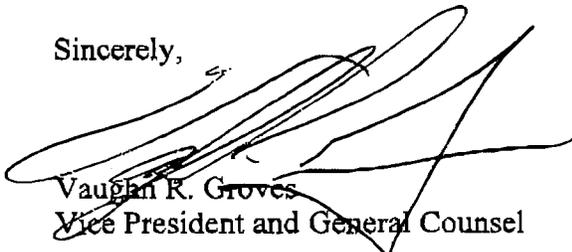
Since Alpha's mines only represent about 3% of the approximately 171 mines in West Virginia, we believe in West Virginia alone the costs will substantially exceed \$3 million.

In addition, in Virginia we understand that the Virginia Department of Mines and Minerals is reviewing a proposal to add 3 mine rescue teams in Virginia to supplement existing coverage, including 2 teams provided by Alpha, for the approximately 70 underground mines in Virginia. Their initial estimates on their first year cost approach \$3 million and the annual operating costs is approximately \$2 million.

With only a small portion of these two states being considered, the cost estimates published are substantially underestimated and need to be adjusted with accurate estimates.

In closing, on behalf of Alpha's mine rescue professionals, we urge MSHA to give due consideration to our comments and suggestions. If you have any questions, please do not hesitate to contact me at 276-619-4463 and I will get you an answer from our professionals quickly.

Sincerely,



Vaughn R. Groves  
 Vice President and General Counsel