

May 24, 2006

Mine Safety & Health Administration  
Office of Standards, Regulations and Variances  
1100 Wilson Blvd., Room 2350  
Arlington, VA 22209-3939

RE: RIN 1219-AB46

Gentlemen:

We appreciate this opportunity to submit comments on the Emergency Temporary Standard published March 9, 2006 in the Federal Register.

Through its subsidiaries, James River Coal Company is a major underground coal producer operating in Kentucky and Indiana. As of December 31, 2005, we employed 1,429 people and had seventeen (17) company-operated underground mines, fourteen (14) of which were drift mines and the remaining three (3) of which were slope mines. These underground mines produced approximately 8.1 million tons of coal in 2005.

Our comments are as follows:

(1) With respect to the placement of SCSR storage caches in the mine, and specifically the distance between such caches, MSHA has invited comments on whether to use a performance-based standard, such as the walkout heart rate test, or a specific objective standard, such as spacing at fixed 5000 foot intervals in escapeways with an average height of 48 inches or greater, and at 2500 foot intervals in escapeways with an average height of less than 48 inches.

It is our recommendation that an objective standard be used in order to achieve uniformity throughout the industry. We further recommend that the standard take into account the wide variation in average escapeway height present in our industry's underground mines. This can be achieved by constructing a standard using MSHA's existing Five Minute Travel Distance Table and a multiplier of 9, to arrive at a 45 minute walkout distance for spacing the caches. This would build on a well recognized and established objective standard. Using a 45

minute walkout computation, rather than a one hour computation, will provide an additional margin of safety and allow for decreased miner performance over time due to fatigue. At 48 inch escapeway height, this standard would require spacing the SCSR caches at 6,525 foot intervals; at 36" escapeway height, spacing would be at 4,500 foot intervals. Separate SCSR cache spacing intervals could be determined at each one inch escapeway height increment shown on MSHA's Five Minute Travel Distance Table.

In connection with this standard, we would also recommend that the regulations make it clear that "average" escapeway height is to be utilized. The regulations do not presently refer to "average height".

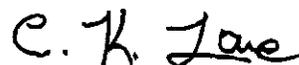
(2) MSHA has also requested comments on the use of mechanized equipment during evacuation drills. It is our considered opinion that mechanized equipment should be utilized during these drills, with appropriate stops along the escapeways to identify lifeline location, SCSR storage caches, and any peculiar physical issues that would be experienced during an evacuation. Familiarity with the escape route and the location of SCSR storage caches should be the primary objective of the drills, and this can readily be achieved without requiring miners to walk/crawl the entire escapeway. In many of our mines and those of our competitors, the escapeways are several miles deep. It would serve no useful purpose to require all miners to walk/crawl the entire escapeway every ninety days, and that requirement, in and of itself, could present health hazards to our miners and most certainly affect their attention and attitude toward the evacuation drills.

(3) With respect to the frequency of evacuation drills, we would propose that once every six months is sufficiently frequent for experienced miners. We believe that the same timetable is appropriate for SCSR training for experienced miners.

(4) The construction of SCSR storage caches that can be accessed from either of adjacent escapeways has been the subject of much discussion. It is our recommendation that dual access SCSR storage caches be approved provided that they can be demonstrated to meet the existing requirements for preservation of SCSR integrity.

We fully support MSHA's efforts to promote the safety and well-being of our employees and we thank you for consideration of our recommendations.

Yours truly,



C.K. Lane  
Chief Operating Officer

CKL/cjs