

PUBLIC HEARING ON MINE RESCUE TEAMS
AND MINE RESCUE TEAM EQUIPMENT

November 1, 2007

9:00 a.m.

CAPTION

The Mine Safety and Health Administration held a Public Hearing on their proposal for Mine Rescue TEAMS and Mine Rescue Team Equipment on November 1, 2007 at 9:00 a.m. at the Sheraton Hotel, 2101 Richard Arrington Jr. Boulevard, Birmingham, Alabama. The above hearing was transcribed by Susan Bell, CCR#14, Notary Public in and for the State of Alabama.

PANEL MEMBERS

Patricia W. Silvey, Director of the
Office of Standards, Regulations, and
Variances for MSHA

Cherie A. Hutchison, MSHA Office

Matthew C. Ward, Attorney with the
Office of the Solicitor

Michael G. Kalich, Office of Coal
Mine Safety & Health and Team Leader
for this project

Dr. Jeffrey H. Kravitz, MSHA
Technical Support Center in
Pittsburgh

Phuc T. Phan, Economist at MSHA

William (Bill) Wilson, Metal
Non-Metal Mines Health & Safety

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PROCEEDING

MS. SILVEY: Good morning.
My name is Patricia W. Silvey. I am
the Director of the Mine Safety and
Health Administration's Office of
Standards, Regulations and Variances.
I will be the moderator of this
public hearing on the MSHA's proposal
for Mine Rescue TEAMS.

On behalf of Richard E.
Stickler, Assistant Secretary of
Labor for Mine Safety and Health, I
want to welcome all of you here
today.

The MSHA members of the panel
who are principally responsible for
drafting the proposal -- and I might
add, before I start introducing them,
that some of the members of the panel
have many years of practical mine
experience doing Mine Rescue TEAMS
work.

1 That was particularly
2 important as the Agency started out
3 to draft a regulation dealing with
4 Mine Rescue TEAMS. So I just want to
5 make sure that people are aware of
6 that.

7 To my left is Michael Kalich,
8 and he is with the Office of Coal
9 Mine Health and Safety. To his left
10 is William (Bill) Wilson with the
11 Office of Metal Non-Metal Mines
12 Health and Safety. To his left is
13 Jeffrey Kravitz, who is with the
14 Office of Technical Support in
15 Pittsburgh Center.

16 To my right, is Cheri
17 Hutchison, who is in my office. To
18 her right, is Matt Ward, who is our
19 lawyer on the project with the Office
20 of the Solicitor. To his right, is
21 Phuc Phan, who is an Economist in my
22 office.

23 Before we start the hearing

1 this morning, I would like it if you
2 would join me in a moment of silence
3 in memory of the miners and rescuers
4 who have lost their lives in mine
5 accidents; particularly, the recent
6 tragedy at Crandall Canyon. So, if
7 you would, join me in a moment of
8 silence.

9 (A moment of silence was
10 observed.)

11 MS. SILVEY: Thank you.

12 This is the last of four
13 public hearings on this proposal. As
14 many of you know, we held the first
15 hearing in Salt Lake City, Utah on
16 October 23rd; the second hearing in
17 Lexington on October 25th; the third
18 one this past Tuesday in Charleston;
19 today's hearing is the last and final
20 hearing.

21 We will be holding a public
22 hearing on the Mine Rescue Team
23 Equipment proposal. It says "this

1 afternoon;" but, as soon as I
2 conclude this hearing, I will convene
3 the Mine Rescue Team Equipment Public
4 Hearing in this same room.

5 Obviously, we are holding the two
6 public hearings on the same day so
7 that persons interested in both
8 hearings can attend.

9 The Mine Rescue TEAMS
10 proposal applies only to underground
11 coal mines. We have copies of the
12 "Federal Register" that contains the
13 proposal on the table with the
14 attendance sheets.

15 The comment period for
16 proposal ends on November 9th. MSHA
17 must receive your comments by
18 midnight Eastern Standard Time
19 November 9th. This is
20 significantly -- this is the first
21 time that we have announced a time
22 zone in the "Federal Register" for
23 receipt of comments. To avoid any

1 confusion and for clarity, we want to
2 let everybody know that when we say
3 "November 9th," that means midnight
4 Eastern Standard Time.

5 As of October 30th, we have
6 received three comments in the
7 proposal, and that's not unusual
8 because most people wait until the
9 last minute to put in their written
10 comments.

11 You can view the comments on
12 MSHA's website, at www.msha.gov on
13 the Rules and Regulations.

14 The proposal would implement
15 the provisions of Section 4 of the
16 Mine Improvement and New Emergency
17 Response (MINER) Act of 2006, which
18 strengthens training requirements and
19 addresses composition, availability,
20 and certification requirements for
21 coal mine rescue teams.

22 The purpose of these hearings
23 is to receive information from the

1 public that will help us evaluate the
2 requirements in the proposal and
3 produce a final rule that will
4 improve overall mine rescue service,
5 mine emergency response time, mine
6 rescue team effectiveness, and the
7 quality of mine rescue team training.

8 The proposal discusses the
9 provisions in the rule and includes a
10 number of specific requests for
11 information. As you address the
12 provisions, either in your testimony
13 here today or in written comments,
14 please be as specific as possible.

15 I can't underscore that
16 enough. You will hear me saying that
17 over and over. Be as specific as
18 possible about how the changes would
19 affect the safety and health of
20 miners and mine rescue team members.

21 MSHA also requests detailed
22 information and data on costs and
23 feasibility of implementing the

1 provisions.

2 I will now reiterate the
3 specific requests for information
4 that are in the preamble to the
5 proposal.

6 MSHA requests comments on the
7 proposed reorganization of 30 CFR
8 part 49 and on the approach taken.
9 The Agency requests comments on the
10 designation of the existing standards
11 as subpart A for underground metal
12 and nonmetal mines and the creation
13 of a new, separate subpart B
14 containing both the existing
15 standards and the proposed new MINER
16 Act provisions for underground coal
17 mines.

18 Expect as provided in the
19 MINER Act -- and I will underscore
20 this, too -- MSHA did not propose
21 changes to the existing standards.

22 MSHA is proposing that team
23 members of State-sponsored teams who

1 are full-time State employees may
2 substitute their regular job
3 experience for 50 percent of the
4 training requirements. MSHA requests
5 comments regarding the types of State
6 relationships with teams and team
7 members that will qualify the team
8 members as employees and the team as
9 "State sponsored."

10 The Agency is proposing that
11 mine rescue teams be available at the
12 mine within one hour from the mine
13 rescue station. That, of course, is
14 in accordance with the MINER Act.

15 MSHA solicits comments on
16 whether some existing stations may
17 need to be moved to meet this
18 requirement.

19 To assist in developing our
20 regulatory economic analysis, the
21 Agency would like to know how many
22 additional mine rescue stations would
23 be needed to comply with the new

1 requirement. Where would the new
2 rescue stations be located? Do any
3 stations have to be moved?

4 The Agency also solicits
5 comments on whether mine operators,
6 State agencies, or other entities
7 will encounter any difficulties in
8 meeting this requirement. MSHA asks
9 that the commenter include specific
10 feasibility information; such as,
11 cost or technical capability, in
12 support of their position.

13 MSHA requests comments on the
14 proposed 64-hour training
15 requirement. Specifically, whether
16 the proposed hours of training should
17 be increased or decreased in the
18 final rule.

19 The existing annual training
20 requirement, as you know, is 40
21 hours. The commenter should address
22 the rationale for any amount of
23 training, type of training, the

1 number of hours of training that
2 should be required for specific
3 activities, and the impact of such a
4 requirement on the mining industry's
5 ability to form additional mine
6 rescue teams or retain current mine
7 rescue team members.

8 The proposal requires mine
9 rescue teams to train at each mine
10 serviced by the team. Under the
11 MINER Act, teams serving mines with
12 36 or fewer employees -- and the
13 MINER Act refers to these mines as
14 small mines -- must train at each
15 covered mine semi-annually.

16 Mine-site teams and State-
17 sponsored teams, which are required
18 to train at large mines annually,
19 would have to train at small mines
20 semi- annually if they service a
21 small mine.

22 Contract mine rescue teams
23 would have to train quarterly at each

1 of the large mines they service.
2 Composite teams would have to train
3 semi-annually at each of the large
4 mines they service.

5 MSHA invites comments
6 regarding the training. MSHA also
7 requests comments on whether the
8 training at the mine service needs to
9 be conducted underground.

10 The Agency solicits comments
11 regarding the types of teams that are
12 available to mines having 36 or fewer
13 employees and whether these mines
14 should be able to use other types of
15 teams; such as, the composite team,
16 consisting of one team member from
17 each covered mine rather than two
18 team members from each covered mine
19 as required by the MINER Act.

20 Would additional mine rescue
21 teams be needed to comply with the
22 new requirement for teams to train at
23 each covered mine? What would be the

1 make-up and composition of new teams?

2 The commenter should explain
3 any suggested alternatives;
4 including, supporting documentation
5 and data.

6 As I stated at the outset --
7 you heard me say you'll probably hear
8 this a lot this morning -- please be
9 as specific as possible regarding any
10 suggested alternatives that you might
11 have. If you have information on
12 your particular situation, as far as
13 the impact of the proposal, please be
14 as specific as possible regarding the
15 impact on your particular situation.

16 The proposal requires
17 underground coal mine operators to
18 provide certified mine rescue teams
19 and includes criteria for certifying
20 a mine rescue team.

21 The proposal would require
22 each mine operator to submit an
23 annual statement to the District

1 Manager certifying the qualification
2 of the Mine's mine rescue teams. To
3 make this certification less
4 burdensome, the Agency developed a
5 form that can be filed on line.

6 MSHA welcomes any suggestions
7 on the form and requests comments and
8 recommendations for other
9 alternatives for certification of
10 mine rescue teams.

11 The proposal requires mine
12 rescue teams to participate in two
13 local mine rescue contests each year.
14 MSHA developed criteria for local
15 mine rescue contests and requests
16 comments on the proposed criteria.

17 The Agency solicits comments
18 on whether there should be a minimum
19 amount of annual training prescribed
20 for contest judges. The Agency is
21 considering allowing an attendance at
22 training on contest rules and
23 interpretations to satisfy the

1 requirement for annual training for
2 judges.

3 MSHA requests comments on
4 this approach or whether some other
5 training is more appropriate.

6 The proposal would allow
7 other training that provides an
8 equivalent realistic simulation
9 exercise; such as, Mine Emergency
10 Response Development, (MERD) drills,
11 to substitute for participation in a
12 local mine rescue contest. MSHA
13 requests comments on this
14 alternative.

15 MSHA has prepared a
16 Preliminary Regulatory Economic
17 Analysis for the proposal, which
18 contains estimated supporting data on
19 costs and benefits. MSHA estimated
20 that the proposal would result in 28
21 additional mine rescue stations, 56
22 additional mine rescue teams, and no
23 change in the level of service

1 provided by State-sponsored teams and
2 stations.

3 MSHA estimated a total annual
4 compliance cost of 3.1 million
5 dollars. MSHA requests comments on
6 all of the assumptions and data used
7 in deriving the cost estimates.

8 This hearing will be
9 conducted in an informal manner, and
10 formal rules of evidence will not
11 apply. The panel may ask questions
12 of the witnesses. The witnesses may
13 ask questions of the panel. However,
14 cross-examination, as you know --
15 many of you -- is not allowed.

16 MSHA will make a transcript
17 of the hearing and post it on the
18 Agency's website within one or two
19 weeks after the conclusion of this
20 hearing.

21 If you wish to present
22 written statements or information
23 today, please clearly identify your

1 material and give it to one of the
2 panel members.

3 You may also submit comments
4 following this public hearing by any
5 of the methods listed in the "Federal
6 Register Notice." To be considered,
7 as I said earlier, the Agency must
8 receive your comments by November
9 9th.

10 We ask everyone in attendance
11 this morning to sign the attendance
12 sheet. If you plan to testify, we
13 ask that you sign the speakers list.

14 If you have a hard copy or an
15 electronic version of your
16 presentation, please provide it to
17 the court reporter.

18 We will now hear from those
19 who signed up to speak. If you
20 would, please begin by clearly
21 stating your name and spelling it for
22 the reporter so that the reporter --
23 we have an accurate record.

1 Our first speaker today is --
2 I'm trying to remember because I
3 don't see the list. I think it's Ken
4 Russell. It's Ken Russell from
5 Bevill State Community College,
6 Sumiton campus.

7 MR. RUSSELL: My name is Ken
8 Russell; K-e-n, R-u-s-s-e-l-l.

9 On behalf of Bevill State
10 Community College and our President,
11 Neil Morrison, we thank you for this
12 opportunity to speak today.

13 We applaud the efforts of the
14 Mine Safety and Health Administration
15 on improving the safety of mines and
16 mining, and especially Section 4 of
17 the MINER Act.

18 Any time there can be an
19 improvement on mine emergency
20 response time, improved team
21 effectiveness, and increased quantity
22 and quality of mine rescue team
23 training, we should seize that

1 moment. However, we do wish that
2 more input had been sought from
3 institutions such as ours and from
4 industry before the final passage of
5 the MINER Act.

6 We are convinced a better and
7 more workable law could have resulted
8 from a broader spectrum of input from
9 individuals, the mine rescue
10 community nationwide, institutions,
11 and coal companies with actual
12 experience in emergency mine rescue
13 situations.

14 Bevill State has housed and
15 been responsible for equipping and
16 training the two State of Alabama
17 mine rescue teams for over 25 years.
18 One of our teams is made up entirely
19 of state mine inspectors, and the
20 other is made up of volunteers from
21 several of the mines which we are
22 responsible for covering. A
23 composite team.

1 During the intervening 25
2 years, our teams have participated in
3 several fire fighting, rescue, and
4 recovery operations. We know mine
5 rescue. This district knows mine
6 rescue.

7 We were never afforded an
8 opportunity to speak, other than the
9 hearings. No one asked for any
10 information. No one solicited any
11 comments or a panel. We feel like
12 this district and other districts
13 across the nation in the mine rescue
14 community know mine rescue.

15 If you'll refer to Part
16 49.11, the chart on page 51-332, the
17 note at the bottom of the chart --
18 I'll begin with that -- it states:
19 "Team members of State-sponsored
20 teams who are full-time State
21 employees whose primary job duties
22 include inspecting underground mines
23 for compliance with State safety laws

1 or training mine rescue teams or
2 conducting mine safety training or
3 other similar duties that would
4 enhance their mine rescue knowledge
5 may substitute for regular job
6 experience or 50 percent of the
7 training requirements for non-State
8 employee mine rescue team members."

9 We believe that the proposed
10 requirement allowing the 50 percent
11 reduction in training requirements
12 for teams made up of State inspectors
13 should definitely apply to the mine-
14 site portion of the training, since
15 these individuals will already
16 possess extensive knowledge of these
17 locations; but we do not believe the
18 other training requirements should be
19 halved.

20 The time spent in wearing an
21 apparatus is essential for conditions
22 for an actual situation and should
23 not be reduced.

1 Pertaining to 49.12(f), the
2 one-hour travel time, I would like to
3 read to you a letter that I had to
4 send out to a mine superintendent of
5 a mine that we provide coverage for.
6 I will leave the name of the mine
7 out. It's addressed to the mine
8 superintendent.

9 "Due to the new MINER Act
10 requirements for underground coal
11 mine operators and mine rescue teams,
12 Beville State Community College,
13 representing the State of Alabama,
14 will no longer be able to provide
15 mine rescue coverage for blank mining
16 effective December 15th, 2007. The
17 coverage cannot be extended for
18 reasons stated in 30 CFR Part
19 49-12(f). No mine served by a mine
20 rescue team shall be located more
21 than one-hour ground travel time from
22 the mine rescue station with which
23 the rescue team is associated. A

1 satellite station is not a feasible
2 option because of the cost to
3 maintain two rescue stations, and any
4 moves further east from its current
5 location would place the current
6 station outside of the one-hour
7 ground travel time for other mines
8 within the mine rescue coverage
9 area."

10 There is a new mine that will
11 be starting up within three miles of
12 this same location. We traveled this
13 route from the station to this
14 particular mine twice. One time, it
15 was an hour and 16 minute. One time,
16 it was an hour and 13 minutes.

17 So, with that said, we would
18 like to comment on that reduction in
19 allotted ground travel time on
20 station to covered mines. Why was
21 this time halved? What evidence
22 exists that two hours is not a
23 workable time? What recent situation

1 has been exacerbated by team arrival
2 within two hours?

3 Again, we in the mine rescue
4 community also know that if teams
5 were on site within one hour, would
6 the MSHA Control Rescue Fire Fighting
7 Recovery Command Center be
8 sufficiently functional or staffed to
9 permit team entry?

10 We understand the desire to
11 establish more teams and more
12 stations; but, considering the
13 additional cost of the difficulty of
14 maintaining remote stations, is it
15 not just as likely that some
16 organizations might decide to simply
17 decline to support remote mines?

18 It is our belief these well-
19 intentioned regulations may actually
20 reduce the number of teams, stations,
21 and mines. It is highly possible
22 that some states will decide to
23 eliminate their state teams rather

1 than face increased costs and drastic
2 increases in the amount of time away
3 from other duties their employees
4 would face.

5 At the last sentence of this
6 letter that I wrote, I did make this
7 statement. "I will petition the
8 District Manager in MSHA District 11
9 to grant us a waiver so that we may
10 continue the coverage for your mine."

11 We are asking that the MSHA
12 District Manager be granted the
13 authority to grant waivers on the
14 one-hour ground travel time from mine
15 rescue stations in certain given
16 situations.

17 Part 48-18, concerning
18 training for mine rescue teams. This
19 is a question. If personnel are
20 available with extensive mine rescue
21 experience and knowledge who have
22 passed the required physical
23 examination and have maintained the

1 necessary apparatus time but have not
2 participated in competition, not a
3 part of the team members, are these
4 people going to be denied the
5 opportunity to contribute in an
6 actual situation?

7 By that, I mean, there are
8 people who have experience and
9 expertise. I have over 27 years of
10 experience in mine rescue. I have
11 been in every situation, I guess,
12 that is out there. Would I be denied
13 entry by an overzealous MSHA
14 inspector because I have not competed
15 in two competitions?

16 There are certain people who
17 have skills; such as, paramedics,
18 ventilation engineers, people with
19 electrical backgrounds and electrical
20 engineering backgrounds. If they
21 keep their allotted time of mine
22 rescue training up and meet the
23 requirements of the physical, would

1 they be excluded from the entrance of
2 a mine in a disaster?

3 We feel there are individuals
4 with expertise at all locations that
5 could be utilized that are not
6 current team members.

7 Part 49-20, requirements for
8 all coal mines and requirements for
9 composite teams. I would like to
10 present a scenario using our current
11 situation as a starting point.

12 I want you to remember I have
13 one fully staffed state inspector
14 team of eight. I have one fully
15 staffed composite team of eight.
16 They are all made up of experienced
17 team members. They have been where
18 the wars are fought.

19 Suppose we are responsible
20 for the coverage of 15 mines? We are
21 not in this state yet. The State of
22 Kentucky does. The State of West
23 Virginia does. Probably more than

1 that.

2 The new regulations require
3 that we add two more team members
4 from the other mines being covered.

5 If I covered 15 mines, that would be
6 30 people, which could bring our team
7 totals as it stands right now, as a
8 composite team and an inspector team,
9 to a total of 38.

10 Will we have to release our
11 highly experienced team members to
12 make room for those other two team
13 members representing each mine? Does
14 this also mean that we would have to
15 maintain 38 apparatus?

16 We feel that we need to visit
17 the mines twice a year and meeting
18 with a liaison, one or two people at
19 each mine site that could show us the
20 ventilation, show the roof control
21 plan, show us the escapeways, all the
22 pertinent information about
23 transportation, all of those things.

1 It is not necessary to displace team
2 members as we have them now.

3 Who will pay for these
4 people? Who will pay for their time?
5 Do you see how unworkable a situation
6 some of these new requirements could
7 create?

8 It's been our experience --
9 again, the mine rescue community, if
10 you check nationwide, during several
11 actual situations -- that there are
12 personnel out there available at the
13 mine that provide knowledge and could
14 be a liaison person to the mine
15 rescue teams during these events.

16 That's all I have.

17 MS. SILVEY: Thank you.

18 First of all, Mr. Russell,
19 let me say for everybody here that we
20 at MSHA recognize the long and
21 significant and necessary service and
22 the tradition of mine rescue teams in
23 this country; and we appreciate that.

1 At every hearing that I have had so
2 far, at some point during the
3 hearing, I have said words to that
4 effect.

5 So, by proposing these
6 regulations -- and I will say this
7 now -- and I'm going to repeat
8 something that I said at the first
9 hearing we had, the Salt Lake City
10 hearing. We did not intend to take
11 any action that would negatively
12 impact mine rescue team service or
13 mine rescue team members or mine
14 rescue teams; but -- and I know you
15 understand that.

16 Obviously, Alabama has it's
17 congressmen in Congress and it's two
18 senators. You understand that the
19 Congress passed and the President
20 signed the MINER Act.

21 MSHA had to do what it could
22 to try to give meaning to the MINER
23 Act and regulations and do the best

1 job we could in proposing the
2 regulations and yet allowing the
3 public, and particularly the mine
4 rescue team community -- see, that's
5 the community personally affected by
6 these regulations -- to allow the
7 public to have input into them.

8 So we tried to find a way
9 where we could give meaning to the
10 MINER Act, what Congress did and the
11 President signed; but, at the same
12 time, we tried to effectuate a
13 situation where we would allow that
14 long wonderful and necessary
15 tradition of mine rescue service to
16 go on.

17 That's where we are. That's
18 why we're here in Alabama today. So
19 I just want to say that at the
20 outset. We appreciate what you're
21 doing and what your college is doing
22 and what everybody in this room who
23 is involved in mine rescue is doing.

1 We never -- and another
2 thing. We never want the occasion to
3 arise where we need mine rescue
4 teams, but sometimes we do.
5 Sometimes the occasion is like it was
6 at Crandall Canyon or unfortunately
7 like it was here in Alabama at Jim
8 Walters a few years ago.

9 Then, sometimes, it's not so
10 disastrous a situation. It may be a
11 lesser catastrophic accident, but
12 still the mine rescue team is just as
13 necessary in all those situations.

14 So, before I go further, I
15 did not want to leave this hearing
16 without make that statement on behalf
17 of the panel here, and on behalf of
18 MSHA, quite honestly.

19 We appreciate your comments,
20 too. I have a few things that I
21 would like to ask you about what you
22 said, and maybe the panel members
23 might have a few questions.

1 With respect to the State of
2 Alabama, I'm glad to hear the
3 information that you said about the
4 State of Alabama teams. With respect
5 to the State of Alabama's two teams,
6 you all are the designated primary
7 team coverage for how many mines in
8 Alabama?

9 MR. RUSSELL: Right now, we
10 cover five mines. We are the primary
11 and the backup on three of those
12 mines.

13 MS. SILVEY: Okay.

14 MR. RUSSELL: And we are the
15 backup on the other two.

16 MS. SILVEY: Okay. You said
17 that one is all state inspectors, and
18 the second one is like a composite
19 team?

20 MR. RUSSELL: Yes. They are
21 made up of -- it's not exactly two
22 from each mine. They're made up from
23 those particular mines; but that's

1 not all that we cover, though.

2 MS. SILVEY: Let me ask you
3 another thing. In terms of the ones
4 that you cover, as to the MINER Act
5 -- and I said that in my opening
6 statement about the designation now
7 of the 36 or fewer for the small
8 mines and 37 or greater for the large
9 mines.

10 Are all of yours in one
11 category?

12 MR. RUSSELL: No. We have
13 one small mine.

14 MS. SILVEY: Under the MINER
15 Act categorization?

16 MS. RUSSELL: Yes, ma'am.

17 MS. SILVEY: Okay. The
18 letter that you provided -- and
19 that's very useful. That's the kind
20 of information that we need from
21 everybody here.

22 Even if you don't want to
23 testify today, if you don't want to

1 come forward, if you have the same
2 kind of impact that Mr. Russell had,
3 if you would, let us know. Send it
4 to us before November the 9th before
5 the record closes.

6 That is the specific kind of
7 information that we need to direct us
8 if we have to do something
9 differently. If we have to do
10 something differently, we need to
11 know the impact, the specific impact.

12 That's the only kind of
13 information that I can take forward
14 to say that this has impacted these
15 people. This is going to cause a
16 change. That's the kind of
17 information that we need.

18 MR. RUSSELL: Patricia, could
19 I add some to that?

20 MS. SILVEY: Yes.

21 MR. RUSSELL: There is a new
22 mine that is starting up very near
23 there. I'm sure it will start out as

1 a small mine, less than 36. They
2 will still need the coverage.

3 MS. SILVEY: Right.

4 MR. RUSSELL: Like I said, we
5 were an hour and 13 minutes one way,
6 and coming back it was an hour and 16
7 minutes. It could be more at peak
8 traffic time. I'm just telling you
9 that's the time frame.

10 Would we still respond? Yes,
11 we would still respond, of course;
12 but we would not be listed as their
13 primary and secondary teams. They
14 would have to do something under the
15 MINER Act.

16 MS. SILVEY: Okay. Well, I'm
17 getting to that. That's a good --
18 that's the next thing I was getting
19 to.

20 For the mine, you read from
21 the letter, you are no longer able to
22 provide coverage. I've got several
23 questions. Was that the only -- is

1 that the only mine that you've had to
2 send a letter that you would have to
3 terminate your coverage, as of
4 December whatever date?

5 MR. RUSSELL: We technically,
6 actually, thought there may have been
7 two. We exceeded the speed limits.
8 So I would have been given several
9 tickets.

10 I have approached an MSHA
11 supervisor, and he's willing to do
12 this, to ride in a patrol car with us
13 if we need to, or whatever, to try
14 and beat the hour and 13 minutes.
15 That's a technicality that's in the
16 MINER Act that we could get around.
17 It doesn't say -- whatever.

18 I can assure you our mine
19 rescue truck will not make it in an
20 hour and 13 minutes to that location;
21 but, us in a car or us in a patrol
22 car, we could get police escorts any
23 time. We could have it on all the

1 plans, if necessary. We can do all
2 these things, and we're willing to do
3 that.

4 We thought there may be one
5 other mine. We made it under that
6 time limit. Right now, there's just
7 one. Again, there's another mine
8 starting up there.

9 I don't want to discourage --
10 part of my job -- we manage grants.
11 I know you're familiar with the wired
12 initiative and all these work force
13 developments.

14 MS. SILVEY: Yes, I am.

15 MR. RUSSELL: That's what
16 we're all about. I don't think --
17 you have one Governmental Agency
18 saying "Put people to work" --

19 MS. SILVEY: Right.

20 MR. RUSSELL: -- and then we
21 are putting them out of work in
22 another one.

23 MS. SILVEY: No. You're

1 exactly right. I just read the
2 Assistant Secretary for Employment
3 Training Administration is presenting
4 testimony on the state of workers in
5 the energy sector, and that includes
6 mines.

7 So you are exactly right.
8 She was talking about the wired
9 initiative. So I understand what
10 you're saying. You're right.

11 So the mine, though, that you
12 didn't call the name on that you
13 terminated -- that you were telling
14 them, informing them, what size was
15 that mine?

16 MR. RUSSELL: They have in
17 the neighborhood of, I think, about
18 50 to 53 employees.

19 MS. SILVEY: Now, what will
20 that mine do?

21 MR. RUSSELL: That is the
22 question.

23 MS. SILVEY: I want everybody

1 -- all these questions I'm asking
2 Mr. Russell, if people are similarly
3 situated and have like situations, I
4 would really be most appreciative, if
5 you are impacted, if you would
6 provide specifics about some of the
7 same things he's telling us now.

8 When you say that, what
9 options do they have, though?

10 MR. RUSSELL: The options
11 they have are, one, going out of
12 business.

13 MS. SPIVEY: But that doesn't
14 seem to be a viable.

15 MR. RUSSELL: It could be if
16 they're struggling now -- and I don't
17 know what their status is, but small
18 mines work on not quite the budgets
19 that larger mines do. If they're
20 struggling to put 12 apparatus and 12
21 team members, they don't have the
22 personnel to do that, again, we could
23 not -- we ourselves cannot afford a

1 satellite station.

2 MS. SPIVEY: When you say you
3 can't afford a satellite station, you
4 mean setting up --

5 MR. RUSSELL: The State of
6 Alabama can't purchase 12 units. I
7 mean, it's -- a replica of our
8 station that we have now is just
9 unfeasible, and maintaining that
10 station on an annual basis just
11 couldn't be done.

12 MS. SILVEY: Okay.

13 MR. RUSSELL: So the options
14 they have -- I'm asking you what
15 options are y'all giving them? When
16 I'm an hour and 13 minutes away with
17 a police escort, we could probably
18 cut some of that off; but it will
19 still be more than an hour.

20 Again, one thing I want you
21 to understand is, in every situation
22 requiring mine emergency, there was
23 really nothing wrong with the

1 two-hour law. I know we have a law
2 we have to work with now.

3 MS. SILVEY: I understand.

4 MR. RUSSELL: Even just --
5 this law has done nothing to improve
6 response time. It has done nothing
7 to improve response time.

8 I can assure you that in West
9 Virginia, Kentucky, Virginia,
10 Pennsylvania, and Alabama we are
11 aware of that. It has done nothing
12 to improve response time.

13 It's hurting these small
14 operations that can't afford these
15 things, and it would discourage
16 entrepreneurs from investing in coal
17 mines or starting new developments.

18 MS. SILVEY: I hear you.

19 Now, when you went on to talk
20 about asking the District Manager
21 here in District 11 for a waiver --

22 MR. RUSSELL: I have not -- I
23 said I would petition. I have not

1 petitioned yet.

2 MS. SILVEY: Yeah, I

3 understand.

4 MR. RUSSELL: But I will.

5 MS. SILVEY: What I was going

6 to say is -- and I want everybody

7 else to think about this -- are you

8 -- how can I say this? If you could,

9 please provide specific criteria

10 like; list, if you can, one criteria

11 or more than one criteria under what

12 conditions that you think a waiver

13 ought to be granted.

14 MR. RUSSELL: Yes, ma'am. I

15 will add those comments and get those

16 in by November 9th.

17 MS. SILVEY: Yes. Everybody

18 else in here, too. If you have a

19 similar situation, you do that, too.

20 That would be helpful.

21 The other thing I want to say

22 is that you talked about maybe not

23 every member of the team being able

1 to participate in local contests.

2 If you all recall, from the
3 opening statement, I did say that we
4 included in the proposal some
5 alternatives to local contests; such
6 as, MERD drills and realistic
7 simulation training.

8 We have heard testimony at
9 some of the other public hearings
10 from mine rescue teams that
11 participated in certain simulated
12 training, smoke training. They gave
13 us examples of certain training.

14 So, if you all have certain
15 training like that, that you think
16 would provide a reasonable
17 alternative to contests, then,
18 include that, too.

19 MR. RUSSELL: With these non-
20 team members, could we provide a list
21 of those names that are affiliated
22 with our teams that we feel like
23 could provide expertise or that would

1 not be active team members but would
2 be -- they would take physicals and
3 they would keep the current
4 requirements for mine rescue
5 apparatus, the wearing of the
6 apparatus, the donning of the
7 apparatus and those kinds of things
8 but not compete. We could just do
9 some things with them at the mine
10 sites when we do the underground
11 visits and when we do things like
12 that.

13 I just don't want to get in a
14 situation where there could be people
15 missing somewhere -- and we have mine
16 rescue teams that are quite capable,
17 but then there are those in this
18 district and other districts across
19 this country that have expertise that
20 would be valuable -- invaluable in
21 those types of situations, and they
22 need to be a part of a team.

23 MS. SILVEY: Okay. So what

1 you are talking about -- do the
2 members that you are talking about --
3 you say "I know they wear the
4 apparatus." They have certain
5 maybe -- you know, I'm just making
6 this up. They may be trained EMTs.

7 MR. RUSSELL: There you go.

8 MS. SILVEY: They have maybe
9 certain expertise.

10 MR. RUSSELL: They have
11 certain skills that set them apart --

12 MS. SILVEY: Certain skills,
13 I understand that.

14 MR. RUSSELL: -- and their
15 experience factor that they have been
16 in about every situation there is. I
17 don't want for these people to be
18 excluded during the first three days
19 of an event if their expertise could
20 be used.

21 MS. SILVEY: But do they
22 participate in any kind of other -- I
23 assume they participate in some other

1 kind of emergency training.

2 MR. RUSSELL: These people
3 that I'm speaking of, they're around
4 mine rescue. They set up problems,
5 or they're helping -- I'll use myself
6 as an example.

7 I'm the Director of Training
8 at the Alabama Mine Training
9 Consortium or the Mine Academy in
10 Mine Technology at Beville State. I'm
11 technically the head of the mine
12 rescue portion of it, also. That's a
13 part under me. I've had a lot of
14 experience.

15 If a particular mine had an
16 event and it required -- there were
17 missing people or something like
18 that, I would want to be a part of
19 that portion of it because I feel
20 like I have that expertise and
21 knowledge.

22 There are other people in
23 this district -- and I could name

1 names, and you would know exactly who
2 I'm talking about -- in the area who
3 are mine rescue, are savvy and around
4 it all the time. It's a part of
5 their life.

6 I just don't want them or
7 myself to be excluded from anything
8 like that because we all know the
9 risks associated with mine rescue,
10 and that's a part of it.

11 That's just a portion, those
12 skilled people that are not team
13 members. We would provide a list of
14 maybe -- there wouldn't be probably
15 over three or four from us that we
16 would do that way.

17 There may be other mining
18 companies or other industries that
19 would want the same thing that would
20 list engineers or pumping
21 specialists. Not everybody can pump.
22 Shoal Creek, in this state, can pump
23 water. They know how to do it.

1 I'm just saying there are
2 people with expertise out there that
3 you need to utilize whenever
4 possible. Just because they're not
5 on a team at this particular time,
6 they have had all the experience in
7 mine rescue training and apparatus
8 training in different situations; and
9 I think we should include them.

10 MS. SILVEY: Okay. That's
11 really, I think, all that I have.

12 Do you all have anything?

13 MR. KALICH: I've got a
14 question.

15 You mentioned -- you talked
16 about certain credits for state
17 inspectors.

18 MR. RUSSELL: Yes.

19 MR. KALICH: You felt that
20 that was good for the underground
21 training but not other portions of
22 the training --

23 MR. RUSSELL: Right.

1 MR. KALICH: To give a
2 credit.

3 Would you expound on that a
4 little bit?

5 MR. RUSSELL: I just feel
6 like they need to don that apparatus
7 at all times because that is part of
8 the training, whether it's in the
9 heat, those requirements -- there are
10 only eight hours every two months. I
11 don't think we need to shorten that
12 time on training.

13 The mine site training, they
14 are there way more than in this
15 state. I accuse our inspectors of
16 being there every three weeks and are
17 technically there every 45 days. So
18 they are at these mine sites. So
19 they see that because they're there.

20 I just feel like the
21 training, as a group in the comradery
22 phase of it and in the training
23 competition phase, they need to be a

1 part of that.

2 MR. KALICH: Going to the
3 one-hour travel time, you suggested a
4 District Manager be able to grant a
5 waiver to the one-hour travel time.
6 As Pat has asked, if you would, give
7 us some specific alternatives.

8 MR. RUSSELL: I replied that
9 I will have that to her by November
10 9th, and the written comments.

11 MR. WILSON: This is a two-
12 part question. You said the State of
13 Alabama could not afford to establish
14 a new station, it's not feasible.
15 How much would it cost for you -- for
16 the State of Alabama to buy the
17 equipment, buy the building, lease
18 the build, roughly; and how much is
19 it annually to maintain it?

20 MR. RUSSELL: I have really
21 not run all those figures. I know
22 what it costs to maintain for two
23 units. We're replacing our units.

1 We are going through a phase of
2 replacement.

3 I purchased two units at
4 about \$18,500. I'm buying spare
5 parts. All of those things for this
6 year's budget.

7 It's \$87,000 to maintain the
8 units that we currently have. That
9 does not include all the other
10 things, like the gas detectors.

11 We feel like we try to go
12 above and beyond on equipment, as far
13 as having boots, coveralls, hard
14 hats, and belts that we can load into
15 the truck right there that have their
16 size and their name and everything
17 they want in there.

18 We have first aid equipment.
19 We have everything that you could
20 possibly use in a mine rescue event
21 because we realized at some of the
22 mines we would be self-sustaining.
23 So we would have to have everything

1 there is.

2 So the answer that question
3 is: I can get you figures.

4 MR. WILSON: Approximate
5 figures. Could you submit them?

6 MR. RUSSELL: I can tell you
7 what it costs to maintain our team.
8 It's \$240,000 a year. That's what it
9 costs to maintain two teams in the
10 State of Alabama.

11 We have absolutely nothing in
12 the budget. We are squeaking the
13 last month of the year.

14 MR. WILSON: If you could,
15 provide that cost and the costs to
16 establish a new station. We've
17 received some estimates, but I want
18 to make sure we have a broad
19 spectrum.

20 MR. RUSSELL: I looked at
21 some of those estimates that you
22 have. I don't agree with those. I
23 don't know where all those came from.

1 MS. SILVEY: If you remember,
2 I said that in the opening statement,
3 to comment on MSHA's estimates in
4 deriving the cost estimates. If
5 anybody has different cost numbers or
6 different assumptions, if we used the
7 wrong assumptions, just let us know.

8 MR. RUSSELL: Mr. Wilson, I
9 will get you those numbers.

10 MR. WILSON: Thank you.

11 MR. RUSSELL: At least by
12 November 9th. You have given me a
13 lot of homework.

14 MS. SILVEY: We've given it
15 to everybody. Everybody that has the
16 courage to come up to the microphone
17 is getting a lot of homework. Not
18 everybody is coming up here.

19 MR. RUSSELL: I understand.

20 MS. SILVEY: I probably
21 shouldn't have said that because that
22 means that the people who don't come
23 up to the microphone -- it's not that

1 they don't have courage.

2 We may be getting written
3 comments from people who don't come
4 up to the microphone, either. A lot
5 of times, that's what happens.

6 Anymore comments?

7 Thank you very much.

8 MR. RUSSELL: Ms. Patricia,
9 I'd like to say one thing. Roll
10 Tide.

11 MS. SILVEY: Roll Tide.
12 1969. It's been a long time.

13 Next, then, I think -- we
14 don't have a listed speaker, but
15 Mr. Byram, are you testifying?

16 MR. BYRAM: Yes, ma'am.

17 MS. SILVEY: Okay.

18 MR. BYRAM: Good morning. My
19 name is Dale Byram; D-a-l-e,
20 B-y-r-a-m.

21 I work with Jim Walter
22 Resources in Brookwood, Alabama. I
23 do appreciate the opportunity to

1 speak with you today on such an
2 important issue as mine rescue.

3 What I would like to do is
4 just read my comments that I
5 presented Ms. Silvey with, and then I
6 will be glad to entertain any
7 questions or comments that you may
8 have.

9 The Department of Labor, Mine
10 Safety and Health Administration's
11 Mine Rescue Teams and Equipment;
12 Proposed Rules will have varying
13 effects on teams and operators.

14 We reviewed the proposed
15 regulation with two basic positions.
16 First, how would it affect the safety
17 and efficiency of our Jim Walter Mine
18 Rescue Teams? Secondly, how would it
19 affect our nations mine rescue teams?

20 Our comments reflect both
21 positions. With respect to the
22 Panel's request for specifics, some
23 of our answers are generalized; but I

1 will go back and try to expand if you
2 ask questions related to that.

3 Under Part 49.12(B)(f),
4 Availability of Mine Rescue Teams, it
5 reads: "No mine served by a mine
6 rescue team shall be located more
7 than one hour ground travel time from
8 the mine rescue station with which
9 the team is associated."

10 We recognize the value of
11 rapid response and believe that one
12 hour or less response time from a
13 mine rescue station to a covered mine
14 is a realistic goal. Yet, at this
15 particular point in our industry, we
16 do not believe that there is an
17 infrastructure in place to meet this
18 requirement.

19 We believe that a variance
20 with reasonable time lines should be
21 granted to operators who cannot
22 currently meet this part of the
23 regulation.

1 Even when seeking a variance,
2 they should be held to a maximum of
3 two hours ground travel time, as
4 currently listed in the reg, with
5 efforts directed towards compliance
6 within a reasonable time frame.

7 Also, under 49.12(g),
8 Availability of Mine Rescue Teams,
9 the last sentence in the section
10 reads: "The requirement that mine
11 rescue teams be available shall not
12 apply when teams are participating in
13 mine rescue contests or providing
14 services to another mine."

15 The purpose of the MINER Act
16 was to improve the health, safety,
17 and survivability of our miners. We
18 strongly disagree with this position.

19 JWR knows the value of having
20 teams to assist with another Mine's
21 emergency; and we recognize that
22 participating in mine rescue contests
23 builds confidence, team work, and

1 instinctive moves that will be used
2 in an actual event; but we cannot
3 validate leaving our miners
4 unprotected for these reasons.

5 Reconsideration should be given to
6 this area of the proposed regulation.

7 The next section I will skip.
8 We will come back to it on equipment.

9 49-20, Requirements for All
10 Coal Mines. Composite Teams. Jim
11 Walter has three mine rescue teams,
12 one of which is a composite team.

13 We can agree with and comply
14 pretty much with the way this
15 regulation was written.

16 Looking at a contract team
17 issue, though, where other teams in
18 the country or other mines in the
19 country will be affected, we polled
20 our teams and found that even though
21 there is benefit to having someone
22 with a team that knows the contract
23 mine, unanimously, our teams felt

1 more confident in having a
2 knowledgeable person available on
3 each shift at the contract mine to
4 accurately brief the teams rather
5 than trying to incorporate a contract
6 team member into our existing teams
7 that work well together.

8 75.1501, Emergency
9 Evacuation. 75.1502 reads: "The
10 responsible person shall be trained
11 annually in mine emergency response.
12 Training shall include knowledge in
13 the following" -- and there is a list
14 of things; such as, organizing a
15 command center, directing fire
16 fighting personnel, and deploying
17 fire fighting equipment.

18 "Training shall include
19 knowledge in the following" means to
20 us that this person will be informed
21 of these actions, yet their
22 responsibility will remain clearly as
23 listed that they are to direct the

1 emergency evacuation of the mine.

2 We found it a bit confusing.

3 When we read it the first time, we
4 took issue with way it was written
5 because we thought that our
6 responsible person was being given
7 these additional responsibilities.

8 It's our request that the
9 Panel consider clarifying this so
10 that other operators, especially new
11 operators, will not have that
12 confusion. That responsible person
13 has a very vital job.

14 Finally, I have two areas for
15 topics that were not covered in the
16 regulation that we would like to
17 present for consideration.

18 Increased Emergency Medical
19 Training for Mine Rescue Team
20 Members. In every mine rescue event,
21 teams will be faced with a
22 possibility of a team member down;
23 such as, what happened at Crandall

1 Canyon. In those events, where teams
2 were searching for missing miners,
3 the chance for needed emergency care
4 was even more evident -- Jim Walter,
5 Sago, Alma, and others -- yet there
6 is no provision in this regulation to
7 meet this identified need.

8 All mine rescue team members
9 should be trained to a minimum
10 standard; such as, a DOT First
11 Responder. In addition, as with the
12 mine rescue equipment that we'll talk
13 about later today, there should be
14 emergency care equipment available
15 for these team members to use at the
16 fresh air base or at other strategic
17 locations.

18 Lastly, Special Skills
19 Provision. The regulation outlines
20 the physical requirements, training,
21 and competition requirements
22 necessary to be an active mine rescue
23 team member. During many rescue

1 operations, we have used individuals
2 who have special skills to meet
3 critical needs. These individuals
4 have been mine rescue trained
5 paramedics, ventilation technicians,
6 and pumpers.

7 The regulation, as written,
8 fails to recognize this group of
9 individuals who bring value to an
10 emergency.

11 Consideration should be given
12 to expanding the regulation to
13 provide opportunity for these
14 individuals to be used. In addition,
15 to facilitate the process prior to an
16 emergency, some form of preapproval
17 should be available through the
18 District Manager.

19 The preapproval could
20 incorporate a review of the
21 individual's background, his mine
22 rescue training, and his physical.

23 Mine rescue is an invaluable

1 asset. We owe it to our teams and to
2 the operators and miners to develop
3 regulations that protect them and
4 help to enhance their chances for
5 success.

6 Thank you.

7 MS. SILVEY: Thank you.

8 Mr. Byram, with respect to
9 the Jim Walters teams, you
10 mentioned -- I had down here first I
11 was going to ask you: How many teams
12 do you have? I think --

13 MR. BYRAM: We have three
14 teams.

15 MS. SILVEY: They service how
16 many mines?

17 MR. BYRAM: Two.

18 MS. SILVEY: The three teams
19 service the two mines?

20 MR. BYRAM: Yes, ma'am.

21 MS. SILVEY: Right now, you
22 are able to meet the one-hour
23 requirement?

1 MR. BYRAM: Yes, ma'am.

2 MS. SILVEY: Okay. I'm going
3 to go through your testimony a little
4 bit.

5 With respect to that sentence
6 you talked about, the last -- I just
7 want to clarify something. The last
8 sentence in 49.12(g), that was a
9 sentence that's in the existing
10 regulation, just so everybody knows.

11 At some point along the way,
12 I started putting in the opening
13 statement that this proposal did not
14 change the existing regulation. The
15 goal of MSHA was to implement the
16 MINER Act in the proposal and not to
17 change the existing regulation.

18 Not to disagree with what you
19 said, that even if mine rescue teams
20 are away at an emergency or are
21 participating in contests or
22 providing services to another mine,
23 the members still need service.

1 This sentence -- I've been
2 there at MSHA so long, I did the
3 original regulation. So I remember
4 this sentence. This sentence was put
5 in there in direct response to
6 comments at that time, 19 whatever it
7 was, when the Mine Rescue Regulation
8 was done, '80, I think.

9 It was put in there for
10 persons who felt like the mine should
11 not be penalized, with respect to the
12 two-team provision, if the teams were
13 away providing service to another
14 mine.

15 So that's why that
16 sentence -- just so everybody knows,
17 that's why that sentence was put in
18 there. So, not to disagree with you;
19 but that was put in the initial
20 regulation in direct response to
21 comments.

22 With respect to -- you are
23 exactly right. I want to say that.

1 I'm glad you included that in your
2 comment, with respect to the duties
3 of the responsible person.

4 The proposal said that the
5 responsible person shall be trained
6 in these activities; organizing a
7 command center, directing fire
8 fighting personal, deploying fire
9 fighting equipment. It says
10 "trained." It doesn't say "take on."

11 I'm glad you pointed that
12 out. Several other people who
13 commented thought that these were all
14 the duties of the responsible person,
15 but it said, "Shall be trained in
16 those things." We will make sure we
17 clarify that in the final ruling.

18 Mr. Russell talked about this
19 somewhat, too. You said, "The topics
20 that are not covered by the
21 regulation." For my own information,
22 the Department of Transportation
23 First Responder Standard or

1 Regulation, I assume that that
2 requires training in certain due
3 procedures or provisions or whatever?

4 MR. BYRAM: Yes, ma'am.

5 MS. SILVEY: About how long
6 is that training?

7 MR. BYRAM: It's a 40-hour
8 training program.

9 MS. SILVEY: Oh, it's a 40-
10 hour training program?

11 MR. BYRAM: Yes, ma'am. It's
12 above --

13 MS. SILVEY: I was going to
14 ask you -- and I know you're going to
15 tell me what it is, but does it go --
16 it goes beyond the training that we
17 require for the MINER Act in our
18 regulation?

19 MR. BYRAM: Yes, ma'am. As a
20 matter of fact, I think on the back
21 of that handout, I have a copy of the
22 "National Curriculum" cover page.

23 MR. WILSON: I think other

1 organizations -- I think American Red
2 Cross or others have 60 hours. So
3 different organizations have
4 different requirements.

5 I'm a former First Responder
6 myself. It depends on the
7 organization as to how long. The
8 training is a little different, a
9 little more or less in depth in
10 certain areas.

11 MR. BYRAM: We got permission
12 to do certain variations on our
13 training for our team. We took
14 delivering babies and put more trauma
15 methods.

16 Seriously, it's far more
17 viable to a mine rescue team need.
18 We are mine rescue team members. We
19 respond to emergencies.

20 We have team members and have
21 experienced team members down in
22 hostile environments. You've got to
23 have the training to take care of

1 that guy and get him back to a fresh
2 air base, beyond just grab and drag;
3 and we can do this.

4 MS. SILVEY: With respect to
5 the special skills, I want to make
6 sure that I, and maybe some of the
7 panel members, clearly understand
8 what you're saying.

9 Are you saying that these
10 certain designated persons with this
11 special expertise should be available
12 for the team but not necessarily one
13 of the five members and an alternate?
14 Are you saying that they should be
15 available so the team can call on
16 them if they need to? What exactly
17 are you saying?

18 MR. BYRAM: Okay. That may
19 be a good way to look at it. I think
20 Jeff -- I could yield to him, as many
21 emergency responses as he has been
22 involved in. There is always a need
23 for some special expertise during an

1 event.

2 The way the reg is
3 structured -- Ken and I have talked
4 about this; and other operators have,
5 too. The way the reg is structured,
6 we believe that it would prevent a
7 person such as Ken or myself from
8 being involved in the actual hands-on
9 rescue effort because we are not
10 affiliated with a formalized active
11 team that's competing.

12 MS. SILVEY: I see.

13 MR. BYRAM: That shouldn't
14 negate our wearing the apparatus for
15 two hours as outlined in the other
16 parts of the reg, and for physical
17 requirements and things like that.
18 We are missing a available tool.

19 MR. WILSON: Because we are
20 missing one certain aspect of a
21 requirement of the total mine rescue
22 team.

23 MR. BYRAM: Part of a total

1 rescue effort, yeah. They wouldn't
2 necessarily be tied to a team, but
3 they would be mine rescue trained and
4 approved to be able to function.

5 The reason I put in for
6 preapproval is, like Ken said -- as
7 y'all know, the first two days of an
8 event are critical times. The first
9 10 hours is a critical time.

10 In trying to get this worked
11 out, sometimes in the heat of the
12 battle, it's a hard thing to do. It
13 needs to be able to be preapproved
14 and accepted.

15 MR. WILSON: You and
16 Mr. Russell talked about attendance
17 at local contests. I guess, as I
18 understand what you all are saying,
19 it's the least important of these
20 requirements. If these consultants
21 or skilled people did everything
22 else, met all the other requirements
23 but attended a local contest, they

1 should be allowed to participate.

2 MR. BYRAM: Yeah. They would
3 meet all the other requirements but
4 not necessarily be affiliated with a
5 team, per se, like one of the six
6 working team members.

7 MS. SILVEY: It almost seems
8 to me that maybe what you're saying
9 is that the teams should have access
10 to persons with special expertise if
11 they need those persons.

12 MR. BYRAM: Yes, ma'am.

13 MR. KALICH: Would you
14 suggest that special person replace a
15 team member or accompany a team?

16 MR. BYRAM: Accompany a team.

17 MS. SILVEY: That's what it
18 sounds like to me. If anybody wants
19 to clarify that, if Mr. Russell wants
20 to come back, I'm just trying to
21 figure out what you mean.

22 Anybody else?

23 MR. KRAVITZ: If you've got

1 requirements from the two teams and
2 the team members have the criteria
3 here, they are basically ancillary
4 people. Other people are actually
5 participating in the emergency. If
6 they still have the hazard training
7 and still go underground, it's up to
8 the command center to participate
9 with special skills.

10 MR. BYRAM: That's good to
11 know. We were concerned that by the
12 rewriting of the reg, it might
13 prevent that, unless it was addressed
14 specifically.

15 MR. KRAVITZ: If you can
16 identify instances where it might
17 hinder people from participating, we
18 would like to know that.

19 MR. BYRAM: Okay.

20 MR. KRAVITZ: For your three
21 teams, did you provide coverage for
22 any other mines?

23 MR. BYRAM: No, we do not. I

1 appreciate you bringing that up
2 because I want to make reference to
3 something Pat talked to Mr. Russell
4 about.

5 That unnamed mine in question
6 is 57 minutes from our mine rescue
7 station.

8 MS. SILVEY: Is that right?

9 MR. BYRAM: 57 minutes.

10 That's on the edge, isn't it?

11 However --

12 MS. SILVEY: But you all --

13 MR. BYRAM: -- we don't
14 contract services. Now, would we
15 respond if that mine --

16 MS. SILVEY: You would.

17 MR. BYRAM: In a heartbeat.

18 What happens is when an
19 operator elects to contract to -- an
20 operator elects to contract. That's
21 out of his realm of normal business
22 practice. You just subjected your
23 teams to hazards you chose to do, and

1 I don't know that that's a position
2 that an operator needs to be put
3 into.

4 If a variance could be given
5 to where there's time to work through
6 these things, then we would certainly
7 support that kind of legislation.

8 MR. KALICH: You had
9 mentioned about the First Responder
10 training and emergency care
11 equipment. If you would, submit what
12 type of equipment you would like to
13 see for the team and exactly what
14 type of training you would like to
15 see and how many team members. Do
16 you suggest the entire team?

17 MR. BYRAM: We have looked at
18 that, Mike. We initially had said
19 three team members per team.

20 MR. KALICH: If you would,
21 submit that to us so we can have that
22 on the record.

23 MR. WILSON: I would defer to

1 Pat, but I would think the equipment
2 you suggested might go into the
3 equipment portion later on. I don't
4 know.

5 MS. SILVEY: This is fine.
6 What you did here is fine on that
7 issue because what you're doing is
8 you're bringing it up within the
9 context of the mine rescue team. You
10 see it as an additional requirement
11 for the team.

12 MR. BYRAM: Yes, ma'am.

13 MS. SILVEY: That's fine.
14 Anything else?

15 Okay. Thank you, Mr. Byram,
16 very much.

17 Is there anybody else who
18 wishes to make a comment or provide
19 testimony? Anybody else in the
20 audience have additional comments or
21 testimony?

22 Nobody else. Okay. If
23 nobody else, then, wishes to testify,

1 I will conclude this Mine Safety and
2 Health Administration's Public
3 Hearing on Mine Rescue Teams.

4 As I do so, I want to thank
5 everybody that came today, the
6 persons who testified and provided us
7 with valuable information and those
8 who attended and may not have
9 testified but showed that they had an
10 interest in the proceedings.

11 I do want to reiterate, too,
12 just so people know because people
13 have expressed different thoughts to
14 us about this, this proposal in no
15 way was intended to reflect any
16 negativity about the current mine
17 rescue team situation. In each of
18 the unfortunate events that we have
19 had to suffer through over the last
20 several years, I think the mine
21 rescue teams responded admirably,
22 quickly, and beyond reproach.

23 I think anybody in MSHA and

1 anybody in the mining community will
2 say that. So we say, again, thank
3 you.

4 As I said, we have the MINER
5 Act. We've got the proposal, and
6 we're going to do the best we can to
7 craft a final rule that implements
8 the MINER Act but does so in a manner
9 that continues that long and
10 important tradition of mine rescue
11 team service in this country.

12 I ask that anybody who has
13 specific impact along the lines of
14 those offered by Mr. Russell and
15 Mr. Byram, if you would, submit your
16 comments to us before November 9th.
17 Anybody who testified today and said
18 they would provide additional
19 information, if you would, do
20 likewise.

21 At this time, we appreciate
22 your coming, and we appreciate your
23 testimony. The Mine Safety and

1 Health Administration Public Hearing
2 on the Proposal on Mine Rescue Teams
3 and Underground Coal Mines is now
4 concluded. Thank you.

5 (Recess.)

6 MS. SILVEY: Good morning.
7 My name is Patricia W. Silvey. I'm
8 the Director of the Mine Safety and
9 Health Administration's Office of
10 Standards. I will be the moderator
11 of this public hearing on MSHA's
12 proposal for Mine Rescue Team
13 Equipment.

14 On behalf of Richard E.
15 Stickler, the Assistant Secretary of
16 Labor for Mine Safety and Health, I
17 want to welcome all of you here.

18 The MSHA members of the
19 panel -- and these are the persons
20 who are principally responsible for
21 the drafting of this proposal -- are,
22 on my left: William (Bill) Wilson,
23 with Metal and Non-Metal Mine Safety

1 and Health and the team leader for
2 the project; Michael Kalich, with the
3 Office of Coal Mine Safety and
4 Health; and Jeffrey Kravitz, with the
5 Office of Technical Support at the
6 Tech Support Center in Pittsburgh.

7 On my right, is Cheri
8 Hutchison from my office; Matt Ward,
9 an attorney with the Office of the
10 Solicitor; and Mr. Phuc Phan, who is
11 an Economist in my office.

12 Before we start the hearing,
13 as we normally do, I would like to
14 ask you to join me in a moment of
15 silence in memory of all of the
16 miners and rescuers who lost their
17 lives in mine accidents throughout
18 this country; particularly, those at
19 the recent tragic accident at
20 Crandall Canyon. So, right now, if
21 you would join me in a moment of
22 silence, I would appreciate it.

23 (A moment of silence was

1 observed.)

2 MS. SILVEY: Thank you very

3 much.

4 Before I proceed further,
5 also, I want to say that our agency,
6 the Labor Department, appreciates
7 very much the sacrifices and the
8 altruistic service. I don't think we
9 can put enough terms to the type of
10 service that is provided by mine
11 rescue team members.

12 We do very much appreciate --
13 that is a necessary service; and we
14 very much appreciate the effort, the
15 service, and the many sacrifices made
16 by mine rescue teams and their
17 members.

18 This is the last of four
19 public hearings that we've held on
20 this proposal. The first one was in
21 Salt Lake City, Utah on October 23rd.
22 The second one was in Lexington,
23 Kentucky on October 25th. The third

1 one was this past Tuesday in
2 Charleston, West Virginia.

3 Of course, we are holding
4 both hearings on the same day so that
5 persons interested in both rulings
6 can attend.

7 Significantly, the Mine
8 Rescue Team Equipment Proposed Rule
9 applies to all underground mines;
10 metal, non-metal, and coal. We have
11 copies of the "Federal Register" that
12 contains this proposal on the table
13 with the attendance sheets.

14 Also, I would like to ask
15 you -- and I hope we have separate
16 attendance sheets for Mine Rescue
17 Team Equipment Rule. Even if you
18 signed the attendance sheet for the
19 Mine Rescue TEAMS Proposal, if you
20 would, please sign a separate
21 attendance sheet for this proposal,
22 the equipment one, because these are
23 two separate rules; and we are making

1 two separate rule-making records.

2 The comment period for the
3 proposal ends on November 9th. We
4 must receive your comments by
5 midnight Eastern Standard Time on
6 that date.

7 As of October 30th, we have
8 received five comments. You can view
9 the comments on the Agency's website
10 at www.msha.gov, under the section
11 Rules and Regulations.

12 This proposal addresses Mine
13 Rescue Team Equipment at mine rescue
14 stations serving underground coal and
15 metal and non-metal mines. MSHA
16 proposes to amend the existing
17 standard to reflect advances in Mine
18 Rescue Team Equipment Technology.

19 It is critical that mine
20 rescue team members be provided with
21 the latest in protective equipment so
22 that they can safely and effectively
23 carry out their mission.

1 The purpose of the hearing is
2 to receive information from the
3 public that will help MSHA evaluate
4 the requirements in the proposal and
5 produce a final rule that enhances
6 team safety and effectiveness.

7 The preamble to the proposal
8 discusses the provisions and the rule
9 and includes a number of specific
10 requests for information. MSHA
11 requests comments on all of the
12 proposed equipment provisions and on
13 the validity of the Agency's
14 assumption in deriving cost
15 estimates.

16 As you address these
17 provisions, either in your testimony
18 here today or in your written
19 comments, please be as specific as
20 possible about how these changes
21 would affect the safety and health of
22 miners and mine rescue team members.

23 MSHA also requests detailed

1 information and data on the cost and
2 feasibility of implementing the
3 provision.

4 I want to summarize the
5 substantive changes in the proposal.
6 The Mine Rescue Team Equipment
7 Proposal upgrades and enhances
8 certain types of equipment required
9 in mine rescue stations and increases
10 the amount of critical supplies that
11 must be available.

12 The proposal would upgrade
13 requirements for self-contained
14 breathing apparatus, SCBA, from a
15 two- hour to a four-hour device.
16 MSHA determined that all mine rescue
17 stations in the United States
18 currently have the four-hour
19 breathing apparatus.

20 The proposal would increase
21 the required number of extra oxygen
22 bottles from one additional bottle to
23 two additional bottles to provide an

1 added measure of safety for mine
2 rescue teams during time-sensitive
3 rescue operations.

4 The proposal would increase
5 the amount of liquid air, liquid
6 oxygen, pressurized oxygen, or
7 oxygen-generated chemicals and carbon
8 dioxide-absorbable chemicals to
9 maintain self-contained breathing
10 apparatus for eight hours rather than
11 the existing six hours because
12 industry practice is to stock these
13 supplies in bulk.

14 MSHA assumes that there are
15 no costs associated with the
16 requirements, but specifically
17 requests comments on the Agency's
18 assumption.

19 The proposal would require
20 mine rescue stations to be equipped
21 with full gas detectors appropriate
22 for each gas which may be encountered
23 at the mine served. If methane,

1 oxygen, or carbon monoxide may be
2 encountered, a gas detector must
3 measure the concentration of methane
4 from 0 percent to 100 percent of
5 volume, oxygen from 0 percent to at
6 least 20 percent of volume, and
7 carbon monoxide from 0 parts per
8 million to at least 10,000 parts per
9 million.

10 MSHA is particularly
11 interested in comments on its
12 assumption that all mine rescue
13 stations, including those serving
14 non-gassy, metal, and non-metal mines
15 would choose to purchase four
16 multi-gas detectors with multiple
17 sensor heads rather than four
18 single-gas detectors for each gas
19 likely to be encountered.

20 The proposal would delete the
21 existing requirements for flame
22 safety lamps and oxygen indicators
23 due to advances in gas detector

1 technology. These outdated devices
2 could still be used as a backup.

3 Mine rescue teams have relied
4 on self-contained self-rescue
5 devices, SCSRs, or self-containing
6 breathing apparatuses, SCBAs, to
7 revive or help survivors breath
8 during rescue operations.

9 These devices are heavy and
10 may not be appropriate for
11 unconscious persons or those who have
12 stopped breathing. Lightweight
13 oxygen resuscitators weighing about
14 six pounds with the oxygen bottle are
15 now available through at least one
16 manufacturer.

17 MSHA requests comments on
18 whether an oxygen resuscitator should
19 be required at a mine rescue station
20 by a mine rescue team.

21 MSHA's estimated cost for
22 compliance with the proposal are
23 contained in the preamble. There is

1 no separate preliminary regulatory
2 economic analysis.

3 MSHA estimated a total and
4 in-compliance cost of \$237,000 for
5 underground coal mines and \$131,000
6 for underground metal and non-metal
7 mines. This cost estimate supports
8 our finding that the proposal is
9 economically feasible.

10 MSHA requests comments on all
11 of the assumptions and data used in
12 deriving the Agency's estimate.

13 The hearing will be conducted
14 in an informal manner. Formal rules
15 of evidence will not apply.

16 The Panel may ask questions
17 of the witnesses, and the witnesses
18 may ask questions of the Panel.
19 Cross-examination is not allowed.

20 MSHA will make a transcript
21 of the hearing and post it on the
22 Agency's website within one to two
23 weeks after the completion of the

1 hearing.

2 If you wish to present
3 written statements or information,
4 please clearly identify your material
5 and give it to one of the panel
6 members.

7 You may also submit comments
8 following this public hearing by any
9 of the methods listed in the
10 proposal. As I said earlier, to be
11 considered, the Agency must receive
12 your comments by November 9th.

13 We ask everyone in attendance
14 to sign the attendance sheet. If you
15 plan to testify, please sign the
16 speakers list.

17 If you have a hard copy or an
18 electronic version of the
19 presentation, please provide a copy
20 to the court reporter.

21 We will now hear from those
22 signed up to speak. Please start by
23 stating your name and organization

1 and spelling your name for the
2 reporter.

3 Our first speaker today -- on
4 my list, I have Mr. Russell; but I
5 don't know if you intend to speak on
6 the equipment.

7 MR. RUSSELL: No.

8 MS. SILVEY: I wasn't quite
9 sure. You don't intend to speak.

10 I think Mr. Byram intends to
11 speak. You can come up at this time.

12 MR. BYRAM: Hello. My name
13 Dale Byram; D-a-l-e, B-y-r-a-m. I
14 work with Jim Walter Resources in
15 Alabama.

16 Thank you for this
17 opportunity to speak. I have just a
18 few brief comments about mine rescue
19 equipment, beginning at 49.15, Mine
20 Rescue Station, through 49.16,
21 Equipment and Maintenance
22 Requirements.

23 49.16(a)(3) was a bit

1 confusing to us. The regulation
2 reads: "Two extra fully charged
3 oxygen bottles for every six
4 self-contained breathing apparatus."

5 Our question is: What was
6 the intent of the regulation? Is it
7 to have two extra bottles per
8 apparatus for a total of twelve extra
9 bottles; or is it for the six
10 apparatus to have two additional
11 bottles for a total of eight?

12 MS. SILVEY: I will answer
13 that.

14 MR. BYRAM: We continued on
15 in my written copy that you have. We
16 say that depending on what the answer
17 is, we believe that there should be a
18 minimum of one extra bottle for each
19 of the six apparatuses.

20 We are concerned that our
21 teams could get -- again, our teams
22 aren't really affected by this at Jim
23 Walter because we have ample supplies

1 of the bottles for apparatuses.

2 Looking down the road for new
3 teams and teams that may find
4 themselves in rural areas, we believe
5 it's more efficient for the teams to
6 have one extra bottle per apparatus.

7 49.15(c) reads: "Mine rescue
8 station shall provide a proper
9 storage environment to assure
10 equipment readiness for immediate
11 use."

12 We agree that the storage
13 environment must protect our
14 equipment for immediate use, yet we
15 would like consideration related to
16 two specific pieces of equipment.

17 These are as follows:

18 49.16(a)(5) reads: "Twelve
19 permissible cap lamps and charging
20 rack." Instead of housing twelve cap
21 lamps at a mine rescue station where
22 they will seldom be used -- at least
23 we hope that's the case --

1 consideration should be given to
2 allow credit for teams that have
3 access to multiple cap lamps at a
4 covered mine.

5 We believe that the
6 maintenance and the reliability of
7 the lamps from the covered mine is
8 better than the lamps stored for a
9 long period of time at a rescue
10 station.

11 Equally so, 49.16(a)(16)
12 reads: "Four gas detectors
13 appropriate for each type of gas that
14 may be encountered at the mine
15 served." The same consideration
16 should be given for accessibility of
17 gas detection equipment when it can
18 be proven that the required detectors
19 are available at the covered mine.

20 Again, we believe that the
21 maintenance of these pieces of
22 equipment where a mine or a mine
23 rescue team can prove that they have

1 access to ample numbers would be a
2 good consideration for the teams.

3 That's the end of my comments
4 on equipment.

5 MS. SILVEY: Okay. Thank
6 you.

7 To go back to your comments,
8 actually, all the proposal did was
9 change the one extra bottle in the
10 existing regulation to two extra
11 bottles. Maybe the existing
12 regulation could have been a little
13 better clarified. It says: "One
14 extra fully charged oxygen bottle for
15 every six breathing apparatuses." We
16 made it two extra bottles for every
17 six breathing apparatuses. So that
18 really meant two extra for six.

19 MR. BYRAM: For a total of
20 eight bottles.

21 MS. SILVEY: No. For a total
22 of four bottles per station. Two for
23 every six.

1 MR. BYRAM: For each team,
2 yes, ma'am.

3 MS. SILVEY: Right. You
4 follow? That was -- just so
5 everybody understands, that was the
6 intent of the regulation. All we did
7 was substitute "two" for "one."

8 The existing rule right now
9 is one for every six. So you would
10 have to have two, a total of two at
11 the station. So, instead of having
12 two, you would have to have four.

13 MR. BYRAM: Yes, ma'am.

14 MS. SILVEY: Okay. Just so
15 you know. I understand what you
16 said; but, just so everybody
17 understands, that's what we meant.

18 Now, your next comment on
19 mine rescue stations and the proper
20 storage -- I hate saying this. This
21 is the legalistic part that I don't
22 like saying. That's an existing
23 regulation. We didn't propose any

1 change in that one.

2 So, theoretically, at this
3 point, what I'm supposed to say is:
4 That's beyond the scope of the rule
5 making. I understand what you're
6 saying, but we didn't propose any
7 change to that one.

8 The next one, on the gas
9 detectors, you were saying -- we did
10 propose a change to that one; but
11 your comment is going to where the
12 gas detector is to be stored, as
13 opposed to making a comment on the
14 type of gas detector that we
15 required.

16 I have a comment I want to
17 ask you; and that is: At your mine
18 rescue station, do you all use
19 multi-gas detectors?

20 MR. BYRAM: Yes, ma'am.

21 MS. SILVEY: That measure the
22 specific percentages that we included
23 in the proposal?

1 MR. BYRAM: We have those on
2 order, but it doesn't do that at this
3 point in time.

4 MS. SILVEY: Oh, yours don't
5 have it right now.

6 MR. BYRAM: We have them at
7 the mine site, though.

8 MS. SILVEY: Yes. But you
9 have them on order for the stations?

10 MR. BYRAM: Yes, ma'am.

11 MS. SILVEY: Right. Okay.

12 I think we got enough comment
13 in the record, I believe, on costs
14 for these detectors.

15 If you all -- as you just
16 said, you all have the mult-gas
17 detectors.

18 I don't know if there are any
19 metal/non-metal operators here or
20 not. I did want to ask, if there
21 were any, a couple of questions on
22 that issue from the metal/non-metal
23 operators; but I'll get to that.

1 MR. BYRAM: One of the things
2 that we anticipate is that with the
3 new regulations and sampling
4 requirements, you will see these
5 detectors now available.

6 MS. SILVEY: Right. Yeah, we
7 heard that, too.

8 I do have a question, though,
9 because I heard some information at
10 another public hearing on the oxygen
11 resuscitators. As you all know, we
12 didn't require that; but we raised
13 that issue in the preamble, that this
14 light-weight resuscitator is now
15 available from at least one
16 manufacturer.

17 I want to ask you, Mr. Byram:
18 Does Alabama have any specific
19 requirement relative to the use of
20 oxygen resuscitators in an emergency
21 situation?

22 MR. BYRAM: They do, as far
23 as the Emergency Medical Services

1 Systems.

2 What I would recommend is
3 that the Panel could query any
4 State's Department of public Health
5 Division for their requirements on
6 oxygen. You may see variances across
7 the country, but it's the EMS
8 division for the Department of Public
9 Health; and each state would have
10 that.

11 For me to -- I can give you
12 my understanding of it, but I would
13 rather it be specific as to what the
14 State says.

15 MS. SILVEY: Okay. I agree.
16 Yeah.

17 MR. WILSON: You talked about
18 -- you suggested that credit be given
19 -- instead of the station having gas
20 detectors, the covered mine would
21 have those detectors; and we would
22 give credit for that.

23 Isn't it possible that might

1 be an issue, though, where a covered
2 mine might have X-type gas detectors;
3 and the team -- I'm concerned -- I
4 would be a little concerned about
5 whether the team would receive
6 adequate training on those types of
7 detectors if they were located at the
8 covered mine versus at the station.

9 I appreciate what you said
10 about the maintenance at the station,
11 and they may not be -- they might be
12 a different type. That's my only
13 concern.

14 MR. BYRAM: I'm speaking from
15 Jim Walter's perspective where we
16 have in-house teams. They're the
17 guys from the mines that use those
18 detectors.

19 That's why we put the
20 statement in "where it could be
21 proven it would be adequate."

22 MR. WILSON: Okay. That's a
23 good point. There are some teams in

1 covered mines that are not in your
2 situation that would encounter
3 different types of detectors.

4 MR. BYRAM: Yes, sir. I can
5 see where -- I can see how that can
6 be a problem for them.

7 MR. WILSON: That's a good
8 comment.

9 MS. SILVEY: Anything
10 further?

11 So you understand now on the
12 oxygen what the requirement is.

13 Is there -- do you all see
14 any costs related to that
15 requirement?

16 MR. BYRAM: If you don't
17 mind, I'm just going to kind of
18 generalize some things.

19 One is, we would go back to
20 the State to see what level of
21 training is required to be able to
22 apply oxygen because in some states,
23 oxygen is considered a drug. You

1 can't -- I would be concerned to say
2 "Okay, everybody, get oxygen units;
3 and put them on the patients."

4 MS. SILVEY: No. I'm sorry.
5 I'm talking about the cost of the
6 oxygen bottles.

7 MR. BYRAM: Oh, the bottles?

8 MS. SILVEY: Yes.

9 MR. BYRAM: That shouldn't be
10 an issue for a team.

11 If you're going to be
12 developing a mine rescue team,
13 there's going to be some significant
14 dollars involved. A couple of extra
15 bottles is no big deal.

16 MS. HUTCHISON: How much do
17 they cost?

18 MR. BYRAM: We have some
19 vendors here that sell them. They
20 would be the ones that could give you
21 that specific price.

22 You're looking somewhere --
23 if you started a brand new team, you

1 would be looking at \$350,000 plus, if
2 you did 12 apparatuses, bottles, RZ
3 detectors, and everything.

4 MR. WILSON: Including the
5 training?

6 MR. BYRAM: No.

7 MR. WILSON: And not
8 personnel costs?

9 MR. BYRAM: No.

10 MR. WILSON: You're talking
11 about building and storage?

12 MR. BYRAM: If you look at
13 the average mine -- well, again, I
14 don't want to get into vendors areas.

15 The type of apparatus that we
16 use, you're looking at about \$9,000
17 something per unit. Then you have
18 the tester, which is of significant
19 cost. Then you have extra parts that
20 are a significant cost. Then you
21 have all the other associated costs.

22 MR. WILSON: So the \$350,000
23 is just the equipment; the building;

1 the trailer, perhaps; whatever,
2 roughly?

3 MR. BYRAM: It just depends
4 on whatever someone would --

5 MR. WILSON: And training and
6 personnel costs and annual
7 maintenance costs are above that?

8 MR. BYRAM: We spend probably
9 between -- we spend at Jim Walter
10 Resources probably between \$400,000
11 and \$450,000 a year on mine rescue.

12 MS. SILVEY: Let me ask you
13 something. In terms of your
14 situation, do you all have a separate
15 facility for the station?

16 MR. BYRAM: Yes, ma'am.

17 MS. SILVEY: Is it pertinent
18 to the mine site?

19 MR. BYRAM: Yes, ma'am. It's
20 housed at our training center, which
21 is centrally located.

22 MS. SILVEY: It's housed in
23 the training center. Okay. Right.

1 I got it. That makes sense.

2 MS. HUTCHISON: That's what
3 you spend on mine rescue after you
4 already have the equipment and you
5 already have the station?

6 MR. BYRAM: Well, you have
7 equipment maintenance issues through
8 the year.

9 When you look at -- you see,
10 in Alabama, we're not close to
11 anything other than a few local
12 contests. So, if our teams compete
13 in other additional contests, we're
14 sending teams away for a week.

15 Kentucky has a contest that
16 is relatively close, but our teams
17 end up going to Beckley. Some of
18 them go to St. Clairsville. You're
19 looking at a \$3,000 to \$5,000 cost
20 per contest just for the travel
21 associated with it.

22 Individual companies, however
23 their employee structure is set,

1 their insurance and things like that,
2 it all costs a certain amount per day
3 per person.

4 I think Jim Walter does more
5 training by far than the minimum
6 requirement.

7 MS. SILVEY: I understand.
8 Okay.

9 MR. PHAN: You said that it
10 will cost you about \$350,000 to start
11 a team. I think that there are
12 some -- you just mentioned that you
13 do above some of the requirements.
14 So, when we do a cost estimate, we
15 need to make sure we don't factor in
16 the extra that you go beyond the
17 requirement.

18 Also, if you can, break down
19 the 350 on how you came up with --

20 MR. BYRAM: What I would
21 really rather do is -- we recommend
22 that you would talk to the vendors.
23 There are only a few vendors in the

1 country that you can rely on to
2 provide mine rescue equipment.

3 That would be your most
4 accurate way to get the costs -- just
5 the base costs of starting mine
6 rescue teams.

7 MR. PHAN: Okay.

8 MS. SILVEY: Anybody in the
9 audience, also, if you have the costs
10 associated with -- the equipment is
11 one thing; but, if you have -- and
12 Mr. Russell talked about that this
13 morning in a different way; but he
14 made the point.

15 If you have cost associated
16 with, for example, a facility, and
17 then you've got separate costs --
18 Mr. Byram just noted the training,
19 and then you've got the annual cost
20 to train. If you all -- if you have
21 your own information on that, that
22 would be useful to provide to us.

23 MR. BYRAM: This will vary

1 from state to state.

2 MS. SILVEY: Yes.

3 MR. BYRAM: Because if you
4 live in West Virginia, you've got a
5 lot of contests close by; and you
6 don't have to travel.

7 MS. SILVEY: Right. Anything
8 else?

9 Okay. Thank you very much.
10 We appreciate it.

11 Now, I was going to ask: Is
12 there any metal and non-metal
13 operators in the audience?

14 (No response.)

15 MS. SILVEY: Any operators of
16 underground metal or non-metal mines?

17 (No response.)

18 MS. SILVEY: Is there anybody
19 else who wishes to make a comment?

20 (No response.)

21 MS. SILVEY: If nobody else
22 wishes to make a comment, then I want
23 to say, again, that we appreciate

1 your coming here today. We
2 appreciate the testimony that we got.
3 We appreciate the people who came and
4 attended the hearing and have an
5 interest in the rule making.

6 We will take your comments
7 and testimony and try to develop a
8 final rule that updates the equipment
9 and provides for at least the best
10 most appropriate mine rescue
11 equipment technology that is
12 available so that the mine rescue
13 teams can be protected as best as
14 possible.

15 I will therefore conclude
16 this hearing at this time. I will
17 let the record show that the Panel
18 will be here at 2:00 o'clock in case
19 persons come who have not been here
20 before and intend to provide
21 testimony at 2:00 o'clock.

22 At this time this hearing is
23 concluded.

1 (Lunch recess.)

2 MS. SILVEY: We will now
3 reconvene the Mine Safety and Health
4 Administration's Public Hearing on
5 the Agency's Mine Rescue Team
6 Equipment Proposal.

7 There not being any persons
8 in the audience at this time who wish
9 to speak, I will now conclude the
10 Mine Safety and Health
11 Administration's Public Hearing on
12 the Mine Rescue Team Equipment
13 Proposal. The hearing is now
14 concluded.

15 (Whereupon, the hearing
16 concluded at 2:15 p.m. on Thursday,
17 November 1, 2007.)

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CERTIFICATE

STATE OF ALABAMA)

COUNTY OF JEFFERSON)

I hereby certify that the above and foregoing deposition was taken down by me in stenotype and the questions and answers thereto were transcribed by means of computer-aided transcription, and that the foregoing represents a true and correct transcript of the testimony given by and witness upon said hearing.

I further certify that I am neither of counsel, nor kin to the parties to the action, nor am I in anyway interested in the result of said cause named in said caption.

Susan Bell, Commissioner
Certified Court Reporter
ACCR#14-Expires: 9/30/08
Commission Expires: 10/10