



January 13,2003

Marvin W. Nichols
Mine Safety and Health Administration
Office of Standards, Regulation, and Variances
1100 Wilson Blvd., Room 2313
Arlington, Virginia 22209-3939

RE: Comments of Emergency Evacuations; Emergency Temporary Standard; Final Rule
Deer Creek Mine 42-00121

Dear Mr. Nichols:

We have reviewed the new Emergency Temporary Standard that was implemented in December of 2002. The following written comments are provided on this new standard:

1. General Comment: 30 CFR Section 75.1101-23 was removed and rewritten and placed in a new section 30 CFR 75.1502. Since MSHA is in the process of changing the regulation it would have been a good time to move 30 CFR 75.383 which deals with escapeway drills to the new section. This would put related subjects in one area of the regulations for easier access.
2. Regulation 30 CFR 75.1501(a):

For each shift that miners work underground, there shall be in attendance a responsible person designated by the mine operator to take charge during mine emergencies involving a fire, explosion or gas or water inundations. The responsible person shall have current knowledge of the assigned location and expected movements of miners underground, the operation of the mine ventilation system, the location of the mine escapeways, the mine communications system, any mine monitoring system if used, and the mine emergency evacuation and firefighting program of instruction.

Comment:

This comment involves the portion of this regulation dealing with expected movements of miners. Our operation has several occupations that travel continually throughout the mine as conditions or problems arise. They may be assigned to one location but may be moved several times due to other assignments. Some occupations such as a roving mechanic may be on the move the entire shift. It is almost impossible to give a location of where these miners would be at any given time on the shift. MSHA needs to define this portion of the regulation and look at the possibility of alternatives such as the PED system. We may not know the exact location of a person but they could be contacted by such a system. Formal procedures can be implemented but trying to keep a current location of all the miners would be a record keeping nightmare for the responsible person and relying on people to contact the responsible person to let them know of a new location would not be feasible. This area needs to be looked at closely and define a workable solution for the requirement.

3. Regulation 30 CFR 75.1501(b):

The responsible person shall initiate and conduct an immediate mine evacuation when there is a mine emergency which presents an imminent danger to miners due to fire or explosion or gas or water inundation. Only properly trained and equipped persons essential to respond to the mine emergency may remain underground.

Comment:

MSHA needs to define what is properly trained and equipped for responding to an imminent danger. We agree that somebody who has proper equipment and training needs to be at the location. The majority of our miners have basic fire fighting skills. These people could be used to respond to an imminent danger situation if they are under the direct supervision of a person who is trained and equipped. We also would pose the following question:

- What constitutes properly trained and equipped?

MSHA needs to define what they are wanting for this regulation. This needs to be addressed in the regulation or Policy Manual and not left up to individual Districts,

4. Regulation 30 CFR 75.1501(c):

By December 19, 2002, the mine operator shall instruct all miners about the requirements of this section and the identity of the responsible person(s) designated by the operator for their workshift. The mine operator shall instruct miners of any change in the identity of the responsible person(s) before the start of their workshift.

Comment:

MSHA's questions and answers address the responsible person as a name or title. The questions and answers states:

- Q. Are specific names of the RP required or may the RP be assigned to a specific job title (i.e., Mine Foreman).
- A. Names or titles are acceptable as long as both the miners and the RP are informed of this critical designation and there is no uncertainty regarding the identity of the RP.

MSHA needs to modify this portion of the regulation to reflect the answer given in the questions and answers.

5. Regulation 30 CFR 75.1502(a):

Each operator of an underground coal mine shall adopt a program for the instruction of all miners in the proper evacuation procedures to be followed in the event of a mine emergency, the location and use of firefighting equipment, location of escapeways, exits, and routes of travel to the surface, and shall begin training in those procedures as soon as possible but no later than January 13, 2003. In addition, such program shall be submitted for approval to the District Manager of the Coal Mine Health and Safety District in which the mine is located no later than January 13, 2003. Before implementing any revision to the mine emergency evacuation and firefighting program of instruction persons affected by the revision shall be instructed by the operator in its provisions. The approved program of instruction shall include a specific plan designed to acquaint miners on all shifts with procedures for:

Comment:

This portion of the regulation requires the company to submit for approval a Mine Emergency Evacuation & Fire Fighting Program. It also requires the mine to start training the miners on the program by January 13, 2003, (no more than 30 days from the implementation of the Emergency Temporary Standard). We disagree with this approach. This could require the mine to start training miners on a plan that has not been approved which may cause inaccurate information being given to the miners with the potential of having to go back and retrain the miners on the approved program. This portion of the regulation should require training only after the plan has been approved. The company is bound to MSHA for plan approval.

MSHA's preamble contradicts itself on the time requirement. One portion says the training has to be started no more than 30 days from implementation of the ETS and one portion says the plan only has to be submitted within 30 days. Both portions of the

preamble are listed below for reference:

Preamble Language:

- Page 76661, middle column, first paragraph which reads: New Section 75.1502(a) requires that each operator of an underground coal mine adopt a mine emergency evacuation and firefighting program and begin training in those procedures as soon as possible but in no event not to exceed 30 days from the date of publication of this ETS. In addition, the program must be submitted to the District Manager of the Coal Mine Health and Safety District in which the mine is located for approval. Before any revision to the program is implemented, persons affected by the revision must be instructed on the revised provision.
- Page 76662, first column, second paragraph which reads: Paragraph (a) of new section 75.1502, like existing section 75.1101-23(a), requires that the program of instruction be submitted for approval to MSHA. The Agency has determined that in view of the emergency nature of this standard, operators must submit a mine emergency evacuation and firefighting program of instruction to MSHA within 30 days of the publication of this ETS. Paragraph (a) of new section 75.1502 further provides that all miners will be trained on any revisions made to the program of instruction after it has been approved by MSHA to ensure that miners are kept aware of any changes made to the mine emergency evacuation and firefighting plan after they have received initial training.

We feel the Mine Emergency Evacuation & Fire Fighting Program needs to be approved by MSHA before we are required to start training our miners.

6. Regulation 30 CFR 75.1502(a)(1):

Mine emergency evacuation for mine emergencies that endanger miners due to fire, explosion, or gas or water inundation;

Comment:

We feel the word “endangers” should be changed to “expose a miner to an imminent danger” to stay consistent with the rest of the regulations.

7. Regulation 75.1502(c)(2):

For purposes of this paragraph (c), a mine emergency evacuation drill shall consist of a simulation of the actions required by the approved mine emergency evacuation and firefighting plan described in paragraph (a)(1) through (4) of this section.

Comment:

What constitutes a simulation? It would be helpful for MSHA to define further or give examples in the Policy Manual similar to those provided in the old regulation which states:

Program Policy Manual: Various types of training will constitute a fire drill, e.g., demonstrations (surface or underground), hands-on training, group discussions, and task-oriented training. Firefighting plans will be acceptable if the fire drills as outlined in such plans satisfy the intent of this regulation which includes making all miners familiar with firefighting procedures to be followed at the mine.

We appreciate the opportunity to make comments on this Emergency Temporary Standard. Should you have any questions regarding our comments please feel free to contact me at (435) 687-6642.

Sincerely,

Kevin Tuttle
Manager of Health,
Safety and Training

Cc: Randy Tatton, Gary Christensen