January 8, 2009

Patricia W Silvey

Director, Office of Standards, Regulations & Variances

US Department of labor

Mine Safety and Health Administration

1100 Wilson Boulevard

Arlington, VA 22209-3939

Re: Program Policy Letter No. P08

Dear Ms. Silvey:

Foundation Coal Corporation and its affiliates offer the following comments concerning the draft Program Policy Letter (PPL) P08:

Strategic Areas for Tracking and Communications:

As a general comment it is impossible to properly review the sections in the draft PPL concerning coverage areas by treating the two topics, tracking and communications separately. (Section titled Coverage Area located on pages 3 & 4 and Performance on page 6). A proper risk assessment would include a review of the communications and tracking systems together, as well as any other 30 CFR requirements that may impact on the implementation of this PPL. For example 30 CFR 75.1600 has communication standards that although not a part of the MINER Act still should be included in the ERP tracking and communication plan. In addition the new Refuge Alternative has added a new regulation 30CFR 75.1600-3 that requires redundant communication systems (both a hard-line phone system and an untethered phone system).

The PPL requires a communications system that has redundancy. (6. b. Survivability). Essentially an operator will be required to provide a communication backbone in two entries. Rather than locating these communication backbones in prescribed entries and locations as described in the PPL, the objective should be for the operator to assure redundant pathways only. The operator will install these backbones where the communications can be utilized best in the day-to- day operations. These will be entries and locations where workers are most likely to be located. By following the prescriptive

COMM-9

requirement in the proposed PPL communication systems untethered will be installed in a locations where it is unlikely to add safety value.

As a general rule: tracking is most important in the escapeways as this is the evacuation system and communication in the normal work areas as this is the areas where people will be working and will need notified to evacuate.

General Strategy for Tracking and Communication:

In general, the communication system(s) should be installed so that when workers are at their normal work station throughout the mine they have communication. The exception should be remote areas of the mine as noted in (2b.ii) of the draft PPL. As noted below, working sections should not be required to have as extensive tracking and communication systems as listed in the PPL. Escapeways should not be required to have continuous communication coverage.

Section:

The proposed PPL requires communication to every intersection in a section and tracking at all intersections to within 200 feet of all intersections. There is no safety justification for this prescriptive approach to tracking and communicating with working sections. Communication plans should provide for the capability to alert section crews of an incoming call for an emergency. Whether that call-in system utilizes hard-line phones, or untethered radios or most likely a combination system should not be prescribed. Also, to prescriptively require intersection coverage without reviewing the specific mine layout is clearly inappropriate. What the PPL should require is a performance standard: the communication system should be designed so that crews can be alerted in the event of an emergency call.

The same argument holds true for the tracking system. It is irrelevant to design a system that can provide "micro-tracking" inside a working section. Clearly the only necessary tracking for a section is the number of people working on the section. That design can readily be accomplished with presently available electronic tracking systems. In the event of an emergency, the surface location will have information on who was on the working section. This provides information that is specific enough for reacting to the emergency.

Crews and workers travel to and from the section in established pathways. Readers set up to denote who is on the section and who is traveling away from the section provide the needed information to handle emergencies. (Note that other tracking readers will be located in escapeways if the escapeways are not a part of the normal mine travelway.)

Typically, work activity in a section area includes the working section (the area inby the loading point) and the immediate area outby the loading point where the section power, supplies etc. are located. The tracking and communication combined goal should be to track i.e. know how many people are in the section and the active work area just outby the actual section. There is a need to know who is in these

areas and who travels into and out of them as the shift progresses. The proposed PPL attempts to "micro-track" workers in the section. There is no safety enhancement that justifies trying to track people up to each intersection in the section. The additional work effort required to install and maintain this equipment does not enhance safety and the amount of effort to maintain this equipment will pull people away from other important work. This may ultimately detract from the safety effort.

The same general philosophy holds true for communications. It is important that the communication system be capable of communicating with the crews in a timely manner. The location of the communication device should not be prescriptive as proposed in the PPL but should be performance driven i.e. Does the system assure communication to a crew in an emergency? A system design that accomplishes this should be the goal, not requiring communication to each intersection. It is not important to require a branch system to assure that each and every intersection in a working section have communications. Whether a mine uses a leaky feeder system or a mesh system the backbone should only be required to extend to a location where communication to the crew can be assured.

Maintenance issues are especially relevant as the movement of working sections and the equipment operating in the working sections will require significant maintenance for the backbones used for both tracking and communications. Clearly knowing the number of people on a section and whether they have evacuated the section is important. The specific intersections that people are last located in are not.

The primary goal of the communication system as it relates to evacuation actions involving working sections is to assure that the crew receive a warning to evacuate, provide whatever information to the crew on the emergency, and then to establish that the crew has in fact evacuated.

The proposed PPL for Sections should read:

On working sections an electronic tracking device(s) should be positioned in a manner that will provide information to the surface system that includes the number of people located on the section. The system should be designed so that the number of people in the working section zone is known. The communication system should be designed so that hard-line and / or untethered communication devices are located in a manner that assures notification of a working section in the event of an emergency.

A second tracking device(s) should be established outby the working section where workers are normally assigned to work or travel to accomplish their work. This second line of tracking readers should be within 2000 feet of the section or closer depending on mine layout. This set of reader(s) should be capable of reading movement in and out of this zone.

A tracking device should also be established that specifically tracks activity at the refuge alternative location. Communications to the refuge alternative will be designed as per 30 CFR 75.1600-3.

Escapeways:

The PPL sets forth two redundant requirements for escapeways: a continuous communication standard as well 2000 foot spacing for tracking readers. In general, communication lines (leaky feeder or others) will be established where workers normally work and travel. In most cases this will be the travelway and one other entry. In many mine layouts the escapeways will be the travelway and/or the intake entries and therefore those mines will have communications as well as tracking in the heavily traveled entries. In other mine layout such as three entry development systems, one of the escapeways will be the return entry or in some longwalls a tailgate entry. Other mines have escapeways that travel away from the normal work areas to reach an isolated intake shaft. As written, the draft PPL would require a leaky-feeder communication to be in the return.

One other comment or clarification is that the most inby reader established to define the working section would be at the entrance to the escape system. {See 30 CFR 75.380 (b).} This reader as stated above would provide information to rescuers as to how many people have left the working section and are traveling in the escapeways.

The proposed PPL for escapeways should read:

Escapeways should have tracking systems capable of identifying the location of miners traveling the escapeway at intervals not to exceed 2000 feet. Untethered communication systems should be capable of providing communications through the escapeway systems. Communication capability (either a hard-line system or an untethered system) should be available at SCSR caches along the escapeway.

Strategic Areas:

The PPL provides a list of strategic locations where tracking and communications are to be provided. There is no rationale provided for this list. The PPL attempts to define strategic outby areas where communication would be needed. This is a mistake. The PPL should be performance driven. Communication at some of the listed strategic areas is not needed. Also again as noted above, the need for both tracking and communication at strategic locations of any type isn't justified. Further there is no specific need to know the precise location of a person as it relates to power centers, belt drives, transfers etc. (+/- 200 feet). Certainly there is no rationale or justification for this specificity requirement. Knowing that someone is within a zone that includes these locations is clearly detail enough.

Communication systems should be primarily focused on the active work areas of a mine. These work areas can generally be summarized as: 1) the working section, 2) the primary travel way into and out of the mine, 3) the belt system and 4) although not necessarily a normal work area, the escapeway system.

A more appropriate performance standard is to require a communication system to be available where people are normally stationed (a work station). The list in the PPL does not meet this standard. For example power centers are located throughout a mine and can be a long term essentially permanent location or a short duration construction project. In all of these cases it isn't likely that any people

would be stationed at or near these locations. Belt systems may have locations where people are normally stationed, but it is unlikely that every belt drive and transfer point would be manned. Loading points would be more properly covered as part of a section.

In general, the more permanent locations for power centers and belt drives and transfers would likely have a hard-line phone installed for day-to-day work activities. Where a location is not a normal work station no communication standard should be required. It is critical to risk planning that the PPL recognize that there are hard-line communication systems in all mines and that these systems generally are located at power centers belt transfer points and other location that are not necessarily work stations. The ERP should recognize and credit the use of the hard-line communications installed in the non-work station areas and not require untethered communication systems in all of these areas. A mine map used as part of the ERP submission can identify the areas where untethered coverage is not needed.

The performance requirement for tracking systems should be to track at key travelway locations so that a general pre-emergency location is available to the outside operators and subsequent rescuers. Tracking after an emergency has been declared would be the travelway out of the mine and the escapeways. As noted above the only prescriptive location needing a tracking reader would be the refuge alternatives.

Previous comments address tracking and communications at the refuge alternative and the SCSR caches and are not repeated here.

The proposed PPL for other strategic areas where tracking and communications are needed should read:

Communication systems should be installed so that the normal work stations, including the travelway normally used for transportation of miners have a means of untethered two way communication with the surface.

If the escapeway is not a normally traveled entry the communication system should also be established for that entry.

Tracking systems should be designed to determine worker locations in the normal travelway and beltlines. Generally the interval distance for tracking readers should be established at the distance approximately 2000 feet. The tracking system reader(s) should be located to identify direction of travel at any key junction where travel direction change decisions can occur.

Again any escapeway that is not a normal travel way or belt entry should also have a tracking system installed capable of tracking in approximately 2000 foot zones.

Further the PPL should be performance driven rather than the present the prescriptive manner.

Stand-by Power for Underground Components and Devices

The proposed PPL requires stand-by poser (battery back-up) for up to 24 hours. Leaky-feeder systems are designed for a 4 hour back-up. There is no duty cycle associated with these systems. To add the amount of battery power may create a safety issue due to the amount of energy that would be stored in a twenty-four hour supply.

Surface Considerations:

With regard to storing tracking data, we believe the guidance in the document goes too far. Tracking data should only be required to be stored and made available to MSHA after an emergency event has occurred. As presently written the requirement could be interpreted to allow for tracking reviews of non-emergency shifts. Storing routine tracking data should not be a requirement and goes beyond the intent of the MINER Act.

Finally, I am recommending that prior to publishing a final PPL the Agency meet with the industry and other stakeholders to discuss actual performance design criteria to meet the interim tracking and communication requirements of the MINER Act.

Sincerely,

John M Gallick

VP Safety and Health

Foundation Coal Corporation