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Received 6/29/06
MSHA/OSRV

2006-2007
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June 29, 2006

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Office of Standards, Regulations & Variances
1100 Wilson Boulevard, Room 2350
Arlington, VA 22209-3939

Re: Emergency Temporary Standards – Emergency Mine Evacuation
RIN – 1219-AB46

Dear Sir:

This letter represents the comments of the Colorado Mining Association (CMA) on the Emergency Temporary Standard (ETS) on Emergency Mine Evacuation issued by the Mine Safety & Health Administration (MSHA) on March 9. CMA is an industry association, founded in 1876, whose more than 630 members include producers of coal, metals, agricultural and industrial minerals throughout Colorado and the west. CMA welcomes the opportunity to submit comments and commends MSHA for suggesting methods of improving safety at the nation's mines.

Colorado mines are committed to providing a safe workplace for the state's miners. The coal industry alone, for example, employs more than 2,100 miners earning average wages and benefits in excess of \$90,000 annually. The safety record at Colorado coal mines is better than the national average and the industry has successfully conducted operations and expanded production without a fatal injury in many years. Two of our mines have won the nation's highest safety honor, the Sentinels of Safety Award.

Comments

15 Minute Notification of Accidents – The definition of "accidents" is found in the regulations and includes 12 different definitions that include circumstances. 30 CFR 50.2 (h). The regulation currently requires that such incidents be reported "immediately" and circumstances determine whether the operator has complied using a reasonably prudent person interpretation under the circumstances. There is no need to change this requirement. At a minimum, exceptions must be recognized to a strict 15 minute time frame in order to provide critical care assistance if necessary, to ascertain the situation to determine whether it meets the requirements of immediate reportability. Some mine sites in the country are expansive and ascertaining information to

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communicate with medical responders immediately and accurately to save a life may take longer than 15 minutes. While all due speed must be used in communicating information to MSHA, the exceptions must be recognized to take into account varying circumstances on a case by case basis. The 15 minute standard is arbitrary especially when coupled with the strict liability nature of the Mine Act and its penalty structure.

Further, Section 5 of the MINER Act of 2006 recently passed, limits the 15 minute notification requirement to those circumstances where the an operator “realizes that the death of an individual at the mine” or “an injury or entrapment of an individual at the mine which as a reasonable potential to cause death, has occurred.” CMA recommends that the ETS be modified to conform to the provisions of the MINER Act to avoid confusion and to render the requirement meaningful.

The agency’s statistics disclose the real possibility of being overwhelmed by the 15 minute notification requirement for accidents where a real emergency does not exist. The profile of accident notifications to MSHA in 2005 illustrates this point. In 2005, MSHA was notified of approximately 2,400 immediately reportable accidents. Approximately 90 percent of these 2,400 incidents did not involve an injury to a miner. Rather, they involved accidents in two categories:

- Unplanned roof falls at or above the anchorage point, and
- Damage to hoisting equipment which interferes with its use for more than thirty (30) minutes.

In these cases, it is not necessary to activate mine rescue personnel and/or local emergency response resources. Contacting MSHA within the required 15 minute timeframe for these non-emergency events would be counterproductive and does not serve the purpose set forth in the ETS, which is to facilitate the rapid coordination of mine rescue or other emergency response. By contrast, focusing the 15 minute notification requirement on accidents likely to require an emergency response would avoid “system fatigue” and enable MSHA to address and prioritize true mine emergencies.

Lifelines – CMA supports the installation of lifelines in escapeways to improve and facilitate emergency evacuations, except where mobile or rail equipment is in use.

Concerning directional lifelines in escapeways, {75.380(d)}, Question 19 in Volume 2 of the ETS Compliance Guide states that the lifeline manufacturers recommend that lifelines be hung no higher than waist high during use. Question 20 further states that lifelines could be hung from roof bolts on breakaway straps or ties, with reference back to Question 19. We agree that lifelines need to be hung from the roof in all entries where equipment travels in such entries, and not just in crosscuts so as to allow equipment turnouts. If the lifeline is not continuously hung along the entire length of the entry, the equipment will eventually strike or get tangled with the lifeline, resulting in either isolated damage or thousands of feet of lifeline being dragged behind the equipment. The lifelines in entries where equipment operates should be allowed to have

periodic breakaways to prevent the entire length of lifeline from being pulled down by equipment.

The lifeline should also be allowed to fall to the ground once the breakaway straps or ties are broken. If the lifeline must drop to a distance of waist high, it will remain an impediment to vehicles that may be used for escape purposes since the lifeline may not always be positioned on one side due to high voltage cables, pipes, or other obstructions. Miners exiting the mine may easily retrieve a lifeline on the floor. This type of installation allows for personnel to escape in vehicles without hindering the escape of other miners that may exit on foot.

Requiring Miners to walk the escapeway at least quarterly in drills– CMA believes that such a requirement is unnecessary at such frequency and could actually impose potentially harmful and unnecessary physical requirements on an aging workforce. The average age of miners in Colorado is over 50. Miners in Colorado may be working several miles underground prior to exiting the mine in the event for a drill. Miners should be able to utilize mechanized equipment for this purpose to reinforce familiarity with the escape routes. There is no purpose served in requiring miners to walk the route that is not also served by using a vehicle to exit.

The ETS itself states "that miners may have to travel through long and difficult underground travel ways." This statement confirms that walking escapeways is physically challenging. Further, at some operations in Colorado, air flow or temperature could also be a concern.

SCSRs - Section 75.1714-4 (c) requires additional SCSR storage in the primary and alternate escapeways to augment other SCSR requirements when these requirements do not provide enough oxygen for all persons to safely evacuate. Where the operator determines additional SCSRs are required, the operator must submit a plan setting forth the location, quantity and type of these additional SCSRs and may be required by the district manager to demonstrate the plan's adequacy.

Based on the plain language of this provision and the preamble, a number of operators have proposed, as an alternative, the use of airlocks located between adjacent escapeways for storage of SCSRs, along with other important emergency supplies. The use of an airlock door has the additional benefit of providing employees with an area isolated from the main air courses for the transfer of SCSR units. Another alternative proposal is to build an SCSR storage unit into the stopping to permit stored units to be accessed from either escapeway. Both of these proposals are simple, functional and proven mine-worthy.

In its recent guidance documents, the agency has rejected these proposals, taking the prescriptive position that equal numbers of stored SCSRs are required in both escapeways. The stated basis for rejection is speculative and encroaches on the operator's clearly defined obligations under Section 75.1714-4(c) and should be withdrawn. Section 75.1714-4(c) does not require that identical quantities of additional units be stored both in the primary and alternate escapeway. Instead, this section requires "additional units in the primary and alternate

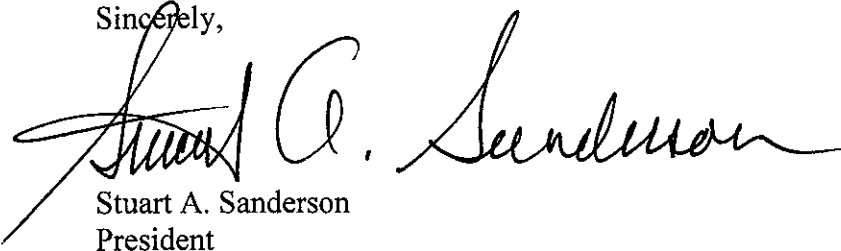
escapeways.” Furthermore, the operator’s alternatives described above would place the SCSRs in locations that satisfy both primary and alternate escapeway storage.

We also disagree with MSHA’s conclusion in Question 34, Volume 2 of the ETS that storage cabinets cannot be used in stoppings where escapeways are located in adjacent entries. If an SCSR storage box is built into the stopping, with access from both the primary and alternate escape way, and the storage box meets the same requirements as a stopping (i.e. made of metal, equivalent strength to traditionally accepted in-mine controls, fire resistance, etc.), then such a storage box meets the requirements of all applicable regulations. The ETS does not require storage boxes that will withstand the temperature of a mine fire or the force of an explosion, which was the justification for prohibiting storage boxes in stoppings. In addition, the stopping is not required to withstand the force of an explosion as well. With the storage box in the stopping, stored SCSR’s are readily assessable from either escape way. Opening the door to the storage box in the stopping would require no more work or time, when compared to opening a storage box on either side of the stopping.

Conclusion

CMA welcomes the opportunity to submit these comments and fully supports the comments filed by the National Mining Association.

Sincerely,

A handwritten signature in black ink, reading "Stuart A. Sanderson". The signature is written in a cursive style with a large, stylized initial "S".

Stuart A. Sanderson
President