

BEFORE THE

MSHA PANEL

* * * * *

IN RE: MINE RESCUE TEAMS EQUIPMENT

PUBLIC HEARING

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BEFORE: PATRICIA W. SILVEY, Chair
Michael Kalich, Member
John Urosek, Member
Cherie Hutchison, Member
Matt Ward, Esquire, Member
Phuc Phan, Member
William Wilson, Member

HEARING: Tuesday, October 30, 2007
1:00 p.m.

LOCATION: Civic Center
Room 105
200 Civic Center Drive
Charleston, WV

WITNESSES: Jeffery Stanchek

Reporter: Autumn D. Furby

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25CHAIR:

Okay. Let's get started, please. Good afternoon. My name is Patricia W. Silvey. I'm 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 MSHA's proposal for mine rescue team equipment. On behalf of Assistant Secretary of Labor Richard E. Stickler, I want to welcome all of you here today.

The members of the MSHA panel who are primarily responsible for drafting this proposal are, to my left, William "Bill" Wilson, who is with the Office of Metal and Nonmetal Mine Safety and Health. To his left, Mike Kalich, Office of Coal Mine Health and Safety. And to his left, John Urosek, who is with the Office of Technical Support, the Pittsburgh center. On my right, Cherie Hutchison with my office, Matt Ward with the --- our attorney on the project with the Solicitor's Office, and Mr. Phan, who is an economist in my office.

Before we start the hearing this afternoon, I would invite you to join me in a moment

1 of silence in memory of all miners and rescuers who
2 have lost their lives in mine accidents, and
3 particularly the more recent tragic events at Crandall
4 Canyon. So if you would join me in a moment of
5 silence.

6 MOMENT OF SILENCE

7 CHAIR:

8 Thank you. And while we did that moment
9 of silence in memory of the catastrophic ---
10 unfortunate, catastrophic events that we've had, I
11 want to stress and recognize that mine rescue teams
12 and the members, and quite honestly, many other miners
13 serve a critical role in many of the not catastrophic
14 events that happen, but emergency events nevertheless.
15 And there's a need to have an emergency response. And
16 so we recognize that the role goes much further than
17 just --- than the catastrophic events that happen to
18 happen. Those are the ones that we see on the news
19 all the time and the ones that we hear about. But the
20 many more events that happen on an every day-by-day
21 basis that mine rescue teams and their members have to
22 be ready for at any point in time, they are equally as
23 important.

24 This is the third of four public hearings
25 on the proposal. We held the first hearing in Salt

1 Lake City last Tuesday, the second one in Lexington on
2 Thursday, and the fourth one will be in Birmingham,
3 Alabama on November 1. We are holding two public
4 hearings on the same day so that persons interested in
5 both hearings can attend.

6 The mine rescue team equipment proposal
7 applies to all underground mines, metal and nonmetal
8 and coal. In the back of the room, we have copies of
9 the Federal Register that contains the proposal. The
10 comment period for the proposal ends on November 9th.
11 And we must receive comments by midnight Eastern
12 Standard Time on that date. And as of October 25th,
13 MSHA received four comments on the proposal. You can
14 view the comments on the agency's website at
15 www.msha.gov under the section entitled rules and
16 regulations. And right now, our schedule requires us
17 to finalize the mine rescue team equipment regulation
18 by February of '08.

19 The proposal addresses mine rescue team
20 equipment at mine rescue stations serving underground
21 coal and metal/nonmetal mines. MSHA proposes to amend
22 the existing standards to reflect advances in mine
23 rescue team equipment technology. It is critical that
24 mine rescue team members be provided with the latest
25 in protective equipment so that they can safely and

1 effectively carry out their mission. The purpose of
2 these hearings is to receive information from the
3 public that will help us evaluate the requirements in
4 the proposal and produce a final rule that enhances
5 team safety and effectiveness.

6 The preamble to the proposal discusses
7 the rule's provisions and includes a number of
8 specific requests for information. The agency
9 requests information on all of the provisions and on
10 the validity of the agency's assumptions in the cost
11 estimates. As you address the provisions, either in
12 your testimony to us today or in your written
13 comments, please be as specific as possible about how
14 these changes would affect the safety and health of
15 mines and mine rescue team members. The agency also
16 requests detailed information and data on the costs
17 and feasibility of implementing the provisions.

18 At this point, I'd like to summarize the
19 substantive changes in the proposal. The proposal
20 upgrades and enhances certain types of equipment
21 required at mine rescue stations and increases the
22 amount of critical supplies that must be available.

23 The proposal would upgrade requirements
24 for self-contained breathing apparatus, SCBAs, from a
25 two-hour to a four-hour device. MSHA determined that

1 all mine rescue stations in the United States
2 currently have the four-hour breathing apparatus. The
3 proposal would increase the required number of extra
4 oxygen bottles from one additional to two additional
5 bottles to provide an added measure of safety for mine
6 rescue teams during time-sensitive rescue operations.

7 The proposal would increase the amount of
8 liquid air, liquid oxygen, pressurized oxygen or
9 oxygen-generating chemicals, and carbon dioxide
10 absorbent chemicals to maintain the self-contained
11 breathing apparatus for eight hours rather than the
12 existing six hours. Because the industry practice is
13 to stock these supplies in bulk, MSHA assumed and
14 estimated that there are no costs associated with this
15 requirement. But we specifically request comments on
16 the agency's estimate.

17 The proposal would require mine rescue
18 stations to be equipped with four gas detectors
19 appropriate for each gas which may be encountered at
20 the mines served. If methane, oxygen or carbon
21 monoxide may be encountered, the gas detector must
22 measure concentrations of methane from 0 to 100
23 percent per volume, oxygen from 0 to at least 20
24 percent of volume, and carbon monoxide from 0 parts
25 per million to at least 10,000 parts per million.

1 MSHA is particularly interested in comments on its
2 assumption that all mine rescue stations, including
3 those serving non-gassy metal and nonmetal mines would
4 choose to purchase four multi-gas detectors with
5 multiple assessor heads rather than four single-gas
6 detectors for each gas likely to be encountered.

7 The proposal would delete the existing
8 requirements for flame safety lamps and oxygen
9 indicators due to advances in gas detector technology.
10 These outdated devices could still be used, however,
11 as a backup.

12 Mine rescue teams have relied on
13 self-contained self rescue devices, SCSRs as we know
14 them, or self-contained breathing apparatuses, SCBAs,
15 to revive or help survivors breathe during rescue
16 operations. These devices are heavy and may not be
17 appropriate for unconscious persons or those who have
18 stopped breathing. Lightweight oxygen resuscitators,
19 weighing about six pounds with the oxygen bottle, are
20 now available through at least one manufacturer. MSHA
21 requests comments on whether an oxygen resuscitator
22 should be required at the mine rescue station for use
23 by mine rescue teams.

24 MSHA's estimated costs for compliance
25 with this proposal are contained in the preamble.

1 There is no separate preliminary regulatory economic
2 analysis for the proposal. MSHA estimated a total
3 annual compliance cost of \$237,000 for underground
4 coal mines and \$131,000 for underground metal and
5 nonmetal mines. The cost estimate supports the
6 agency's finding that the proposal is economically
7 feasible. MSHA requests comments on the assumptions
8 and data used in deriving the agency's estimates.

9 This hearing will be conducted in an
10 informal manner. Formal rules of evidence do not
11 apply. The panel may ask questions of the witnesses,
12 and the witnesses may ask questions of the panel.
13 However, we will note Cross Examination is not
14 allowed. MSHA will make a transcript of the hearing,
15 and the transcript --- and post it on the agency's
16 website. The transcript should be available within
17 one to two weeks upon the conclusion of this hearing.

18 If you wish to present written statements
19 or information, please clearly identify your material
20 and give it to one of the panel members. You may also
21 submit comments following the public hearing, by any
22 method listed in the proposal. And as mentioned,
23 comments must be received by November 9.

24 We ask everyone in attendance this
25 afternoon to sign the attendance sheet. And I must

1 point out to you that since this is a separate
2 hearing, I'd ask you to bear with us and sign this
3 separate --- even if you signed this morning, to sign
4 the attendance sheet for this hearing. If you have a
5 hard copy --- if you plan to speak and you have a hard
6 copy or electronic version of your presentation,
7 please provide the court reporter with a copy. We
8 will now hear from those who signed up to speak. And
9 as usual, please clearly state your name and
10 organization and spell your name for the reporter.

11 And although we had some persons and
12 organizations signed up, they no longer remain signed
13 up. I see all of them --- they have X's by their
14 names. But I think that Mr. Stanchek would like to
15 make some comments.

16 MR. STANCHEK:

17 Thank you.

18 CHAIR:

19 So Mr. Stanchek ---?

20 (MSHA Exhibit One marked for
21 identification.)

22 MR. STANCHEK:

23 Once again, my name is Jeffrey Stanchek.
24 I represent the Commonwealth of Pennsylvania, the
25 Bureau of Mine Safety. I am the chief of emergency

1 response and training. Currently, once again, I have
2 submitted a cost analysis of the program and the price
3 of equipment which we intend to comply with the
4 upcoming law.

5 I have a few comments. My first comment
6 is --- I'm not seeing that in the reg there. Can a
7 coal mine rescue station and a non-coal mine rescue
8 station serve the same function? In other words, can
9 we serve a mine which is non-coal within the hour and
10 also a coal mine which is also from the same rescue
11 station? That's going to be one of our questions that
12 we need to have ---.

13 CHAIR:

14 Okay. Rephrase your question again now.
15 I mean, let me --- say what you said.

16 MR. STANCHEK:

17 Can a rescue station serve both the
18 non-coal and the coal ---

19 CHAIR:

20 Okay.

21 MR. STANCHEK:

22 --- region?

23 CHAIR:

24 Okay.

25 MR. STANCHEK:

1 The question of where the team --- how
2 the team is made up will be answered at a later date.
3 I understand that also.

4 CHAIR:

5 Right.

6 MR. STANCHEK:

7 Okay. And that's what we're looking at.

8 CHAIR:

9 Okay.

10 MR. STANCHEK:

11 All right. So that's one of my comments.
12 Now, the way --- my second comment is going to be on
13 the makeup of our rescue stations. We're going to
14 have two rescue stations, one in Ebensburg and one in
15 Marion Center. And they're going to have four teams.
16 It's going to be one station. However, we're going to
17 designate it for the coal. Ebensburg north to comply
18 with these mine visits so there's not so many mines to
19 visit, like seven mines in the Ebensburg North Region,
20 seven mines in the Ebensburg South Region. Now, that
21 is four rescue teams. Now, according to the reg, it
22 says there should --- there shall be two detectors per
23 team, a total of four detectors per station. Now,
24 does that mean I need eight detectors for that rescue
25 station, or can I get away with four detectors for

1 that station? Is everybody aware of what I just ---?

2 CHAIR:

3 Yes.

4 MR. STANCHEK:

5 Because once again, then we're doubling
6 our money there, and I'm hoping, you know, that we'll
7 only have one incident at a time. And once again,
8 that's not only one station. That's times two,
9 because Marion Center will be the same predicament
10 where it'll be Marion Center North with two rescue
11 stations, Marion Center --- or excuse me, two rescue
12 teams, Marion Center South. And that is to
13 accommodate the mine visits, you know, so that way
14 we're not just traveling all around, just taking ---
15 you know, doing that. So once again, that will be in
16 the written comments supplied by the Bureau by the
17 9th. But that's something for the panel, you know, to
18 think about also to take back.

19 CHAIR:

20 Thank you.

21 OFF RECORD DISCUSSION

22 CHAIR:

23 Okay. Did the Commonwealth have any
24 comment on the assumption that we would --- that the
25 agency used to derive in its cost estimate that the

1 stations would choose to purchase multi-gas detectors
2 as opposed to single-gas detectors?

3 MR. STANCHEK:

4 No, we have no problem with that.

5 CHAIR:

6 So you think our assumption was right?
7 Is that what you're saying?

8 MR. STANCHEK:

9 Yeah. We realize that --- I've been an
10 advocate for a long time myself that the detectors
11 that are currently being used in mine rescue were
12 inadequate for mine rescue. The detectors basically
13 had been used out there --- were basically for safety
14 monitoring for the regular workforce, which is the
15 current detectors they use underground. And it was
16 clearly needed for the mine rescue teams to actually
17 function underground --- they needed a more reliable
18 detector, like an infrared or these ---.

19 CHAIR:

20 The high range and --- the ones that give
21 you the high range the lowest?

22 MR. STANCHEK:

23 Right.

24 CHAIR:

25 But I guess what I'm asking is, do you

1 agree with our assumption that the persons who are
2 doing the purchasing will purchase the multi-gas
3 detectors ---

4 MR. STANCHEK:

5 Yes.

6 CHAIR:

7 --- as opposed to single-gas?

8 MR. STANCHEK:

9 Yes.

10 CHAIR:

11 Okay. Yes. Okay. We will put an answer
12 to your questions. We will clarify that in the final
13 ruling. And I think we will do it satisfactorily.

14 MR. STANCHEK:

15 Thank you.

16 CHAIR:

17 You know, sometimes you ---.

18 MR. WILSON:

19 For both of your questions.

20 CHAIR:

21 Yes.

22 MR. STANCHEK:

23 Excuse me?

24 CHAIR:

25 For both.

1 MR. WILSON:

2 Both.

3 CHAIR:

4 We will clarify both of them in the final
5 rule. Is there anybody else ---?

6 MR. WILSON:

7 I just wanted to clarify one of your
8 questions. The second question, you talked about a
9 station with multiple teams. That's a single station?

10 MR. STANCHEK:

11 It's one station. However, if you can
12 see, we're splitting it, you know, north and south.
13 There'll be enough BG apparatuses for that --- there
14 will be enough communication equipment per team.
15 However, it's that ruling of two detectors per team.
16 Are you following what I'm getting at? It's either
17 going to be four or eight.

18 CHAIR:

19 I understand.

20 MR. STANCHEK:

21 That's a significant cost increase.

22 CHAIR:

23 I understand the question. Okay. Yes.
24 Did you have any --- make sure any more clarification
25 that you want to ---?

1 MR. STANCHEK:

2 No. That's what we needed.

3 CHAIR:

4 Okay. We will address it.

5 MR. STANCHEK:

6 Thank you.

7 CHAIR:

8 Okay. Is there anybody else who wishes
9 to make comments? Anybody else who wishes to make
10 comments? At this point, if nobody else wishes to
11 make comment, I'm going to not conclude here. I'm
12 going to defer this hearing for a little --- for a few
13 minutes. And we will --- I will start it back in
14 about half an hour, nearly two o'clock. So this
15 hearing is postponed, is stopped until two o'clock.

16 RECESS TAKEN

17 CHAIR:

18 We will now reconvene the Mine Safety and
19 Health Administration's public hearing on the mine
20 rescue team equipment proposal. Is there anybody here
21 who wishes to make additional comment or testimony?
22 Anybody else who wishes to make additional testimony,
23 comment? If not, then I will conclude this hearing on
24 the Mine Safety and Health Administration's proposal
25 on mine rescue team equipment. As I do so, I would

1 like to express our appreciation for all of you who
2 attended the hearing, for those of who spoke, for
3 those of you who may not have spoken but who show ---
4 who came and who showed that you have an interest in
5 the rulemaking.

6 Those of you who intend to send us
7 additional comment and testimony before the record
8 closes on November 9, I would ask you to please do so
9 by 12:00 midnight Eastern Standard Time November 9th.
10 And as I said earlier, please be as specific as
11 possible in any of your comments. That will help us
12 as we move forward with the final ruling. Again,
13 thank you.

14 * * * * *

15 HEARING CONCLUDED AT 2:05 P.M.

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