

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

(Also submitted electronically to
zzMSHA-Comments@dol.gov)

June 27, 2006

Re: Mine Safety and Health Administration
30 CFR Parts 48, 50, 75
RIN 1219-AB46
Emergency Mine Evacuation; Emergency Temporary Standard

Specialty Minerals Inc. (SMI) submits the following comments on MSHA's Emergency Temporary Standard, published at 71 Fed. Reg. 12,251 (Mar. 9, 2006). We respectfully suggest that the 15-minute notification rule embodied in 30 C.F.R. § 50.10 is not practical and may in fact undermine -- through over-reporting -- the goals of prompt notification. We believe that assessment of the seriousness of an accident, which must occur simultaneously with first response actions, will often not be realistically possible within a 15-minute window. We are also concerned that operators, fearing the enforcement consequences of a failure to timely report, will err on the side of caution and routinely report non-serious accidents.

SMI understands that prompt notification is necessary to enable MSHA personnel to activate an emergency response plan, and send rescue assistance as needed. We therefore support prompt notification as a guiding principle. However, if MSHA deploys its limited resources in less serious situations because of over-reporting, the end result may compromise miner safety at other, more serious accident locations.

In many cases involving non-serious accidents, the operator's responding personnel may be unable to assess, within the first few minutes, whether the accident "has a reasonable potential to cause death." For example, if in connection with an obviously minor accident a miner were to experience chest pains, operator personnel might reasonably conclude that there exists a "reasonable potential" for death due to heart attack. Similarly, shock may not manifest for some time following an accident, and may require assessment by a trained person.

Contacting MSHA in each such questionable situation may overwhelm MSHA's response system, or, perhaps worse, make it difficult for MSHA's intake personnel to distinguish the truly significant event from the insignificant. The analogy to "The Boy Who Cried Wolf" comes to mind.

SMI believes that MSHA should modify 30 C.F.R. 50.10 to reflect the provisions of the MINER act. Thus, SMI believes that 30 C.F.R. 50.10 should read as follows:

If an accident occurs, an operator shall immediately contact the MSHA District Office having jurisdiction over its mine. If an operator cannot contact the appropriate MSHA District Office, it shall immediately contact the MSHA Headquarters Office in Arlington, Virginia by telephone, at (800) 746-1553. For purposes of the preceding sentence, if the death of an individual at the mine, or an injury or entrapment of an individual at the mine which has a reasonable potential to cause death, has occurred, “immediately” shall mean within 15 minutes of the time at which the operator realizes a death, injury, or entrapment which has the reasonable potential to cause death has occurred. If communications are lost because of an emergency or other unexpected event, the operator shall notify MSHA at once without delay and within 15 minutes of having access to a telephone or other means of communication.

Interpretation of the meaning of “immediately” for other accidents should be left as it currently is under enforcement practice and precedent.

Finally, SMI notes that as a practical matter, 15-minute reporting may sometimes not be possible due to the remote locations of some mines. SMI respectfully suggests that the ETS be revised to allow a more realistic time frame for notification.

Respectfully submitted,

/s/

Mike Larson, CSP
Corporate Manager Safety and Health
Specialty Minerals Inc.
5 Highland Avenue, Suite D
Bethlehem PA 18049
610-317-3289
Mike.larson@mineralstech.com