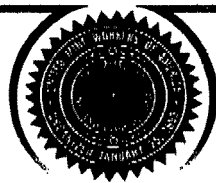


United Mine Workers of America



TELEPHONE
(703) 208-7200

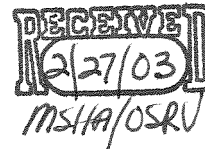
UNITED MINE WORKERS' HEADQUARTERS
8315 LEE HIGHWAY

Fairfax, VA

22031-2215



February 27, 2003



**By fax (202) 693-9441
and regular mail**

Marvin W. Nichols, Director
Office of Standards, Regulations, and Variances
Mine Safety and Health Administration
1100 Wilson Boulevard, Room 2313
Arlington, VA 22209-3939

**Re: Post-Hearing Comments: Emergency Evacuations; Temporary
Standard; Final Rule**

Dear Mr. Nichols:

The United Mine Workers of America's Occupational Health and Safety Department (UMWA) submits the following post-hearing comments on the Emergency Temporary Standard on Emergency Evacuations (ETS).

The ETS was implemented in response to the disaster at the Jim Walter Resources #5 Mine which occurred on September 23, 2001. The ETS does not adequately address the problems miners face should an emergency situation occur and fails to address improvements in addition to mine emergency response identified in the UMWA's Report on the disaster at the #5 Mine, which can be downloaded from MSHA's website. Further, MSHA needs to examine the mine operators emergency response following recent mine accidents which included the following: the April 17, 2002 fire at the Blue Diamond Mine in Kentucky; the September 16, 2002 mine fire at the Fairfax Mine in West Virginia; the January 6, 2003 mine fire at the Mine 84 in Pennsylvania; the January 22, 2003 mine explosion at the McElroy mine shaft involving Central Cambria Drilling in West Virginia and the February 13, 2003 mine fire at the Loveridge Mine in West Virginia. Information obtained from those mine accidents are identifying deficiencies in the mine operators emergency response. Many miners and miners' representatives provided comments on the emergency standard during the public hearings. The final rule must address the concerns they raised during the hearings. The following identifies specific areas regarding the ETS.

AB33-COMM-103

75.1501 Emergency Evacuations: An area of concern is the requirement that operators of underground mines designate, for each shift that miners are working underground, a responsible person in attendance at the mine to take charge during mine fires, explosions, and gas or water inundations. At the hearings, many miners voiced their concerns that the responsible person is not required to remain on the surface. If the responsible person is underground, he could easily become involved in any emergency or even become a victim of an emergency and be prevented from fulfilling his duties to rapidly evacuate the miners. A responsible person underground needs to be separately required and identified. Concerns were also raised that the ETS does not address emergencies during idle shifts and communication and atmospheric systems in place during emergencies. These must all be specifically addressed to protect miners during emergencies. Another concern, not only raised by the miners, but by some coal operators, is that MSHA needs to define what is properly trained and equipped for responding to an imminent danger. That must require specific training to prepare miners, mine management and those responsible for responding to a mine emergency. Further, the ETS does not address what equipment is on hand for emergencies (i.e, methane and carbon monoxide detectors), accurate tracking of miners, training and simulation of the responsible person, expanded training for those responding and the availability of emergency transportation. All these are important to protect miners and enable a safe emergency evacuation and response. The new rule should not limit emergencies to a fire, explosion or gas or water inundation and should cover any emergency. While this new section contains some increased protections, it fails to provide the protections miners need. It also fails to meet the needs identified during the JWR #5 disaster investigation which could occur at other mines, placing those miners at similar risk.

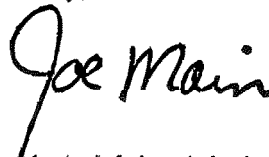
Part 48.8 Annual refresher training of miners; minimum courses of instruction; hours of instruction: MSHA indicates that training on the ETS procedures under Part 48 does not have to be conducted by a MSHA approved instructor. This directly conflicts with Part 48.4 which states that training is to be conducted by approved instructors. Also, training on emergency evacuation procedures are not specified for task or hazard training. MSHA must expand the hours of retraining requirements. With all the required and needed training that miners are to receive during retraining, eight hours is not enough time to provide quality training. It amounts to pouring ten gallons of water into a five gallon bucket.

Part 75.1101-23 Program of instruction; location and use of fire fighting equipment; location of escapeways, exits and routes of travel; evacuation procedures; fire drills revised at 75.1502 Mine emergency evacuation and firefighting program of instruction: The changes in the revised section address mine emergencies and mine emergency evacuation as opposed to fires and fire drills and calls for mine emergency evacuation drills instead of fire drills. While increased drills are needed for emergencies, fire drills should still be required and increased. The rule does not specify what is required in the emergency drills and should include improved hands on fire fighting and self contained self rescuer training and simulated emergency evacuations. Drills should be conducted during full and partially staffed shifts which should also include idle shifts. The responsible person(s) must be involved in the drills.

In reviewing the UMWA's Report on the JWR #5 disaster, MSHA should include in the final rule the improvements made in the JWR fire fighting and evacuation plan, and those recommended, as stated on pages 113 and 114 of the report. MSHA should also address and include in the final rule the Union's recommendations concerning communication systems (p. 114 of the UMWA's report), mine-wide atmospheric monitoring (p. 117 of the UMWA's report), protection of sectional electrical equipment (p. 119 of the UMWA's report), improvements in battery design (p. 119 of the UMWA's report), quantity, quality and distribution of methane (multi-gas) detectors (p. 121 of the UMWA's report). The final rule must also address the constant availability of emergency transportation where miners are working as well as other protections miners and their representatives addressed during the public hearings.

The UMWA urges MSHA to review the Union's report and recommendations contained in their report on the JWR #5 disaster and include them in the final rule. We appreciate the opportunity to make comments on the ETS. Should you have any questions regarding our comments, please feel free to contact me at (703) 208-7120.

Sincerely,

A handwritten signature in black ink that reads "Joe Main". The signature is written in a cursive style with a large, looping initial "J".

Joseph A. Main, Administrator
Department of Occupational Health and Safety