

UNITED STATES OF AMERICA
DEPARTMENT OF LABOR
MINE SAFETY AND HEALTH
REVIEW COMMISSION

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PUBLIC HEARINGS

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Before: PATRICIA SILVEY
Hearing: Thursday, October 25, 2007
1:04 p.m.
Four Points by Sheraton Hotel
1938 Stanton Way
Lexington, KY 40511
Speakers: Pearl Farler, Lewis McCoy,
Randy Duncan

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NONE OFFERED

P R O C E E D I N G S

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MS. SILVEY:

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5 Good afternoon. My name is
6 Patricia W. Silvey. I'm the director of the
7 Mine Safety and Health Administration's Office
8 of Standards, Regulations and Variances. I
9 will be the moderator of this public hearing
10 on MSHA's proposal for mine rescue team
11 equipment. On behalf of Assistant Secretary of
12 Labor for Mine Safety and Health, Richard E.
13 Stickler, I want to welcome all of you here.

14 The MSHA members of the panel are
15 on my left, William Bill Wilson, who is with
16 MSHA's metal, non-metal Mine Safety and Health
17 Office. To his left, Jeffrey Kravitz and he
18 is with our office of technical support. And
19 to his left Mike Kalich who is with MSHA's
20 office of coal Mine Health and Safety. To my
21 right Cherie Hutchison and Cherie is in my
22 office. Matthew Ward, our attorney on the
23 project and Mr. Phan, who is our economist on
24 the project. Before we start this hearing this
25 afternoon --- and I know most of you were here

1 with us this morning, but I would like to ask
2 you to join me in a moment of silence in
3 memory of all miners and rescuers who have
4 lost their lives in mine accidents and
5 including those as a result of the tragic and
6 unfortunate events at Crandall Canyon. So
7 right now if you would please join me in a
8 moment of silence.

9 MOMENT OF SILENCE

10 MS. SILVEY:

11 Thank you. This is the second of
12 four public hearings on this proposal. We
13 held the first hearing in Salt Lake on
14 Tuesday. The other hearings will be in
15 Charleston and Birmingham, Alabama on next
16 Tuesday and Thursday respectively. We are
17 holding the two hearings each day, one in the
18 morning, as you know from this morning, and
19 this one in the afternoon so that persons
20 interested in both rules can attend the
21 hearings. The mine --- significantly, the
22 mine rescue team equipment proposal applies to
23 all underground mines, metal, non-metal and
24 coal. In the back of the room we have copies
25 of the Federal Register that contains the

1 proposed rule.

2 The comment period for the
3 proposal ends on November 9th, and
4 specifically that will be midnight eastern
5 standard time on November 9th. As of October
6 19th we have received three comments on the
7 proposed rule, which is not unusual because
8 historically most people wait until the end of
9 the rulemaking to submit their comments. You
10 can view any comments on the agency's website
11 at www.msha.gov under the section entitled
12 rules and regulations.

13 The proposed rule addresses mine
14 rescue team equipment at mine rescue stations
15 serving underground coal and metal and non-
16 metal mines. The Agency proposes to amend the
17 existing standards to reflect advances in mine
18 rescue team equipment technology. It is
19 critical that mine rescue team members be
20 provided with the latest in protective
21 equipment so that they can safely and
22 effectively carry out their mission. The
23 purpose of these hearings is to receive
24 information from the public that will help us
25 evaluate the requirements in the proposal and

1 produce a final rule that enhances teams'
2 safety and effectiveness.

3 The preamble to the proposal to
4 the proposal discusses the provisions in the
5 rule and includes a number of specific
6 requests for information. MSHA requests
7 comments on all of the provisions and on the
8 validity of the assumptions that the Agency
9 used in deriving its costs estimates. As you
10 address these provisions either in your
11 testimony today or in comments please be as
12 specific as possible about how the changes
13 will affect miner safety and mine rescue team
14 members and mine rescue teams, composition of
15 teams. MSHA also requests detailed
16 information on --- and data on the costs and
17 feasibility of implementing these proposed
18 provisions.

19 At this point I want to summarize
20 the substantive changes in the proposal. The
21 proposal upgrades and enhances certain types
22 of equipment required for mine rescue stations
23 and increases the amount of critical supplies
24 that must be available.

25 The proposal would upgrade

1 requirements for self-contained breathing
2 apparatus, SCBA, from two hours to four hour
3 devices. And I believe that at this time all
4 mine rescue stations in the U.S. currently
5 have the four hour breathing apparatus.

6 The proposal would increase the
7 required number of extra oxygen bottles from
8 one additional to two additional bottles to
9 provide an added measure of safety for mine
10 rescue teams during time sensitive operations.

11 The proposal would increase the
12 amount of liquid air, liquid oxygen,
13 pressurized oxygen or oxygen generated
14 chemicals and carbon dioxide absorbent
15 chemicals to maintain self-contained breathing
16 apparatus for eight hours rather than six
17 hours as it is under the existing rule,
18 because industry practice is to stock these
19 supplies in bulk. MSHA estimated that there
20 are no costs associated with this requirement,
21 but we specifically ask for comment on that.

22 The proposal would require mine
23 rescue stations to be equipped with four gas
24 detectors appropriate for each gas, which may
25 be encountered at the mine served. If

1 methane, oxygen or carbon monoxide may be
2 encountered the gas detector must measure
3 concentrations of methane from 0 to 100
4 percent volume, oxygen from 0 to at least 20
5 percent volume.

6 BRIEF INTERRUPTION

7 MS. SILVEY:

8 Excuse me. I stopped at oxygen
9 from 0 to at least 20 percent of volume, and
10 carbon monoxide from 0 parts per million to at
11 least 10,000 parts per million. MSHA is
12 particularly interested in comments on the
13 Agency's assumption that all mine rescue
14 stations including those serving non-gassy
15 metal and non-metal mines would choose to
16 purchase four multi-gas detectors with
17 multiple sensor heads rather than four single
18 gas detectors for each gas likely to be
19 encountered.

20 The proposal would delete the
21 existing requirements for flame safety lamps
22 and oxygen indicators due to advances in gas
23 detector technology. These outdated devices
24 could still be used as a back up.

25 Mine rescue teams have relied in

1 the past on self-contained, self rescue
2 devices or self-contained breathing apparatus
3 to revive or help survivors breathe during
4 rescue operations. These devices are heavy,
5 and may not be appropriate for unconscious
6 persons or those who have stopped breathing.
7 Lightweight oxygen resuscitators weighing
8 about six pounds with the oxygen bottle are
9 now available through at least one
10 manufacturer. MSHA requests comments on
11 whether an oxygen resuscitator should be
12 required at the mine rescue station for use by
13 mine rescue teams.

14 MSHA's estimated costs for
15 compliance with this proposal are contained in
16 the preamble. There is no separate
17 preliminary regulatory economic analysts for
18 the proposal. The Agency estimated total
19 annual compliance cost of \$237,000 for
20 underground coal mines and \$131,000 for
21 underground metal and non-metal mines. The
22 cost estimate supports the Agency's finding
23 that the proposal is economically feasible.
24 The Agency requests comments on all of the
25 assumptions and data used in arriving at the

1 estimates.

2 As I stated this morning and for
3 those of you who participated in prior MSHA
4 hearings the hearing will be conducted in an
5 informal manner, formal rules of evidence do
6 not apply. The panel may ask questions of the
7 witnesses, the witnesses may ask questions of
8 the panel. Cross Examination, however, is not
9 allowed. MSHA will make a transcript of the
10 hearing and post it on the Agency's website
11 within one or two weeks after the conclusion
12 of today's hearing.

13 If you wish to present written
14 statements or information clearly identify
15 your material and give it to one of the panel
16 members, and as stated earlier you may also
17 submit any comments following this hearing as
18 long as the Agency receives the comments by
19 November 9th.

20 We ask that everyone in
21 attendance this afternoon sign the attendance
22 sheet. Now, I know you probably signed an
23 attendance sheet this morning, but that was
24 for a separate hearing. So if you don't mind,
25 if you haven't signed we have an attendance

1 sheet out there for mine rescue team
2 equipment. And if you would be so patient and
3 sign that one because the two rulemakings will
4 comprise separate records, so that attendance
5 sheet will go with the record for this
6 morning's rulemaking and a separate attendance
7 sheet will go for the record for this hearing.

8 So for those of you who haven't done that, we
9 appreciate it. If you have a hard copy or an
10 electronic version of your presentation
11 provide it to the court reporter. We will now
12 hear from those who signed up to speak and if
13 you would clearly state your name and spell it
14 for the reporter we would appreciate it. And
15 our first speaker is, I believe, Mr. Charles.

16 Is he here? He's not here; is he?

17 OFF RECORD DISCUSSION

18 MS. SILVEY:

19 Is there anybody else who wishes
20 to speak. Somebody was going to speak because
21 they told me that this morning. I won't call
22 any names. Does anybody else wish to speak?
23 Well, I have a few questions. Somebody's got
24 to answer them. Whoever wants to volunteer
25 can come forward. Mr. Farler? One of the ---

1 are there any metal, non-metal operators in
2 here? Well, I can't ask you to speak for
3 them. That's kind of unfortunate. We did
4 hear a lot of comments from metal, non-metal
5 operators out in Salt Lake, but I did have a
6 few questions that --- and maybe some of my
7 panel members do, that I wanted to ask on the
8 gas detectors. And specifically as I noted in
9 the opening statement we did ask some
10 questions in the proposal about the gas
11 detectors that we are requiring, and we are
12 requiring the gas detectors. I have a
13 tendency to misspeak sometimes on that myself,
14 and we're requiring that they measure specific
15 concentrations of oxygen, methane and CO and
16 the higher range. So basically we're
17 requiring high range. Actually I say high
18 range and low range I guess one could say, but
19 what we did is we assumed for the purposes of
20 deriving our costs that all mine rescue
21 stations would be equipped with the multi-gas
22 detector as opposed to --- we just assumed
23 that they would purchase that type as opposed
24 to the single gas detectors. And I wanted to
25 hear from several --- you know, maybe more

1 than one person about what do you think about
2 that assumption. First of all, do you all use
3 them? What is your usual practice and would
4 you think you would opt to do the purchase of
5 multi-gas as opposed to the single gas? And
6 to some extent I recognize that in terms of
7 some of the conditions with respect
8 --- especially non-gas, metal and non-metal
9 mines, not the gassy ones but the non-gassy
10 ones are ---. You know, some have, what,
11 different conditions than underground coal
12 mine, so ---.

13 MR. FARLER:

14 We do use multi-gas detectors.
15 We use a three gas for our mine rescue team,
16 methane, oxygen and carbon monoxide. They are
17 limited. The methane is limited to five
18 percent. Okay. Anything over that is over
19 range is what you read.

20 MS. SILVEY:

21 So to do what we require in this
22 proposal would mean that you would have to buy
23 the higher range ---

24 MR. FARLER:

25 Right.

1 MS. SILVEY:

2 --- different detector; right?

3 MR. FARLER:

4 Right. We would have to purchase
5 four detectors that will read that range. And
6 right now as far as I know the industrial
7 scientific ATX 620 is the state of the art
8 machine that does that right now because it's
9 got an internal pump that actually pulls the
10 sample through and it's an infrared reader
11 now. It's gone away from the Wheatstone Bridge
12 and all that stuff where they actually had to
13 burn the methane. It is state of the art. It
14 reads from 0 to 100 percent methane. It reads
15 from 0 to 20,000 parts per million CO with its
16 own display out that reads from 0 to 23 --- I
17 believe it's 23 percent oxygen. It has a high
18 alarm, a low alarm. It's a state of the art
19 equipment there. I think you miscalculated
20 the costs on it a little bit though.

21 MS. SILVEY:

22 Okay. That's the next thing I
23 was going to ask you, if you ---

24 MR. FARLER:

25 Okay.

1 MS. SILVEY:

2 --- how much does it cost?

3 MR. FARLER:

4 The detector itself is around
5 \$2,500. That does not include the carrying
6 case, the carrying strap and also a
7 calibration kit that goes with that equipment.

8 Then you also have to have --- you can't have
9 just that on hand, you have to have additional
10 parts, replacement filters, things like that.

11 So if you buy four of the detectors you have
12 to have additional parts for each one of those
13 machines, and plus you have to have the
14 calibration kit. The calibration kit is a one
15 time cost, but the detectors you have to have
16 enough parts. Around \$3,800, \$4,200 per
17 detector with parts and everything that you
18 have to have plus the costs of calibration
19 kit.

20 MS. SILVEY:

21 Well, what about training?

22 MR. FARLER:

23 Well, training --- you have to go
24 through the training of course, and that takes
25 time.

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MS. SILVEY:

Is that an additional cost or ---

MR. FARLER:

That's additional.

MS. SILVEY:

--- is that in with the
package ---

MR. FARLER:

No.

MS. SILVEY:

--- that a manufacturer sells
to ---?

MR. FARLER:

No, that's additional.

MS. SILVEY:

That's additional costs?

MR. FARLER:

Yes.

MS. SILVEY:

Right. Okay. How long is the
training?

MR. FARLER:

It's a pretty good machine. It's
kind of self explanatory.

MS. SILVEY:

1 Okay. So ---?

2 MR. FARLER:

3 You just --- 30 minutes to an
4 hour ---

5 MS. SILVEY:

6 The training ---.

7 MR. FARLER:

8 --- would be sufficient on that
9 piece of equipment.

10 MS. SILVEY:

11 Okay.

12 MR. WILSON:

13 Does the manufacturer come out
14 and train you for --- and charge ---? If you
15 have five people to be trained, does the
16 manufacturer come out and train you and give
17 you a certificate and then charge you per
18 person or do you do that in house?

19 MR. FARLER:

20 No, we --- the manufacturer will
21 come out. They usually don't charge for that.
22 I guess they absorb that cost the first time.
23 They will come out and give you training on
24 it. What we usually do is try to have
25 everybody there. If we can't have everybody

1 there, of course, we train the people that was
2 not present at the time of the training.

3 MR. WILSON:

4 Is that training good?

5 MR. FARLER:

6 There is no certification on it.

7 MR. WILSON:

8 Okay. So it's not like every two
9 years you have to have ---

10 MR. FARLER:

11 No.

12 MR. WILSON:

13 --- it or whatever?

14 MR. FARLER:

15 No.

16 MR. WILSON:

17 You talked about going from the
18 low range to the high range, so your current
19 detectors you can't take the sensor head out,
20 put a new sensor in for the high range and use
21 it. You would have to buy a whole new
22 machine?

23 MR. FARLER:

24 That's correct.

25 MS. SILVEY:

1 All right. So you'd have to ---?

2 MR. FARLER:

3 They would have to get it totally
4 redone, a new version put in on the
5 electronics.

6 MR. WILSON:

7 So \$4,200 roughly, \$3,800, \$4,200
8 plus whatever time is lost for the training?

9 MR. FARLER:

10 Right.

11 MR. WILSON:

12 It depends on how many people you
13 train at a time?

14 MR. FARLER:

15 Right. Yeah.

16 MS. SILVEY:

17 Times four.

18 MR. FARLER:

19 Times four, yeah.

20 MS. SILVEY:

21 Right.

22 MR. FARLER:

23 Yeah, except for the calibration
24 kit. Of course, you could use the calibration
25 --- one calibration kit per the four

1 detectors.

2 MR. WILSON:

3 Right.

4 MR. FARLER:

5 So you'd have to have the four
6 detectors plus a calibration kit, one
7 calibration kit. So that would be --- and the
8 calibration kit has to be calibrated itself.
9 You know, you have to send the calibrator for
10 calibration, so that's a cost also. That's a
11 yearly cost.

12 MR. WILSON:

13 \$3,800 to \$4,200, plus the
14 calibrator?

15 MR. FARLER:

16 Plus the calibrator.

17 MR. WILSON:

18 What's the calibrator run
19 roughly?

20 MR. FARLER:

21 Lewis?

22 MR. MCCOY:

23 What's that?

24 MR. FARLER:

25 Calibration kit?

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MR. MCCOY:

For what, brand X or 19?

MR. FARLER:

Brand X.

MS. SILVEY:

So you are with whom?

MR. MCCOY:

I work for CSE Corporation.

MR. FARLER:

Yeah.

MS. SILVEY:

Oh, well, I forgot. I saw something. Well, you can come up here separate. That's all right. We had --- I won't call any names, but we had a manufacturer in Salt Lake who ---. He didn't volunteer, but he was drafted to come up and provide some information. So you can look on the record and see who it was from Salt Lake, and he answered some useful questions for us.

MR. FARLER:

We pay \$1,400 for our calibration kit.

MR. WILSON:

Okay. So ---?

1 MR. FARLER:

2 And it's a new calibration kit.
3 It's not a --- you don't turn the bottle ---
4 the regulator on. It does it itself. I mean,
5 it's state of the art.

6 MR. FARLER:

7 So \$3,800 to \$4,200 times four,
8 plus \$1,400 roughly?

9 MR. FARLER:

10 If you can get it for \$1,400,
11 yeah.

12 MR. WILSON:

13 Roughly?

14 MR. FARLER:

15 Right. Roughly.

16 MR. WILSON:

17 And the training you said a half
18 hour to an hour?

19 MR. FARLER:

20 Per person.

21 MR. WILSON:

22 Per person. So if they're all
23 sitting in a room you have ten people an hour
24 later ---?

25 MR. FARLER:

1 That's fine.

2 MR. WILSON:

3 Yeah.

4 MR. FARLER:

5 Yeah.

6 MR. WILSON:

7 Got you.

8 MR. FARLER:

9 But if you don't then you ---.

10 MR. WILSON:

11 Right.

12 MR. FARLER:

13 Right. And you can't plan on all
14 of them being there.

15 MS. SILVEY:

16 So you tell me right now you all
17 don't have these devices as of now or do you
18 have them right now?

19 MR. FARLER:

20 We do not have them. I have one
21 at our rescue --- in our rescue station. We
22 do have them at the coal mines, because we
23 have
24 --- we're required to pull samples from behind
25 seals. That is the unit to do that.

1 MS. SILVEY:

2 Okay. I know --- and I know most
3 of you all know that in an emergency mining
4 evacuation we require the multi-gas detectors
5 for groups of miners. If miners were working
6 in groups they had to just have one or miners
7 working alone they had to have one. If you
8 were working alone you had to have separate to
9 have one. The difference is they're not the
10 high range, they're not specific to the
11 concentrations of the gas to be measured?

12 MR. FARLER:

13 And they don't have the internal
14 pump, the internal permissible pump, this one
15 does.

16 MS. SILVEY:

17 Okay. I'm trying to think if
18 there's anything else.

19 MR. FARLER:

20 I have one question.

21 MS. SILVEY:

22 Do we need anything? Phan, do
23 you need any more information on that?

24 MR. PHAN:

25 Yes. I assume that you only need

1 one calibration kit for four?

2 MR. FARLER:

3 Yes.

4 MR. PHAN:

5 What about the maintenance costs?

6 Could you give us an estimate on how ---?

7 MR. FARLER:

8 On the calibrator or the ---?

9 MR. PHAN:

10 Well, the maintenance like, you
11 know, ---.

12 MR. FARLER:

13 On the detectors themselves?

14 MS. SILVEY:

15 On the detectors.

16 MR. FARLER:

17 The filters --- you go through
18 filters pretty quick. The filters are \$12
19 each. We have ten of them on hand, and the
20 filters are about the size of a dime. But
21 they are --- you are required to have those.

22 MS. SILVEY:

23 But the filters are \$12 each?

24 MR. FARLER:

25 Each.

1 MS. SILVEY:

2 Okay.

3 MR. WILSON:

4 What's the, in your

5 guesstimate ---?

6 MS. SILVEY:

7 How long do you have ---?

8 MR. WILSON:

9 Yeah.

10 MR. FARLER:

11 Well, it's according to what you

12 do.

13 MS. SILVEY:

14 How much ---?

15 MR. FARLER:

16 It's according to what you --- if

17 you pour a little bit of water through it,

18 it's done.

19 MR. WILSON:

20 On average, say, per detector

21 time and effort, parts and all that, on an

22 annual basis how much does it cost to maintain

23 each detector if you were guessing, if you

24 were having to budget for it? \$100, \$200?

25 MR. FARLER:

1 The problem is you have to have a
2 back up detector if one of them goes bad. You
3 have to send it off, you have to have another
4 detector or you really --- if you mandate
5 four, you have to have a minimum of five.

6 MR. WILSON:

7 I understand and I understand
8 that there's some repairs you can do in-house.

9 MR. FARLER:

10 Right. That's right, yeah.

11 MR. WILSON:

12 But if were having to guesstimate
13 maintenance, repair costs per unit assuming
14 you don't have to send it off?

15 MR. FARLER:

16 Assuming you don't have to send
17 it off?

18 MR. WILSON:

19 Right.

20 MR. FARLER:

21 Sensors you go through pretty
22 quick. If the methane portion of that
23 particular detector goes bad you have to send
24 it back. You cannot work on the infrared
25 portion of it. The manufacturer has to.

1 Okay? The other sensors --- I can change a
2 sensor out in probably 15 minutes, 20 minutes,
3 but the cost of the sensor is about \$300 per
4 sensor.

5 MR. WILSON:

6 Given your experience what would
7 you say you spend on average per device?

8 MR. FARLER:

9 Oxygen sensors you go through
10 probably a year. You'd probably go through
11 three or four. Methane sensors you --- of
12 course you have to send that off. We haven't
13 had any problem with the methane sensor yet.
14 The CO sensors, we've put in one and we've had
15 them for a little bit over a year. So I would
16 estimate probably \$2,000.

17 MR. WILSON:

18 Per detector?

19 MR. FARLER:

20 Per detector.

21 MR. WILSON:

22 Time, labor, parts?

23 MR. FARLER:

24 Not counting that. Yeah, parts,
25 labor. Yes.

1 MR. WILSON:

2 Okay. That's on the current
3 detectors you have, ---

4 MR. FARLER:

5 Yes.

6 MR. WILSON:

7 --- not the new models?

8 MR. FARLER:

9 No. No, that's the new model.

10 MR. WILSON:

11 Oh, that's the new one?

12 MR. FARLER:

13 That's my experience with the new
14 model, yeah.

15 MS. SILVEY:

16 With respect to our assumption
17 about the increased oxygen, do you think we
18 were pretty accurate in what we said about
19 that, you know, to increase the back up oxygen
20 that operators --- stocking the liquid oxygen
21 and pressurize oxygen or oxygen generated
22 chemicals we want to increase that from --- to
23 maintain the breathing apparatus for eight
24 hours rather than six hours, and we didn't
25 include any increased costs for that because

1 we said we thought operators stock that in
2 bulk.

3 MR. FARLER:

4 We do stock that in bulk. The
5 problem is is with the eight hour you have to
6 move your time to reorder up. You can't wait
7 another three weeks to order. You have to
8 make sure that you've got the eight-hour
9 quantity on hand. Okay. So normally what we
10 do is we wait, you know, until we're probably
11 three to four or five weeks away from getting
12 down below the six hours that we have now and
13 then we reorder everything. And it puts us
14 back in compliance, but the eight hour you
15 couldn't wait that long. You would have to
16 order more often.

17 MS. SILVEY:

18 Yeah, so what you are saying ---.

19 MR. FARLER:

20 You probably would not increase
21 your costs ---

22 MS. SILVEY:

23 I see what you're saying.

24 MR. FARLER:

25 --- you just have to keep it on

1 hand. You have to order more often. The
2 costs probably wouldn't increase because we
3 keep that much basically anyhow.

4 MS. SILVEY:

5 We asked a question about whether
6 --- we did not propose this. I know people
7 who were following along with me, but we asked
8 about whether an oxygen resuscitator should be
9 required. What's your thought on that? And I
10 don't want to put you on the spot. If you
11 weren't prepared to address it here then you
12 can provide it in your written comments
13 because I'm not intending to put anybody on
14 the spot.

15 MR. FARLER:

16 I understand.

17 MS. SILVEY:

18 But I'm just --- I'm more on this
19 one, trying to get information that would help
20 us make the right decision.

21 MR. FARLER:

22 Uh-huh (yes). I was going to ask
23 you where that was. I didn't see that in the
24 proposed regulations.

25 MS. SILVEY:

1 It's in the --- it's not in the
2 regulations.

3 MR. FARLER:

4 It's not in the regulations.

5 MS. SILVEY:

6 It's not in the regulations.

7 MR. FARLER:

8 Okay.

9 MS. SILVEY:

10 That's why I said we did not
11 require ---

12 MR. FARLER:

13 Okay. I didn't see it in the
14 preamble.

15 MS. SILVEY:

16 --- and sometimes regulatory
17 agencies do that as opposed to requiring
18 something. We ask the question in the
19 preamble like if you're not quite sure of
20 which way you ought to go. Being thus said,
21 you were thinking about something and you tell
22 us what your thoughts are. But the fact that
23 we required it in the preamble, if we did the
24 requirement in a specific enough manner, then
25 the law allows that with a proper comment and

1 rationale, you can then go on and require it
2 in the final rule because you would have given
3 the public prior notice so I was just trying
4 to figure out or anybody else in the audience,
5 what were your thoughts on that, whether that
6 should be required.

7 MR. FARLER:

8 Well our rescue team has one. We
9 purchased one.

10 MS. SILVEY:

11 And how much was that?

12 MR. FARLER:

13 It was \$3200. That hurts. It's
14 \$3200, no face piece, no oxygen bottle. It's
15 just a hose with a regulator. It's \$3200.

16 MS. SILVEY:

17 You have another one. You have a
18 state of the art one.

19 MR. FARLER:

20 Yes.

21 MS. SILVEY:

22 Yeah.

23 MR. FARLER:

24 Yes.

25 MS. SILVEY:

1 Excuse me. And so with the
2 additional for the requirements what would you
3 say then of total cost when you're talking
4 about training and additional ---.

5 MR. FARLER:

6 Now, that takes a little bit more
7 training.

8 MS. SILVEY:

9 Right.

10 MR. FARLER:

11 It's a CPR type training.

12 MS. SILVEY:

13 Yeah, probably retraining.

14 MR. FARLER:

15 Yes, it does. And that is an in-
16 depth training on that. That's a CPR type
17 training, plus the mechanisms on the timing
18 ---.

19 MS. SILVEY:

20 How long have you had it?

21 MR. FARLER:

22 We've had it for a year.

23 MS. SILVEY:

24 A year.

25 MR. FARLER:

1 About a year, yes.

2 MS. SILVEY:

3 Okay.

4 MR. WILSON:

5 How much did the extra parts and
6 training and all that, what do you figure that
7 to the \$3200?

8 MR. FARLER:

9 Well the \$3200 for the valve and
10 the hose, and oxygen bottle.

11 MR. MCCOY:

12 About \$900.

13 MR. FARLER:

14 \$900 for the oxygen bottle, face
15 piece?

16 MR. MCCOY:

17 \$350 for a face piece.

18 MR. FARLER:

19 How much?

20 MR. MCCOY:

21 \$350.

22 MR. FARLER:

23 \$350? \$350 for the face piece
24 and then the training, it takes about two
25 hours per person.

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MR. WILSON:

Is that free?

MR. FARLER:

No.

MR. WILSON:

How much do you have to pay for
that?

MR. FARLER:

Well, we had to pay for the first
training.

MS. SILVEY:

The manufacturer does?

MR. FARLER:

The manufacturer will do that.

MS. SILVEY:

Right. Right. Okay.

MR WILSON:

For free?

MR. FARLER:

Well, I don't know if it's free
or not. Is it free, Lewis?

MR. MCCOY:

You don't see it on a ---.

MR. FARLER:

Okay. That's what I thought. He

1 hides it.

2 MS. SILVEY:

3 Yeah, but I was going to ask them
4 separately. I was going to say but what about
5 like we just said, it's retrained, you have to
6 do retraining?

7 MR. FARLER:

8 Yes, you have to do retraining on
9 it.

10 MR. WILSON:

11 Annually?

12 MR. FARLER:

13 Well, we try to do it at least
14 every six months just to make sure everybody
15 remembers how to do it.

16 MR. WILSON:

17 Okay.

18 MR. KRAVITZ:

19 And the oxygen and the face piece
20 are the same as you use for your breathing
21 apparatus.

22 MR. FARLER:

23 Yes, but you can't use the face
24 piece and the oxygen bottle from your
25 machines.

1 MR. KRAVITZ:

2 No, you have to have spares.

3 MR. FARLER:

4 You have to have extra.

5 MS. SILVEY:

6 Okay. I think those are sort of
7 the questions that I have. Has anybody else
8 got any more? We appreciate very much you
9 providing us with this being here.

10 MR. FARLER:

11 Rethinking this keeping the eight
12 hours, if you have to order more often, seems
13 like you'd have to spend some more money
14 somewhere.

15 MS. SILVEY:

16 No, you don't know, I'm sitting
17 here thinking about this assumption that
18 they're stocking supplies but if you have to
19 reorder soon, then you got to replenish your
20 supplies.

21 MR. FARLER:

22 You got to spend money somewhere.

23 MS. SILVEY:

24 So I don't know if you want to
25 give us any comments, any additional comments

1 before the record closes but that will be on
2 the estimate of how much you would have to
3 reorder during the run of a year, you know,
4 will it make you have to reorder two more
5 times? I mean, I'm just making this up ---.

6 MR. FARLER:

7 Right, I understand.

8 MS. SILVEY:

9 I'd have to work it out on a
10 chart, you know, three more times.

11 MR. FARLER:

12 That's right.

13 MS. SILVEY:

14 Yeah, I think you're probably
15 right there.

16 MR. FARLER:

17 Yeah.

18 MS. SILVEY:

19 Some amount. Maybe not an
20 enormous amount but some amount.

21 MR. FARLER:

22 Right.

23 MS. SILVEY:

24 Yeah. Thank you very much. I
25 think you're right there. Okay. Actually,

1 the Mr. CSE back there, I think the --- he
2 sort of answered, I think probably most of our
3 questions, but if you don't mind, I think I
4 have just a few questions.

5 MR. MCCOY:

6 I do have to decline. Thank you.

7 MS. SILVEY:

8 I probably can figure out why but
9 I'll talk to you afterwards.

10 MR. MCCOY:

11 It will be the same answer.

12 MS. SILVEY:

13 No, I know that. I know I'm sure
14 I will but I know. I'm not saying that part
15 of why, I'm just saying that we had --- it's
16 a public record. We had Draven in Salt Lake
17 City and we asked some questions because like
18 I said, we had posed certain questions in the
19 preamble on the gas detectors as well as --- a
20 number of questions quite honestly, but
21 specifically on the gas detectors and on the
22 oxygen resuscitator which we did not require
23 in the rule and we just posed the questions in
24 the preamble. So this information is useful
25 to us to help us determine what is the most

1 appropriate and effective way that the agency
2 should go in the final ruling. And a lot of
3 times, you know, when people have criticism of
4 an agency's regulations, you know, and it's
5 sort of easy to generally criticize but to
6 criticize and then provide specifics and back
7 up that with specifics and then if you don't
8 like something like we talked this morning
9 about the training and alternatives to doing
10 it at each mine, then to follow that up with
11 certain specifics, that is much better at
12 helping an agency craft --- that type of
13 information is very useful and will be a lot
14 more helpful and so that's kind of where we
15 were trying to go. Is there anybody else who
16 wishes to comment? Anybody else who wishes to
17 comment on the agency's equipment regulation?

18 Do any members of the panel have anything?
19 Well if nobody else wishes to comment, I'm
20 going to break for about 15 minutes just
21 because I don't think it's two o'clock. And
22 I'm going to break for about 15 minutes and
23 then we will reconvene at about two o'clock or
24 a little after 2:00. Thank you.

25 SHORT BREAK TAKEN

1 MS. SILVEY:

2 We'll continue with the Mine
3 Safety and Health Administration's public
4 hearing on the Proposed Mine Rescue Team
5 Equipment rule and at this time, we will
6 continue and --- excuse me. If there's any
7 discussion on the specific requirements that
8 we included in the proposal relative to the
9 specific measurements by the gas detectors,
10 specifically CO, methane and oxygen. And I
11 believe that we have, I have heard several
12 comments up to this point about detectors
13 being able to measure 9,999 CO if I'm not
14 mistaken. Yes, from 0 parts per million to
15 9,999. We propose that they measure from 0
16 parts per million to at least 10,000 and I
17 would like to hear from anybody. I heard
18 earlier and I'm not sure I appreciated the
19 magnitude of the comment from anybody who have
20 current detectors now that measure up to 9,999
21 parts per million.

22 SHORT BREAK TAKEN

23 MR. DUNCAN:

24 My name is Randy Duncan,
25 D-U-N-C-A-N with the Patriot Coal Company.

1 There's a new instrument coming out that
2 replaced the 620, which is a smaller version
3 and a whole lot easier to carry. It would be
4 more feasible for the mine rescue teams but
5 it's MX6. It would only read up to 9,999
6 parts per million.

7 MR. WILSON:

8 CO.

9 MR. DUNCAN:

10 CO, right. Everything else would
11 read the limits.

12 MS. SILVEY:

13 Excuse me. Is this a part of a
14 multigas detector?

15 MR. DUNCAN:

16 Yes, ma'am. Yes, ma'am. It's
17 just like the 620 but a smaller version.

18 MS. SILVEY:

19 And who makes that?

20 MR. DUNCAN:

21 The same company. It's an
22 industrial science.

23 MS. SILVEY:

24 Okay.

25 MR. DUNCAN:

1 And what I was worried about then
2 if I purchase this then I'll have a MSHA come
3 in and says this is not made to requirements
4 because lack of more parts per million. And
5 I'm worried about getting a citation on this.
6 That's the part I'd be worried about. So I
7 would like, you know, for you to take this
8 into consideration.

9 MS. SILVEY:

10 We appreciate --- I'll be honest,
11 I didn't fully appreciate that when I heard it
12 the first time.

13 MR. DUNCAN:

14 Pearl mentioned something about
15 it in his comments.

16 MS. SILVEY:

17 He did, exactly. And until we
18 were just talking on the break, I didn't fully
19 understand so sometimes, you know, the talking
20 on the break can help you better understand
21 things.

22 MR. DUNCAN:

23 Yes, ma'am.

24 MR. WILSON:

25 So if the regulations said at

1 least 9,999 parts per million or more then
2 that would satisfy that new instrument coming
3 out?

4 MR. DUNCAN:

5 Yes, sir.

6 MR. WILSON:

7 Okay.

8 MS. SILVEY:

9 Okay. Well that does clarify
10 that issue. Yeah, thank you very much. Okay.
11 Is there anybody else at this point who wishes
12 to speak? Anybody else who wishes to speak?
13 If nobody else wishes to speak then, at this
14 time, I will conclude the Mine Safety and
15 Health Administration's Public Hearing on Mine
16 Rescue Team Equipment. And as I do so, I want
17 to say that MSHA appreciates very much your
18 participation in this rulemaking. For those
19 of you that participating in prior MSHA
20 rulemaking, we appreciate that and we
21 appreciate your continued interest and helping
22 to improve mine safety and health. For
23 members of mine rescue teams that we heard
24 today and we heard those, we want to say that
25 we appreciate your service and hope that you

1 will feel so honored to continue that service.
2 For those who did not speak here today but
3 who came and attending the hearing, we
4 appreciate your interest in the rule making.
5 As I stated before, for those of you who we
6 asked to provide us specific information, more
7 specific information, we would appreciate if
8 you would do so before November 9th, 12
9 o'clock midnight eastern standard time. And
10 the next two hearings are in Charleston on
11 next Tuesday, Birmingham on next Thursday and
12 we may see some of you at those hearings. And
13 so thank you very much.

14
15 * * * * *

16 HEARING CONCLUDED AT 2:13 P.M.

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