Jim Walter Resources, Inc. submits the following responses to the seventeen questions presented in MSHA's opening statement at the Emergency Mine Evacuation: Final Rule, public hearing held in Lakewood, Colorado April 24, 2006.

1. Should miners have the ability to tether themselves together during escape through smoke-filled environments? If so, what length of tether between miners should be required? Should a miner's tether be capable of clipping easily to another's so that any number of miners could be attached together to work their way out of the mine? How should the tether be attached to the miners' belts, or should there be a place other than the miners' belts to attach the tether to the miners? Should the tether be constructed of durable and/or reflective material? Where should the tether be stored on the section or could it be part of the miner's belt? Should it be stored with the additional SCSRs in a readily accessible and identifiable location, or in a separate location?

JWR's Response:

1. Tethers
   - We believe that tethers should be provided and miners trained to make an informed decision as to how and if they should be used.
   - Since evacuation can be affected by conditions of the emergency, the use of tethers should not be mandatory.
   - We currently store tethers on all active workings.
   - JWR's tethers are about 60 feet long with 12 loops (We elected to use loops versus snap connectors).
     - Reflective material is affixed to each end of the tethers.
     - JWR selected a distance between loops that would permit escaping miners the ability to either walk or crawl without interfering with the miner in front or behind any given position on the tether.
   - Tethers should be of durable material with reflective material affixed to enhance visual recognition and location of the line.
   - We do not believe that tethers should be part of the miner's belt system. A tag line stored on or extending from a miner's belt

increases potential for injury if it became entangled during normal mining work.

- We support storing additional tethers at SCSR storage locations.

2. Should a training record under new paragraph (c)(3) of § 75.1502 not only include a requirement that mine operators certify, by name, all miners who participated in each emergency evacuation drill, but also include additional information, such as a checklist? The checklist could be used to itemize the successful completion of each step of the training, as outlined in the approved program of instruction.

JWR's Response:

2. Records and checklists

- The addition of the four scenarios incorporated into the firefighting and evacuation drills insures miners' exposure to all aspects of an emergency drill. Required record keeping associated with these drills suffices for the need of a checklist, yet we recognize their potential as a training adjunct. As operators develop new and changing scenarios for their drills, so would the checklist have to change. We believe the energy required to maintain these checklists could be better spent on training our miners rather than dealing with another record keeping issue.

3. When should a miner don an SCSR during an evacuation? Currently, miners are told to don an SCSR when they believe they are in danger or when smoke is encountered. This may leave miners vulnerable to irrespirable air, such as air that contains lethal carbon monoxide levels or low-oxygen. MSHA is considering requiring that at least one miner in a group of miners, and art individual miner when working alone, have at least one multi-gas or air quality detector with them.

JWR's Response:

3. Donning SCSRs

- Multi gas detectors can be invaluable to miners during an emergency evacuation. For years miners have been taught to don an SCSR at the first signs of fire or explosion. Immediate donning eliminates the chance for a miner entering an irrespirable atmosphere unawares. However, understanding the atmosphere during an escape allows

miners to make informed decisions as to when they should don their SCSRs and when it would be safe to remove the SCSR thus enhancing their chance for survival.

4. In the preamble to the ETS, we discussed a method to locate additional SCSRs, based on a joint MSHA - NOSH heart rate study. MSHA solicits comments on the heart rate method. What other reliable alternatives exist for determining where to position additional SCSRs in the mine?

5. MSHA is considering a requirement that additional SCSRs under new paragraph (c) of § 75.1714-4 be stored in all escapeways at intervals of 5,000 feet for mines where the escapeway height is above 48 inches and 2,500 feet for all other mines. 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?

JWR's Response:

4. and 5. Determining storage distance

- Each mine is different in its make up and walking conditions vary, yet timed walks provide necessary information to determine distance/location for SCSR storage.

6. Should all underground coal miners be required to use SCSRs exclusively? If so, is it appropriate to prohibit the use of filter self-rescuers ("FSRs") in all underground coal mines? In addition, MSHA is considering adding a new provision to § 75.1714-4 that

would allow the use of new SCSR technology to comply with the standard, such as SCSRs that have the ability to provide up to two or more hours of oxygen per unit. Is such a provision appropriate?

JWR's Response:

6. FSR versus SCSRs.

a. JWR uses SCSRs.
b. We support new technology designed to enhance the survivability of our miners. Two hour units reduce the number of times our miners would have to transfer from one SCSR to another as well as reduce the total number of SCSRs needed in storage to safely escape from the mine.

7. Manufacturers sometime lose track of which mines purchased their SCSRs. When a mine shuts down, the SCSRs are often sold to another mine. In the past, problems have been discovered with all brands of SCSRs. MSHA is considering requiring that the following information be reported for each SCSR at each mine: 1) the total number of SCSRs, 2) the manufacturer, 2) the model, 3) the date of manufacture, and 4) the serial number. Is it appropriate to require mine operators to report to the relevant MSI-1A District Manager the total number of SCSRs in use at each underground coal mine? If so, should any additional information be reported?

JWR's Response:

7. Tracking SCSRs

- JWR already collects the information listed in this question and MSHA observes our SCSR examinations.
- We support making the number of SCSRs, the manufacturer, date of manufacture, and serial number of each unit available to the agency and representatives of the miners, but do not agree with having to report this information. Each ninety day exam result in replacement of some number of SCSRs. This is due to damage and not unit failure. Because of continuous swap out and intermittent receipt of purchased/backordered SCSRs, reporting criteria would result in a constant flow of changing numbers. Requiring an operator to maintain records and make the information available should suffice for the intent

of the regulation.

8. Because in the past MSHA did not always learn of problems associated with SCSRs, MSHA is considering a requirement that mine operators promptly, report to the MSHA District Manager, in writing, all incidents where any SCSR required by section 75.1714, is used for an accident or emergency, and all instances where such SCSR devices do not function properly. In addition, when any SCSR device does not function properly, the mine operator would be required to retain the device, for at least 90 days, for investigation by MSHA. These requirements would help assure that MSH.A is notified of problems in a. timely manner so that MSHA can provide timely notice to both manufacturers and users and assure that the affected SCSRs are available for testing and evaluation. Should MSHA include such requirements in the final rule?

JWR's Response:

8. Communicating problems associated with SCSRs

- Several years ago we experienced an event at one of our locations resulting in a failed SCSR. Due to the significance of the failure and its potential to affect not only the safety of our miners but any miner carrying the same type unit, JWR contacted both the manufacturer and the agency. In less than 24 hours, with the manufacturer's assistance, help from our UMWA employees and with the agency observing, JWR began an immediate investigation of our SCSRs. Through the investigation we were able to determine a breakdown in a vital part of the unit, the manufacturer's date related to the units involved and other information specific to the failure. The information gained through this cooperative effort resulted in a recall and corrective actions. For the record, once notified, the manufacturer made a diligent effort to insure the problem was identified and corrected as soon as possible.

  From this experience we support tracking specific information related to SCSRs.

  We recommend the following:

  - Operators maintain records on of all units in service at the mine.

- Immediate notification of actual SCSR usage where the unit failed or did not function properly (this excludes SCSRs failing the standard 90 day shake test). This notification would include a detailed description of the problem/s, the manufacturer, manufacturer's date, model and serial number of the SCSR involved. In addition, the agency would have responsibility in developing methodology for sharing this vital information with all operators and miners in a timely manner.
- Notification of accidents or injury as a result of SCSR usage.
- Notification of accidents or emergency situations requiring the use of an SCSR. In contrast, a non-emergent or accidental usage of an SCSR should not require special reporting. We support our miners in erring on the side of caution and recognize that there are times when a miner might think an SCSR is needed and don the unit only to learn later that it was not necessary.

9. SCSR storage locations in escapeways may not be readily accessible to all persons underground, such as pumpers, outby crews, and examiners. Are there other ways to provide readily accessible SCSR coverage for these miners? Are there other storage locations that would be readily accessible to such persons?

JWR's Response:

9. Availability of SCSRs for special situations (pumpers, fireboss, etc.)

- There are variables that have to be considered when providing additional SCSRs for certain mining occupations. We believe that each mine should be permitted to work with their miners to determine the best methodology or locations to meet this need. However, storage locations must be within the one hour travel distance. In addition, we recommend that the agency developing a list of best practices and suggestions to facilitate the discussions on this particular problem.

10. MSHA sought comments on the appropriateness of requiring that signs to help locate SCSR storage areas be made of a reflective material. MSHA also asked whether there are alternative methods available for making SCSR storage locations easy to locate when conditions in the mine might obscure the storage location. What methods exist that would make SCSR storage locations readily visible?

JWR's Response:

10. Identifying the SCSR storage locations.

We recommend the following:

- Ample reflective signs at each cache
- Each lifeline, when it is within fifty feet of a SCSR storage cache would require additional directional cones or some other accepted device affixed every 5 feet leading to and from the cache. Additional reflective material would also be required on the fifty feet of this special lifeline.

11. Under new paragraph (c) of § 75.1714-4, operators are required to have separate SCSR storage in each escapeway. 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?

JWR's Response:

11. SCSR storage accessible from either side

- First and foremost, refrain from using terms "safe" anything. Escape is the goal. We owe it to our miners to avoid any terminology that misrepresents the intent of an emergency evacuation. Barricade chamber or something similar should be considered.
- We believe access to cached SCSRs from either the primary or secondary escapeways where possible is safe and reasonable. Miners and operators benefit from permitting such a design from having one known location rather than two separate

caches in different areas.

- Manufacturers may not agree, yet storing large numbers of SCSRs increases potential fire hazards.
- Manufacturers of SCSRs are overwhelmed with orders and are projecting one year wait times on backorders. Allowing a cache to be accessed from either the primary or secondary escapeways would more accurately represent the number of additional self-rescuers needed in storage without reducing the number of SCSRs needed for escape. This reduction in SCSRs required to supply duplicate caches would reduce the total number previously needed by an operator and facilitate compliance in a timelier manner.

12. Currently, cone systems on lifelines vary, some with the cones pointing toward the face, and others pointing away from the face. Miners may become confused in an emergency as to the direction of escape. Should cones or other directional indicators on lifelines be standardized? Following a NIOSH recommendation and for ease of movement, should the point end of the cone be toward the face?

12. Directional devices

- We agree with the NIOSH recommendation that the tips of cones should point towards the face.

13. Miners should be able to safely evacuate a mine without the use of mechanized transportation. There may be unique escapeway conditions including ladders, mandoors, airlocks, and overcasts where hands-on experience of these conditions is required in order to escape the mine. It is reasonable to require that miners walk the escapeways at least under these unique escapeway conditions. Should all miners be required to walk the escapeway in its entirety rather than use mechanized transportation during the drills required by new paragraph (c) of § 75.1502? We are considering including a requirement in the part 48 training program for new miners that new miners travel, at least in part, both escapeways. Would this training be appropriate and should the training include walking part or all of the escapeways?

JWR's Response:

13. Escapeway drills

- Under this ETS, we recommend that 75.1502(1) be changed from a 90 day training requirement to a quarterly requirement. Quarterly training provides operators the flexibility to maximize the training of miners in emergency evacuation as

well as to train miners in a timelier manner if they missed their scheduled drill.

The new paragraph 75.1502(c) (2) is added to enhance mine evacuation. We disagree with the agency's position that all people must travel the entire escapeway every 90 days as part of the training requirement. Physically traveling an entry does not train a person on escape. Under the new ETS operators must establish continuous lifelines throughout both primary and secondary escapeways. It would be more logical to train miners on escapeways as to the entrances from their work stations, physically locating the lifeline system, SCSR locations and physical issues in the escapeways. This would have the same effect upon training and education. Furthermore, the 6 weeks escapeway walk is still mandated requiring two miners and supervisor to walk the escapeway in its entirety.

Additional concerns with travel of escapeways by all employees are the physical condition of miners traveling the escapeway. JWR has an aging work force whose average age is 51 to 52 years old. Requiring our miners to walk escapeways would subject them to undue stress and increased risk for personal injuries.

In the agency's Q and A Guidelines 2, both MSHA and NIOSH do not recommend having a miner don a SCSR and walk to establish the distances for SCSR storage. The Q and A states that a "bare-faced" test puts less stress on the miner, especially if the miner is physically challenged. Walking everyone on an escapeway would involve physically challenged miners in practically every mine in the country. Having a miner travel the entire escapeway for training purposes four times a year will subject them to the same undue physical stress. The ETS states in the same section, "that miners may have to travel through long and difficult underground travelways" again confirming dangers associated with this task.

14. A more instructive emergency evacuation practice may be provided by using realistic drills. For example, conducting a drill in smoke, or using a realistic mouthpiece that provides the user with the sensation of actually breathing through an SCSR, commonly referred to as "expectations" training, are more realistic than simulation training. What other realistic emergency evacuation practices and scenarios would ensure that miners are better prepared to act in an emergency? We intend that scenarios required by the Approved Program of instruction under paragraph (a) of § 75.1502 be used to start and to conduct the mine emergency evacuation drills required by paragraph (c) of § 75.1502. For example, to start a drill, the section foreman may choose one of the mine's approved explosion scenarios. The foreman would gather the miners on the section and state where the explosion occurred, any special circumstances of the event, and conditions requiring immediate donning of SCSRs. The foreman and miners would then physically follow the best options for evacuation as they evacuate the mine. When the miners travel to the place or into the conditions that require immediate SCSR donning, the need to don the SCSR must be made clear so that it is understood by all.

JWR's Response:

14. Expectations training

- We agree with expectations training when conducted in a safe and controlled environment.
- In support of expectations training, we believe that underground mine fire fighting can be enhanced if this ETS would give credit for at least one fire fighting drill per year to be conducted on the surface of a coal mine where miners could actually fight fire with fire fighting equipment. The requirement for conducting "underground" fire drills in this ETS eliminates the possibility for actual hands on fire fighting.

15. We expect that the scenarios developed as part of the mine emergency and firefighting program of instruction under new paragraph (a) of § 75.1502 would be included as part of the emergency evacuation drills under new paragraph (c) of § 75.1502, making the drills more realistic. Should we further clarify this issue in the final rule? Are there additional requirements that should be included in this training to make it more realistic, such as conducting SCSR donning in a smoke-filled environment?

JWR's Response:

15. Additional requirements associated with emergency firefighting program of instruction.

- We agree with expectations training when conducted in a safe and controlled environment
- We do not agree with conducting SCSR training underground.

16. We are considering putting all emergency evacuation drill requirements in § 75.1502. Thus, for example, the escapeway drill requirements under § 75.383 pertaining to the frequency of drills, how far miners travel in the drills, and the number of miners involved in each drill would be incorporated into requirements under new § 75.1502. Under § 75.383(b)(1) each miner must participate in a "practice escapeway drill" at least once every 90 days, but is only required to travel to the area where the split of air ventilating the working section intersects a main air course, or 2,000 feet outby the section loading point, whichever distance is greater. Under new § 75.1502, during the emergency evacuation drills, the miners must travel to the surface or to the exits at the bottom of the shaft or slope. Section § 75.383(b) (2) and (b) (3) require that "practice escape drills" occur at least once every 6 weeks, but only involve 2 miners and a supervisor. Miners systematically rotate in taking these drills, so that eventually all miners participate. Under new e 75.1502, emergency evacuation drills are required for all miners and at periods of time not to exceed 90 days. We will have to reconcile these time differences.

MSHA is requesting comments on this approach. We also are considering requiring section supervisors to travel both escapcways in their entirety prior to acting as a supervisor on any working section or at any location where mechanized mining equipment is being installed or removed.

16. Emergency evacuation drills

- We support incorporating 30 CFR Part 75.383 into the new 30 CFR Part 75.1502 rule. The drills in 383 should be eliminated completely.
- We support having section foremen travel escapeways in there entirety prior to acting as a boss on that particular section.
- Credit would be given to bosses who have worked on a section prior to this ETS becoming final if they had been involved in six week walks and previous fire drills. In addition, acting foremen would also be familiar with conditions associated with the development of that area of the mine.

17. We also are considering requiring that all mine fires be reported to MSHA, including fires shorter than 30 minutes duration. This would address all mine fire hazards, including situations where a number of short duration fires occur. Should the definition for "accident" in paragraph (h) (6) of § 50.2 be revised to include all unplanned underground mine fires, or fires of a particular type or duration, or occurrences at particular locations in the mine?

JWR's Response:

17. Revision related to mine fire notification
    - MSHA has asked for comments on whether a revision should be made to cover all unplanned underground mine fires, or unplanned underground mine fires of particular types. We do not support this position and believe that the definition of accident as related to 50.2(h)6 is adequate to insure the safety of miners. A mine may deal with potential fire situations, such as smoldering material or hot rollers that are extinguished within a matter of moments after being discovered and these present no serious hazard to miners.
    - Fire of significant size or with the potential of requiring mine rescue would be recognized as such and appropriate notification made.

This concludes our response to the 17 questions presented in opening remarks. JWR remains committed to improving the health and safety of our miners.