



June 29, 2006

Robert Stone, Acting Director
Office of Standards, Regulations & Variances
Mine Safety and Health Administration
U.S. Department of Labor
1100 Wilson Boulevard, 21st Floor
Arlington, VA 22209-3939

Re: Comments on Emergency Mine Evacuation – Emergency Temporary Standard (“ETS”)

Dear Mr. Stone:

Alliance Coal, LLC is a diversified coal producer with significant underground operations located in Illinois, Indiana, Kentucky, Maryland and West Virginia. We presented our initial comments concerning the ETS to the Mine Safety and Health Administration (“MSHA”) at the public hearing that was held in Lexington, KY on April 26, 2006. During the public hearing, MSHA identified several issues in addition to the provisions of the ETS and requested comment on those additional issues. Alliance Coal, LLC offers the following additional comments to some of those issues raised by MSHA.

MSHA asked the following questions: “Where a mine has parallel and adjacent escapeways, under what circumstances would it be appropriate to allow a hardened room or “safe haven,” which serves both escapeways with one set of SCSRs? A hardened room is a room constructed with permanent seal techniques, submarine-type doors opening to both escapeways, and positive ventilation from the surface through a borehole. Is a safe haven an acceptable alternative? If so, what should be the minimum criteria for MSHA to accept a hardened room or safe haven?”

Where a mine has parallel and adjacent escapeways, it would be appropriate to allow a SCSR storage facility that serves both escapeways with one set of SCSRs whenever the SCSRs would be readily available to the miners in both escapeways under conditions that will facilitate emergency escape. A variety of SCSR storage configurations could satisfy this criterion, including various forms of safe havens or hardened rooms. It would be counter-productive to safety, however, to preclude any such storage facilities unless each had all of the enhanced safety features of the hardened room described in your question, including positive ventilation from the surface through a borehole. In many locations a borehole would be infeasible, yet miners should not be denied the added safety benefits a safe haven or other form of protected SCSR transfer station would offer, merely because it would not offer the additional benefit a borehole could provide.

Instead, we believe that such a storage facility should be allowed whenever that storage facility would provide an incrementally higher degree of safety for the escaping miners. For example, this incrementally higher degree of safety could be achieved by utilizing a storage facility that reduces the possibility of stored SCSR damage due to fire and/or explosions. Such a storage facility would have the ancillary benefit of protecting the atmosphere contained inside the

enclosure from immediate contamination by nearby noxious gases & smoke produced by a fire and/or explosion. This protected atmosphere has an improved probability of providing a respirable, smoke-free environment in which escaping miners could more easily transfer from one SCSR to another.

We propose a SCSR storage facility (hereafter referred to as a Protected Transfer Station, or PTS) that is constructed in a crosscut between parallel and adjacent escapeways. The PTS would utilize solid concrete-block seal construction and explosion-resistant doors to produce a hardened enclosure that protects stored SCSRs and the atmosphere contained within. The seals & doors would meet or exceed the 20-psig static pressure requirement for permanent seals set forth by 30 CFR § 75.335(a)(2). The atmosphere contained within the PTS would be monitored continuously by air-quality detectors and ventilated as needed to ensure a safe enclosed environment. The enclosure would be maintained in a sealed (doors normally closed) condition, except during appropriately scheduled ventilating procedures. The stored SCSRs would be shelved in such a way as to provide easy access and periodic examination. The PTS would contain food, water, first-aid supplies, cap-lamps, air-quality detectors, communication equipment, and such other devices deemed necessary in an emergency.

Additionally, MSHA asked the following questions: "Would a specification standard be more appropriate than the performance-oriented heart-rate method provided in this ETS? Regarding such a specification-oriented standard, what would be more appropriate: 5,000 and 2,500 foot intervals for greater than 48" height and 48" or less height, respectively, or some other specific interval?"

A specification standard would not be more appropriate because by definition it is uniform across all mines or classes of mines and mining conditions. Specification standards of this sort are inherently inaccurate, and fail to take account of numerous relevant variables. As the ETS Compliance Guide, Volume 2, at Q.26, stated in rejecting the suggestion that distances for storage locations could be based on the Program Policy Manual (PPM) chart correlating distance that can be traveled with escapeway height, such uniform specifications "do[] not take into account the slope of the escapeway, travel conditions, or the age of the escaping miner." The specification of a flat 5,000 foot distance for greater than 48 inches and 2500 foot for 48 inches or less would compound the deficiency of a formula specification like that of the PPM chart because at least the PPM chart was calibrated to the critical variable of mining height. Thus the use of actual performance-based testing should be the preferred alternative. For those mine operators that choose not to incur the burden of performance testing to determine the appropriate distances for SCSR storage locations in their escapeways, specification standards could be allowed as an alternative. Any specification standard should consider the actual capacity of the SCSR in order to encourage development of advanced, longer lasting SCSRs. It should be noted that while the current MSHA regulations require that miners be provided with SCSRs that protect miners for at least one hour, some SCSRs on the market provide longer protection, approaching two hours, and research is underway to develop longer lasting SCSRs. In addition, if the Agency were, for its own administrative convenience, to dictate specific distance intervals, then, at the very least, a wider range of height/distance specifications should be set. For example,

the PPM chart shows that (all other things being equal, as is the governing assumption dictated by a specification standard like 48+ inches = 5,000 feet) a miner can be expected to travel twice as far in a 70 inch high escapeway as in a 48 inch escapeway in the same amount of time. Therefore it is arbitrary to set a single specification for above and below 48 inches. In sum, if a specification approach is to be utilized instead of the more accurate performance-based approach which we recommend, then there should be a wider range of specifications – for example, one for 30 inches, one for 48 inches, one for 60 inches and one for above 78 inches and consideration should be given to the actual capacity of the SCSR that is used.

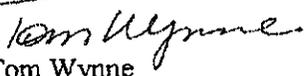
We strongly support MSHA's insightful recognition in the ETS that the location of SCSR's should be performance based. We encourage MSHA to maintain this position. We must continue to encourage the development of new mine safety technologies and not hinder advances. In its interpretation of the existing ETS, in its current rulemaking to convert the ETS into permanent mandatory standards, and in its interpretation and implementation of the new MINER Act of 2006, it is imperative that the Agency heed the words of Congressman Roscoe G. Bartlett that it must avoid:

encouraging miners in emergency situations to remove SCSRs before they are depleted and struggle to don new SCSRs in smoke-filled or other toxic atmospheres. It is not our intention [in enacting the MINER Act] to lock either the Secretary of Labor, miners, or their employers into a misguided one-size-fits-all solution. It is my intent that the Secretary would accommodate performance-based determinations of self-rescuer locations, and not discourage development and deployment of advanced self-contained self-rescuer technologies that provide greater amounts of breathable air than currently available devices, which would protect miners for longer and would require fewer changes from a depleted unit to a fresh unit in hazardous atmospheres.

152 Congressional Record E1150 (daily ed. June 14,2006) (from speech Wednesday June 7, 2006).

Thank you for your consideration of Alliance Coal, LLC's comments. If you have any questions or comments, please do not hesitate to contact us.

Sincerely,


Tom Wynne
Vice-President of Operations
Alliance Coal, LLC