

UNITED STATES OF AMERICA

DEPARTMENT OF LABOR

MINE SAFETY AND HEALTH

REVIEW COMMISSION

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PUBLIC HEARINGS

\* \* \* \* \*

Before: PATRICIA SILVEY

Hearing: Thursday, October 25, 2007

9:02 a.m.

Four Points by Sheraton Hotel

1938 Stanton Way

Lexington, KY 40511

Speakers: Paris Charles, Barry Compton, Andy

Fields, Greg Xanders, Don

McCorkle, Pearl Farler, Gerald

Kendrick

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P R O C E E D I N G S

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MS. SILVEY:

Good morning. My name is  
Patricia W. Silvey. I am the director of the  
Mine Safety Administrations Office of  
Standards Regulations and Variances. I will  
be the moderator at this public hearing on  
MSHA's proposal for mine rescue teams. On

1     behalf of assistant secretary Richard E.  
2     Stickler, I want to welcome all of you here  
3     today.

4                     The MSHA members of the panel are  
5     --- let me introduce them. To my left Michael  
6     Kalich, Coal Mine Health and Safety, and to  
7     his left Tom MacLeod who's with our office of  
8     educational policy development. To his left  
9     Jeff Kravitz who is with the office of  
10    technical support. To my right Cherie  
11    Hutchinson who is in my office, and next to  
12    her Matt Ward who is our lawyer on this  
13    project with the office of the solicitor's  
14    office, and to his right Mr. Phan who is in my  
15    office and is an economist. And these people  
16    were principal parties in helping to develop  
17    this proposal. And at this point, I would  
18    also add some of them on this panel who had  
19    mine rescue --- many years of mine rescue team  
20    experience. Before we start this hearing this  
21    morning, I would like you to join me in a  
22    moment of silence in memory of the miners and  
23    rescuers who've lost their lives in mine  
24    accidents and including those in the  
25    unfortunate events at Crandall Canyon. So

1 right now if you would please join me in a  
2 moment of silence.

3 MOMENT OF SILENCE

4 MS. SILVEY:

5 Thank you. This is the second of  
6 four public hearings on this proposal. We  
7 held a first hearing on Tuesday in Salt Lake  
8 City, and we'll hold the other hearings in  
9 Charleston on next Tuesday, October 30th and  
10 in Birmingham, Alabama on next Thursday,  
11 November 1. We will be holding a public  
12 hearing on the mine rescue team equipment  
13 proposal this afternoon. It's scheduled for  
14 two o'clock, but if this hearing concludes  
15 earlier I most likely will start the mine  
16 rescue team equipment hearing at one o'clock  
17 in this same room. We are holding the two  
18 hearings each day so that persons interested  
19 in both rules can attend the hearings. The  
20 mine rescue team proposal applies only to  
21 underground coal mines. In the back of the  
22 room --- back of the room. Right outside of  
23 the room we have copies of the Federal  
24 Register that contains the proposal.

25 The comment period for the

1 proposal ends on November 9th, and  
2 significantly --- and this is the first time  
3 that we've announced comments due this way.  
4 We must receive your comments by midnight,  
5 eastern standard time on November 9th, and we  
6 are noting the time zone so that there is no  
7 confusion about when the comments are due. As  
8 of October 19th MSHA had received three  
9 comments on the proposal, and you can view the  
10 comments on the Agency's website,  
11 [www.msha.gov](http://www.msha.gov), under the section entitled rules  
12 and regulations. The proposal would implement  
13 the provisions of section four of the mine  
14 improvement and new emergency response, Miner  
15 Act of 2006, which strengthens training  
16 requirements and addresses composition,  
17 availability and certification requirements  
18 for coal mine rescue teams. The purpose of  
19 these hearings is to receive information from  
20 the public that will help us evaluate the  
21 requirements in the proposal, and produce a  
22 final rule that will improve overall mine  
23 rescue service, mine emergency response time,  
24 mine rescue team effectiveness and the quality  
25 of mine rescue team training. The preamble to



1 the proposal discusses the provisions in the  
2 rule and includes a number of specific  
3 requests for comment and information. As you  
4 address these provisions either in your  
5 testimony to us today or in written comments,  
6 please be as specific as possible about how  
7 the changes would affect the safety and health  
8 of miners and mine rescue team members.

9 MSHA also requests detailed  
10 information and data on the costs and  
11 feasibility of the provisions. At this point,  
12 I would like to discuss some of the specific  
13 requests for information that we included in  
14 the proposal. The agency requests comments on  
15 the proposed reorganization of 30 CFR part 49  
16 and on the approach taken. And as you know,  
17 specifically, under the proposed rule we had  
18 separated it into two parts, subpart A and  
19 subpart B. And subpart A would be for  
20 underground metal and non-metal mines, and we  
21 created a new separate subpart B containing  
22 both existing standards and proposed new MINER  
23 Act provisions for underground coal mines.  
24 MSHA is proposing that team members of  
25 state-sponsored teams who are full-time state

1 employees may substitute their regular job  
2 experience for 50 percent of the training  
3 requirements. The agency requests comments  
4 regarding the types of state relationships  
5 with teams and team members that would qualify  
6 the team members as employees and the team as  
7 state sponsored.

8 MSHA is proposing that mine  
9 rescue teams be available at the mine within  
10 one hour from the mine rescue station in  
11 accordance with the MINER Act requirement.  
12 The Agency solicits comments on whether some  
13 existing stations may need to be moved to meet  
14 this requirement. To assist in developing our  
15 regulatory economic analysis, the agency would  
16 like to know how many additional mine rescue  
17 stations would be needed to comply with this  
18 new requirement and where would the new  
19 stations need to be located? The Agency also  
20 solicits comments on whether mine operators,  
21 state agencies or other entities will  
22 encounter any difficulties in meeting the  
23 requirement. The Agency asks that comments  
24 include specific feasibility information such  
25 as cost or technical capability in support of

1 their positions. MSHA requests comments on  
2 the proposed 64 hour training requirement,  
3 specifically whether the proposed hours of  
4 training should be --- and that's the 64 hour  
5 annual training requirement. Whether the  
6 proposed hours training should be increased or  
7 decreased in the final rule, and as you know  
8 the existing annual training requirement is 40  
9 hours. Commenters should address the  
10 rationale for the amount of training, the type  
11 of training, the number of hours of training  
12 that should be required for specific  
13 activities and the impact of such a  
14 requirement on the mining industry's ability  
15 to form additional mine rescue teams or retain  
16 current mine rescue team members.

17           The proposal requires mine rescue  
18 teams to train at each mine serviced by the  
19 team. Team serving mines with 36 or fewer  
20 employees and under the MINER Act those mines  
21 are designated as small mines and 37 up are  
22 large mines. Anyway, teams serving mines with  
23 36 or fewer employees must train at each  
24 covered mine semi-annually. Mine site teams  
25 and state-sponsored teams which are required

1 to train at large mines, annually would have  
2 to train at small mine semi-annually if they  
3 service a small mine. Contract mine rescue  
4 teams would have to train quarterly at each of  
5 the large mines they service. Composite teams  
6 would have to train semi-annually at each of  
7 the large mines they service.

8 MSHA invites comment regarding  
9 the training requirements for the different  
10 types of teams. MSHA also requests comments  
11 on whether this training at the covered mine  
12 needs to be conducted underground. In  
13 addition, MSHA solicits comments regarding the  
14 types of teams that are available to mines  
15 having 36 or fewer employees, and whether  
16 these teams should be able to use other types  
17 of teams such as composite teams consisting of  
18 one team member from each covered mine rather  
19 than two team members from each covered mine  
20 as required by the MINER Act. Would  
21 additional mine rescue teams be needed to  
22 comply with the new requirement for teams to  
23 train at each covered mine? What would be the  
24 make up and composition of new teams?  
25 Commenters should explain any suggested

1 alternatives including supporting  
2 documentation and data. The proposal requires  
3 underground coal mine operators to provide  
4 certified mine rescue teams and includes  
5 criteria for certifying a team. The statement  
6 to the district manager certifying the  
7 proposal would require each mine operator to  
8 submit an annual statement to the district  
9 manager certifying the qualifications of the  
10 mine's mine rescue team. To make this  
11 certification less burdensome for mine  
12 operators the Agency developed a form that can  
13 be found online. MSHA welcomes any  
14 suggestions on the form and requests comments  
15 and recommendations for other alternatives for  
16 certification of mine rescue teams.

17           The proposal requires mine rescue  
18 teams to participate in two local mine rescue  
19 contests each year. MSHA developed criteria  
20 for a local mine rescue contest and requests  
21 comments on the proposed criteria. The Agency  
22 solicits comment on whether there should be a  
23 minimum amount of annual training prescribed  
24 for contest judges. The Agency's considering  
25 allowing attendance at training on contest

1 rules and interpretations to satisfy the  
2 requirement for annual training for judges,  
3 and MSHA requests comments on this approach or  
4 whether some other type of training is more  
5 appropriate.

6 The proposal would allow other  
7 training that provides an equivalent realistic  
8 simulation exercise such as mine emergency  
9 response development or MERD drills to  
10 substitute for participation in a local mine  
11 rescue contest, and the Agency requests  
12 comments on this alternative.

13 MSHA prepared a preliminary  
14 regulatory economic analysis for the proposal  
15 which contains estimated supporting data on  
16 costs and benefits. MSHA estimated that the  
17 proposal would result in 28 additional mine  
18 rescue stations, 56 additional mine rescue  
19 teams, no change in the level of service  
20 provided by state-sponsored teams and  
21 stations. The agency estimated a total annual  
22 compliance cost of \$3.1 million and requests  
23 comments on all of the assumptions and data  
24 used in deriving the estimate.

25 The hearing will be conducted, as

1 some of you who've participated in these  
2 hearings with us before know, the hearings are  
3 conducted in an informal manner and formal  
4 rules of evidence do not apply. The panel may  
5 ask questions of the witnesses, the witnesses  
6 may ask questions of the panel. Cross  
7 Examination, however, is not allowed. MSHA  
8 will make a transcript of the hearing and post  
9 it on the Agency's website in one or two weeks  
10 following today's hearing.

11 If you wish to present written  
12 statements or information, please, clearly  
13 identify your material and give it to one of  
14 the panel members. You may also submit  
15 comments following this hearing by any method  
16 listed in the proposal, and as I stated  
17 earlier to be considered we must receive your  
18 comments by November 9th.

19 I would like to ask everyone in  
20 attendance this morning to sign the attendance  
21 sheet on the outside of the room if you  
22 haven't done so. And also if you need to sign  
23 the speakers list to do that, too. If you  
24 have a hardcopy or electronic version of your  
25 presentation, please, provide it to the court

1 reporter. And now we will hear from those who  
2 signed up to speak, and I would ask you to  
3 please clearly spell your name for the  
4 reporter so that we have an accurate record.  
5 So at this time, I will start for persons and  
6 organizations who scheduled in advance. Our  
7 first speaker is --- I'm looking at  
8 Charleston. That's why I hesitated. I'm  
9 looking at the wrong --- that's what happens.  
10 You change the script. Usually I just have  
11 one sheet here to look at, and now I have a  
12 sheet with every hearing on it. So anyway,  
13 the first person is Paris Charles with  
14 Enterprise Mines. Mr. Charles.

15 MR. CHARLES:

16 My name is Paris Charles,  
17 P-A-R-I-S, last name Charles, C-H-A-R-L-E-S.  
18 I want to thank you for the opportunity to  
19 participate in this public hearing. I do not  
20 believe there is in any instance where mine  
21 rescue team efforts have been prevented or  
22 delayed because a lack of adequate number of  
23 highly trained and competent teams.  
24 Furthermore, I am aware --- I'm not aware of  
25 any instance where the arrival of the teams



1 caused a delay in MSHA mine rescue efforts.  
2 However, I have read the criticism directed at  
3 teams for responding too quickly at the Darby  
4 Mine.

5 My company represents mines in  
6 Virginia and Kentucky. Virginia has more than  
7 adequate mine rescue coverage with experienced  
8 highly incompetent teams who participate in  
9 the designated mine rescue program. Complying  
10 with these proposed rules in the MINER Act  
11 will totally eliminate this program. The  
12 State of Kentucky for a number of years has  
13 been the signatory team, mine rescue team, for  
14 every miner in the state. Kentucky law  
15 mandates that mine rescue teams be available  
16 with one hour driving distance. The Office of  
17 Mine Safety and Health offices are situated  
18 throughout the Kentucky coal fields meet this  
19 requirement.

20 It will be detrimental to the  
21 industry if these 11 teams are lost due to  
22 inability to comply with the proposed  
23 regulations we're commenting on today. How  
24 does eliminating these programs enhance safety  
25 of our miners and mine rescue teams --- or

1 mine rescue teams? It does not. In fact, it  
2 lessens it. I'm glad I was not a part of this  
3 decision. I am concerned that a lot of time  
4 and effort is being spent addressing the  
5 problem that does not and did not exist. I'm  
6 going to comment specifically on certain  
7 sections of the proposed regulations.

8 My first comment is Section  
9 49.11, proposals and scope --- or purpose and  
10 scope, paren (a), the ability of mine rescue  
11 capability has never hindered mine emergency  
12 rescue and recovery efforts. Miners get  
13 trained at covered mines, this training should  
14 not require involvement of all members of the  
15 team. Two members of the team should  
16 familiarize themselves with the mine and brief  
17 the remaining team members. If a composite  
18 team, the team members for that mine should be  
19 given credit for training at that mine.  
20 Stations within one hour of travel time of  
21 covered mines, the arrival time of teams have  
22 never hindered emergency mine rescue and  
23 recovery effort, therefore MSHA should  
24 consider grandfathering existing teams as  
25 noted below. Actually to dramatically be

1 correct it should be as referred to the  
2 arrival and not teams. Team knowledge of  
3 operations and ventilation of covered mines  
4 redundancy, the training requirement will  
5 fulfill this requirement. On composite teams  
6 the composite team requirement for two members  
7 for each covered mine, there may be  
8 preexisting mine rescue teams extremely  
9 competent and experienced to provide current  
10 miners rescue coverage for several mines.  
11 These teams may disband because of this  
12 requirement or the minimum would have to break  
13 up or add potentially inexperienced in mine  
14 rescue miners to the team.

15                   In addition, if a composite team  
16 was to cover more than three mines the number  
17 of team members should --- could be creating a  
18 management challenge. Current mine rescue  
19 contest rules limit the number of team members  
20 who can participate in a contest and who can  
21 go to lock up. And what do the extra team  
22 members do? If an event occurs in a mine,  
23 which has two inexperienced members on the  
24 team providing coverage would those two  
25 members be required to participate in mine

1 rescue effort or shall we allow two more  
2 experienced team members to participate?  
3 Contract team members are required to have a  
4 minimum of three years underground experience  
5 within the preceding ten-year period.  
6 However, surface miners who were active  
7 members of mine rescue team prior to the  
8 enactment of the Act of these regulations,  
9 this requirement should be waived for those  
10 members to work at the surface operations.

11           If onsite experienced recovery  
12 for mine service are required to reduce the  
13 training requirements for state sponsored  
14 teams, the same logic should hold true for  
15 those composite team members who work at the  
16 mines covered by their team.

17           Based on my work with mine rescue  
18 teams I suggest these regulations be modified  
19 so that the mine rescue teams, stations team  
20 members which were in existence prior to the  
21 MINER Act, be grandfathered into the new  
22 requirements without the mines or the teams  
23 being the one hour time limitation or having  
24 two members for each covered mine requirement.  
25 Clearly this will be a decision that will

1 enhance safety rather than hinder the quality  
2 of the mine rescue coverage for many mines.

3 49.12, the availability of mine  
4 rescue teams, requires teams to consist of  
5 five members and one alternative. What if a  
6 composite team provides coverage for four  
7 mines? In one proposed rule composite team is  
8 required to have at least two members from  
9 each covered mine. In this proposed rule,  
10 teams must consist of five members and one  
11 alternate. What about those instances where  
12 two members --- or two miners were given a  
13 mine ---? What about the instances where two  
14 miners from a given mine are members of a  
15 composite team, and one of them is unavailable  
16 for a short time, such as sickness, illness,  
17 family emergencies, et cetera? What if one of  
18 them quits or transfers to another mine? Will  
19 mines have to shut down and all those members  
20 employed there lose their income during the  
21 time it takes to find a replacement? What if  
22 no one at the mine --- at the immediate  
23 composite team coverage will volunteer to be a  
24 team member? We also have that problem, too.  
25 Will it not be required to force someone to

1 participate against their will. Can that  
2 member be forced to participate in emergency  
3 rescue effort against his will? Some  
4 composite teams may resemble musical chairs  
5 given the voluntary nature of our industry.

6           Clearly the interest should be  
7 given --- have been consulted or have  
8 consulted mine rescue team professionals that  
9 provide coverage prior to developing these  
10 rules. Current teams and team members should  
11 be grandfathered into these new rules.  
12 Availability within one hour ground travel  
13 time should be replaced in this subsection.  
14 Since mines are actually located within ---  
15 where the coal seam says, well, this makes it  
16 impossible in some instances to locate the  
17 mine within one hour at the station as this  
18 states. Therefore, the station within one  
19 hour of all mines may not be possible.  
20 Existing stations could possibly have to be  
21 moved. There might be situations where moving  
22 a station could not --- move it within a one  
23 hour travel time, but more than one hour from  
24 one to another. Therefore, the district  
25 manager should have discretion to give

1 exemptions to the one hour requirement  
2 circumstances exist to justify such a change.

3 49.13, alternative mine rescue  
4 capability for small and remote mines. In  
5 this section the district manager is  
6 considered capable of making decisions  
7 concerning adequate mine rescue coverage. Why  
8 is the limited to the --- why is this limited  
9 to small and remote mines? He should be  
10 giving the same latitude for all mines  
11 especially those mines where mine rescue teams  
12 are already in existence.

13 Physical requirements on mine rescue team,  
14 in effect if a mine rescue miner fails a  
15 physical he should be able to obtain a second  
16 opinion before he can be removed from the  
17 team.

18 Training for mine rescuers,  
19 49.18. Credit should be given for other  
20 relevant training completed by the team  
21 members such as fire brigade training,  
22 participation in mine rescue response drills,  
23 et cetera. Our local district personnel are  
24 in frequent contact with our team members  
25 often helping with their practices. However,

1 practices are routinely scheduled due to work  
2 schedules --- are rescheduled due to work  
3 schedules, sickness of members, et cetera.  
4 For the teams and the district manager to keep  
5 up with all these changes will do nothing but  
6 to distract our mine rescue training. I  
7 believe this provision should be removed from  
8 the regulation, but as always will continue to  
9 welcome and solicit interest in the local  
10 District's participation.

11 Requirements for all mines, 49.20. The  
12 training requirement should be considered to  
13 be met by having at least two members from  
14 each time familiarize themselves with  
15 operations, the physical conditions and  
16 ventilations at the covered mine who would  
17 then be required to brief the remaining team  
18 members. These two team members could rotate  
19 regularly so that all miners gain firsthand  
20 familiarly with each miner. Team members who  
21 routinely work at the mine covered by their  
22 teams should be allowed to substitute their  
23 job experience for 50 percent of the training  
24 requirements. State-sponsored composite team  
25 members should be considered state employees



1 including being credited for the time in  
2 training at the mine which they work.

3 49.40, requirements for large  
4 coal mines. As discussed above existing mine  
5 rescue teams should be grandfathered and still  
6 should be able to work and provide a primary  
7 mine rescue coverage to existing mines even  
8 though they are more than one hour from the  
9 covered mine, or if they're not individual  
10 mine site team or a composite team. Unless  
11 this grandfathered is granted, the competent  
12 highly trained experienced mine rescue teams  
13 in Virginia and Kentucky are likely to be  
14 destroyed, which is not good for the mine  
15 rescue program or the mine rescue coverage in  
16 Virginia and Kentucky.

17 49.50, certification of mine  
18 rescue teams. Since mine rescue teams and  
19 stations are subject to greater inspection, I  
20 do not think that a requirement is necessary  
21 and will serve a very limited purpose except  
22 to distract from the teams' trained  
23 preparation. 49.60, requirements of a  
24 local contest, local mine rescue contest.  
25 Clear standards need to be set for trained

1 judges. My opinion, judges should have actual  
2 mine rescue experience, preferably experience  
3 in real emergency events. In a recent contest  
4 our team participated in the quality of one or  
5 more of the judges was called into question.  
6 We feel like the judges should have mine  
7 rescue experience in order to judge these  
8 contests. 75.150 --- or 1501, emergency  
9 evacuations. Many of these proposed training  
10 requirements go beyond what a responsible  
11 person at the mine should be required to do  
12 including duties MSHA will not allow.  
13 Responsible persons should not be expected to  
14 organize a command center. MSHA state company  
15 officials will establish a command center.  
16 Directing mine rescue personnel we feel like  
17 they should notice --- let them know MSHA and  
18 the state will be very upset if someone else  
19 directed the mine rescue personnel, and I  
20 don't think teams and the trainers and  
21 instructors will follow those directions  
22 anyway.

23 Establish a fresh air base, this  
24 is responsible --- this is the responsibility  
25 of the mine rescue teams. Employ mine rescue

1 teams same as two above, they're not qualified  
2 to direct those mine rescue teams or deploy  
3 those mine rescue teams. It says, provide for  
4 mine gas sampling analysis. It's totally  
5 unreasonable expectation. There's no way that  
6 those guys can meet that requirement.  
7 Establish security, request yes, establish no.  
8 Establishment of security should be left to  
9 officials security personnel, and that's all  
10 the comments that I have.

11 MS. SILVEY:

12 Thank you. Thank you, Mr.  
13 Charles. I have a few comments and then maybe  
14 a few questions and maybe just some things you  
15 can clarify. First of all, I'd like to make a  
16 few comments out the outset for everybody in  
17 the room, and quite honestly some of the  
18 comments that Mr. Charles made we heard maybe  
19 not exactly like he framed them, but we heard  
20 the general meaning of his comments in Salt  
21 Lake City.

22 But I want to start out by saying  
23 that I think every member of this panel as I  
24 said earlier some members --- we had some  
25 members on the panel and some members who were

1 involved in drafting the proposal but don't  
2 happen to be on the panel here with us today  
3 who've been involved in mine rescue team  
4 service for many years. And I said it on  
5 Tuesday and I'm going to --- and I think --- I  
6 know it's appropriate for me to say it now,  
7 that I personally believe and I think my boss  
8 believes and our panel members believe that  
9 there is no more noble service provided by  
10 anybody than the service provided by people on  
11 mine rescue teams. And I know from my many  
12 years having been involved in mining, 30 years  
13 now, that mine rescue team members provide the  
14 service voluntarily, they do it willingly,  
15 they do it, you know, oftentimes at great  
16 sacrifice, at no cost. You know, we see an  
17 analogy of that going on right now in  
18 California with respect to the fires that are  
19 going on, the firefighters. So at the outset  
20 I want to say that and say that we clearly  
21 appreciate that, and I personally don't think  
22 anything that the Agency has done as embodied  
23 in the proposals was meant to be critical of  
24 that.

25 You know, you might have heard

1 other people say things or whatever, but I  
2 don't think that reflected MSHA's sentiments  
3 about any unfortunate mine accident that we  
4 have had. And now as I say that I also want  
5 to say that we don't intend to negatively  
6 impact that good mine rescue service that's  
7 been a tradition in the mining industry for so  
8 many years.

9                   And then that --- and the third  
10 thing I want to say, I have to say is that ---  
11 but our goal, our purpose is to implement the  
12 MINER Act. We have to do that, too, so to  
13 some extent we are constrained by some of the  
14 provisions in the MINER Act, but I would be  
15 wrong if I said that we're not just going to  
16 go through a process and the process was not  
17 going to be meaningful. And so one of the  
18 purposes of the process is that we would go  
19 throughout the various four places and hear  
20 from the public and figure out how we can  
21 craft the final rule to give meaning to the  
22 MINER Act to try to achieve what the intention  
23 of the MINER Act is. But while at the same  
24 time to give meaning to mine rescue service so  
25 that we won't negatively impact that either.

1                   So with those general things  
2 being said, I want to ask you, Mr. Charles,  
3 again, because I guess I'm --- and maybe you  
4 didn't say it. I'm a little bit confused.  
5 You said you provide --- your organization  
6 provides mine rescue service in Kentucky; or  
7 did you?

8                   MR. CHARLES:

9                   No, I didn't.

10                  MS. SILVEY:

11                  Yes. And I was going to say ---  
12 tell me again, are you --- about your  
13 organization and exactly how it provides the  
14 mine rescue service.

15                  MR. CHARLES:

16                  My organization --- I work for  
17 --- my parent company is Kentucky, Virginia  
18 operations of Alpha Natural Resources.

19                  MS. SILVEY:

20                  Okay.

21                  MR. CHARLES:

22                  They have mine rescue teams at  
23 Paramont and Dixon Russell. What I was  
24 alluding to was the state teams ---

25                  MS. SILVEY:

1                   The state teams, yes.

2                   MR. CHARLES:

3                   --- that provide service. Those  
4 teams --- stations have been set up within the  
5 state to provide that one hour travel time.  
6 They've never failed to respond to an incident  
7 within a timely manner. And I'm just afraid  
8 that we're going to lose that. There's a lot  
9 of quality people there that are state  
10 employees that devoted years of mine rescue  
11 service, that if we lose that then it's going  
12 to be very detrimental to miners in this  
13 state.

14                  MS. SILVEY:

15                  Okay. Let me ask you something.  
16 In terms of the mine rescue service provided  
17 at your organization, do you all provide it  
18 yourselves? Is it a mine site team or do you  
19 --- or is it provided by some other ---?

20                  MR. CHARLES:

21                  In Kentucky ---.

22                  MS. SILVEY:

23                  That your --- yes.

24                  MR. CHARLES:

25                  At our organization at Kentucky,

1 the State of Kentucky provides our mine rescue  
2 service.

3 MS. SILVEY:

4 So the state does, so the  
5 state ---

6 MR. CHARLES:

7 Yes, it does.

8 MS. SILVEY:

9 --- provides the service?

10 MR. CHARLES:

11 Yes, it does.

12 MS. SILVEY:

13 Okay. Now, when you gave me ---  
14 we got to get specific here because you all  
15 heard me in the opening statement say that's  
16 the only way we can ---. You know, you got to  
17 have hard facts to be able to go and try to  
18 convince somebody to change something. And  
19 that's why, so don't --- I want you to know  
20 it's not like I'm belaboring the point or  
21 clearly badgering Mr. Charles. I'm trying to  
22 get here so we can figure out where we're  
23 going. So when you said that --- I think at  
24 one point you said we would put these teams  
25 out of business. I mean, we would put the



1 whole mine rescue effort, I guess. Tell me  
2 exactly how --- and let's take the State of  
3 Kentucky since ---.

4 MR. CHARLES:

5 Okay.

6 MS. SILVEY:

7 First of all, how many stations  
8 or how many teams, however you want to address  
9 it, do you think will be negatively affected  
10 by the rules and exactly how?

11 MR. CHARLES:

12 The way that I read the rules the  
13 state-sponsored teams, there's probably ---  
14 some of the specific requirements for them to  
15 meet, to practice at the mines and so forth, I  
16 don't think that they can do that, not for  
17 every mine in Kentucky. There's just --- I  
18 got some figures the other day. There's 155  
19 mines in Kentucky, 36 or fewer employees or 75  
20 mines for 37 or more employees in the State of  
21 Kentucky. And here we have 11 teams provided  
22 by the state.

23 MS. SILVEY:

24 Is that the number of state teams  
25 is 11 teams?

1                   MR. CHARLES:

2                   That's the number of state teams,  
3 11 teams. Yes, ma'am.

4                   MS. SILVEY:

5                   Okay.

6                   MR. CHARLES:

7                   There are six districts, five  
8 districts have two teams, one district only  
9 has one team. And to meet the training  
10 requirements of what's going to be specified  
11 that I've seen in the proposed rules, I'm  
12 afraid they can't meet those qualifications to  
13 remain as teams that they're composed of now.

14                   MS. SILVEY:

15                   Do they train at the mines now,  
16 the state teams, I mean?

17                   MR. CHARLES:

18                   I don't know where they train at,  
19 ma'am, but I was --- I'm former executive  
20 director of the office of Mine Safety and  
21 Licensing in the State of Kentucky. When I  
22 was with the state, and I'm sure it's probably  
23 still that way, we had asked for volunteer  
24 miners to go train. But we did train  
25 underground at a particular mine to get our

1 underground training in. But, you know, the  
2 way when I read the proposed regs, you have to  
3 train every mine that you cover and I don't  
4 think that's possible.

5 MS. SILVEY:

6 One of the things, too, then ---  
7 and when I gave the earlier statement I forgot  
8 to add that MSHA's purpose was not to change  
9 the existing regulations at issue in this  
10 proposal, but the purpose was to implement the  
11 MINER Act requirements. Now, why do I add  
12 that? I add that because you mentioned two  
13 things. You mentioned the small and remote  
14 provision and you --- as well as the five  
15 members and one alternate, and as everybody  
16 knows those are existing provisions, the five  
17 members and one alternate, and the Agency's  
18 goal --- whole purpose in issuing this  
19 proposal was not to change that. I tell you  
20 what I would like though and now I see clearly  
21 what you said, the service is provided by the  
22 state team. I don't know whether there's  
23 anybody here from the State of Kentucky or  
24 not, but I would like it if you could  
25 specifically --- even if you have to do it ---

1 you don't have to do it right now. Before the  
2 record closes on November 9th if you would  
3 provide us with exactly --- if the State of  
4 Kentucky teams had to meet those requirements  
5 that we have that.

6 MR. CHARLES:

7 Yes.

8 MS. SILVEY:

9 Exactly that we proposed, how  
10 many stations, how many teams, either or both,  
11 could not meet the requirements, could not  
12 provide the service. And I'm using your  
13 terminology now and would likely be destroyed,  
14 or, you know, couldn't stay in business  
15 because they couldn't meet the requirements.

16 MR. CHARLES:

17 I can do that.

18 MS. SILVEY:

19 Okay. That would be very helpful  
20 to us if you could do that. One more thing,  
21 you said something about on a composite team  
22 and I got to remember straight, two members of  
23 the team needed to train; ---

24 MR. CHARLES:

25 Yes, ma'am.

1                   MS. SILVEY:

2                   --- didn't you? Yeah. But now  
3 let me just ask you that and then you went  
4 through why. You said the most experienced  
5 members, et cetera, but generally speaking,  
6 when a team is called in the team is called in  
7 as a team; is that right, the entire team is  
8 called in to serve?

9                   MR. CHARLES:

10                  Yes.

11                  MS. SILVEY:

12                  Okay. I just wanted --- anybody  
13 else have any comment?

14                  MS. HUTCHINSON:

15                  When you were --- when you made  
16 the assessment that the 11 state teams would  
17 go out of business for having to train at each  
18 mine, did that take into consideration the 50  
19 percent allowance for state teams and training  
20 requirements?

21                  MR. CHARLES:

22                  I'll have to recheck my later  
23 comments. I'm not sure.

24                  MR. KALICH:

25                  I have a question. How many

1 additional teams do you feel it would take to  
2 comply then? You said there's 11 teams in  
3 Kentucky that provide the service.

4 MR. CHARLES:

5 Yes.

6 MR. KALICH:

7 How many additional teams would  
8 it take to be able to provide it?

9 MR. CHARLES:

10 If the state wants to lose their  
11 ability to be the primary signatory team?

12 MR. KALICH:

13 Well, let's say, how many teams  
14 would the state have to have to be able to  
15 provide it?

16 MR. CHARLES:

17 Currently probably one team, the  
18 way I read the regs and the way the districts  
19 are laid out. There's one district in  
20 Kentucky that only has one mine rescue team.  
21 They would have to provide an additional team  
22 member to make that coverage available to all  
23 of them.

24 MS. SILVEY:

25 What about stations, do you think

1 the stations are located ---?

2 MR. CHARLES:

3 The stations are located, yes,  
4 ample time frame. Yes.

5 MR. KALICH:

6 Well, you said the training  
7 requirements were a limiting factor on how  
8 many mines a particular team could provide  
9 coverage for?

10 MR. CHARLES:

11 Yes.

12 MR. KALICH:

13 So I mean, how many additional  
14 teams would it take to be able to meet the  
15 training requirements?

16 MR. CHARLES:

17 Let's just take, for instance,  
18 the Pikeville district, the Office of Mine  
19 Safety and Licensing, there's probably 93  
20 underground mines in that district. Now, how  
21 those two teams train entirely 93 coal miners  
22 in a year's time, to meet, you know, the  
23 underground training requirements and so  
24 forth.

25 MS. SILVEY:

1                   Let me ask you something, and I  
2 think my colleague has probably additional on  
3 that. Is the coverage in Kentucky provided  
4 solely by the state teams? Is that it? Is  
5 that what I'm hearing you say or do some ---?

6                   MR. CHARLES:

7                   There are mine rescue teams in  
8 Kentucky, but as far as I know, as far as the  
9 signatory team they are the team of record for  
10 every mine in the state.

11                  MS. SILVEY:

12                  Oh, is that right, the state team  
13 is the team of record for every mine in the  
14 state?

15                  MR. CHARLES:

16                  Yes, ma'am.

17                  MS. SILVEY:

18                  Okay. So ---?

19                  MR. KALICH:

20                  With the MINER Act requirements  
21 there's a number of company teams in Kentucky  
22 that could provide the service to their coal  
23 mines and to other mines; is there not?

24                  MR. CHARLES:

25                  There are, but when you start



1 talking about mine teams, composite teams,  
2 contract teams, then --- I've got a mine that  
3 has 49 employees. Five months ago when these  
4 proposed regs, or whatever, came out, I put a  
5 sheet up for volunteers because my company is  
6 going to have to develop some composite teams,  
7 you know, to meet that. I've had one  
8 individual volunteer in five months, and we're  
9 waiting for the regs to come out to see what  
10 the final regs are going to be. I've had one  
11 individual at that mine of 49 employees who's  
12 willing to serve on a mine rescue team.

13 MS. SILVEY:

14 So why do you think that then?  
15 Why do you think that?

16 MR. CHARLES:

17 Why do I think that?

18 MS. SILVEY:

19 Uh-huh (yes). That you had only  
20 one?

21 MR. CHARLES:

22 People just aren't interested. I  
23 mean, they just --- it's plain and simple,  
24 that they're not interested in the time it  
25 takes for the training, the time that it takes

1 away from families, you know, the additional  
2 time. Of course, they're paid for the  
3 additional time based on putting in that  
4 additional time.

5 MS. SILVEY:

6 But that really is a little bit  
7 --- and I don't want to put words in your ---  
8 it's a little bit separate and apart from  
9 these regulations. I mean, you're sort of  
10 telling me another element.

11 MR. CHARLES:

12 If I have to have a composite  
13 team I don't want individual volunteers. I'm  
14 going to have to draft --- will I have to  
15 draft someone, will I have to force someone?  
16 And if I have to force him to even practice  
17 when it comes time to call, God forbid an  
18 event, will he even show up?

19 MS. SILVEY:

20 We started out by saying the  
21 nature of mine rescue service is that it's  
22 voluntary.

23 MR. CHARLES:

24 It is voluntary, yes, it is.

25 MS. SILVEY:

1                   That's right. That's right.  
2 Exactly. And I mean, if you don't have that  
3 that sort of means your heart's not in it.

4                   MR. CHARLES:

5                   In today's environment, you know,  
6 it's not unusual for --- there's a lot of job  
7 --- a lot of turnover in the industry. And,  
8 you know, here you've invested in training an  
9 individual to bring him on board in mine  
10 rescue team and somebody's offering \$.25 more  
11 an hour down the road, he decides to leave  
12 then you're without a team member. So it's --  
13 -.

14                  MR. MACLEOD:

15                  Just on the people who are  
16 volunteering, we heard some comments from a  
17 gentleman in Salt Lake basically suggesting  
18 that even they hired people who are older that  
19 they have more things to do, there's more  
20 social things in their life. Just as a  
21 snapshot and curiosity for us, the people who  
22 you are asking, are they younger, middle aged?  
23 I'm just trying to see if there's a consistent  
24 ---.

25                  MR. CHARLES:

1                   They are probably an average 38  
2 year, somewhere in that. They're ---.

3                   MS. SILVEY:

4                   Young.

5                   MR. CHARLES:

6                   But if you go to a mine rescue  
7 contest I'm sure you see a lot of gray hairs  
8 on a lot of team members.

9                   MR. MACLEOD:

10                  Sure. Thank you.

11                  MR. PHAN:

12                  I have a question. Are state  
13 team members, are they solely employed by the  
14 state, ---

15                  MR. CHARLES:

16                  Yes, they are.

17                  MR. PHAN:

18                  --- or they are just mine ---?

19                  MR. CHARLES:

20                  They're state employees.

21                  MR. PHAN:

22                  Okay.

23                  MS. HUTCHINSON:

24                  The MINER Act --- the proposed  
25 rule requires that each large mine have either

1 a composite team or a mine site team, and  
2 you've stated that 75 underground coal mines  
3 in Kentucky would be considered large under  
4 this proposed rule?

5 MR. CHARLES:

6 Yes.

7 MS. HUTCHINSON:

8 Do you have any feel for how many  
9 of those already have a mine site team or a  
10 composite team?

11 MR. CHARLES:

12 No, I don't.

13 MS. SILVEY:

14 That's what he ---.

15 MR. CHARLES:

16 Yeah, I will.

17 MS. SILVEY:

18 You said you would provide ---.

19 MR. CHARLES:

20 I will provide that.

21 MS. SILVEY:

22 He said he will provide that.

23 MR. CHARLES:

24 I'll have that documentation. I  
25 can provide that.

1                   MS. SILVEY:

2                   Right. Yeah. Thank you. And  
3 for people in the audience who --- we've got  
4 one more person on the list. I don't know if  
5 that person intends to speak, but for anybody  
6 in the audience who hears some of these  
7 questions raised if you're with companies and  
8 your service happens to be provided by the  
9 state team, as you said a signatory team, even  
10 though you might have a mine rescue team. If  
11 you could provide your --- comments from your  
12 company on some of the questions we are asking  
13 Mr. Charles, we'd appreciate it very much.

14                   Okay. Well, then --- I don't  
15 think we have any more questions, Mr. Charles.  
16 We appreciate your input, and we would, again,  
17 ask you to please if you could get us that  
18 information we ask before the record closes.  
19 And any additional information that you think  
20 might be clarifying or elucidating to us on  
21 some of the issues we talked about this  
22 morning, we'd appreciate it.

23                   MR. CHARLES:

24                   I'll hold these comments and send  
25 all of them to you.

1                   MS. SILVEY:

2                   Thank you. Thank you very much.

3                   MR. CHARLES:

4                   Thank you.

5                   MS. SILVEY:

6                   The next person on our list is  
7 Barry Compton, Dickenson Russell Coal Company.

8                   MR. COMPTON:

9                   Good morning. I come before you  
10 today as the captain of Dickenson Russell Coal  
11 Company's mine rescue team to offer comments  
12 and suggestions concerning the proposed  
13 regulations on 30 CFR part 49. As background  
14 I have 32 years mining experience, 26 years of  
15 which have been involved with mine rescue and  
16 over 10 years as a mine rescue captain. And I  
17 am also presently on the board of directors  
18 for post number seven National Mine and Rescue  
19 Association for Virginia. I've also been an  
20 underground mine superintendent for 22 years.

21                   As it relates to mining in my  
22 mine rescue career one event that stands clear  
23 in my mind while performing recovery work  
24 after the South Mountain mine explosion in  
25 1992 where eight men lost their lives. I was

1 called upon to identify a childhood playmate  
2 because he didn't have proper identification  
3 on his person. This has been one of the most  
4 difficult things I've ever had to do, but  
5 while attending his funeral his mother thanked  
6 me and told me how grateful she was for my  
7 work. It gave her some comfort that I was  
8 part of the team that recovered her son from  
9 the mine, and I knew then that I'd always  
10 would want to be a part of a mine rescue team.

11

12 Based upon my training and  
13 leadership as the captain of Dickenson Russell  
14 Mine rescue team I've actually taken exception  
15 to the determination that congress and MSHA  
16 has made that I am not adequately trained to  
17 do my job as a mine rescue team member. I am  
18 also concerned that the training proposed will  
19 make it difficult, if not impossible, for me  
20 to continue with my mine rescue leadership and  
21 will deter others from becoming a part of this  
22 great program.

23

24 In fact, in November of 2006 I  
25 was given an opportunity to be present in  
Washington, D.C. when representatives from



1 most all coal mining states met with top  
2 officials to express their concerns with the  
3 MINER's Act. One of your top officials stated  
4 that he didn't feel it was the intent of  
5 Congress, nor of MSHA's, to destroy the  
6 existing mine rescue program and hopefully we  
7 can keep this from happening. I believe my  
8 suggestions, if implemented, will keep the  
9 mine rescue program intact and will permit me  
10 to continue to participate.

11 My first suggestion is on Section  
12 49.11, I feel the team members on composite  
13 teams should be given 50 percent credit for  
14 their training associated with their assigned  
15 mine. Under Section 4912(f), as far as being  
16 available within one hour travel time from the  
17 mine rescue station, travel time and response  
18 time have never been issues in mine rescue,  
19 event or situation. Therefore, to avoid  
20 disruption in any operation and effectiveness  
21 of existing mine rescue teams and stations, I  
22 would recommend that existing teams be allowed  
23 to maintain their stations at their existing  
24 location, even though they may be two hours  
25 from some mines. This would require a waiver

1 of the one hour travel time requirement for  
2 these existing teams. However, any mine  
3 rescue station is established after the  
4 MINER's Act was passed would have to comply  
5 with the one hour travel time. I also believe  
6 that MSHA's district manager should be allowed  
7 to waive this requirement to no more than two  
8 hour travel time provided it would not reduce  
9 the safety of that operation. As I noted  
10 earlier, travel time has never been an issue  
11 in mine rescue situations.

12 Under section 49.18(b), training  
13 for mine rescue team. As previously  
14 established by current MSHA regulations, our  
15 mine rescue teams are required to train 40  
16 hours per year, have sessions underground at  
17 least once each six months, train and learn --  
18 - and using of the breathing apparatus by team  
19 members, have advanced mine rescue training,  
20 have mine ventilation training. And based on  
21 my experience these training requirements  
22 provided the team, the mine rescue team, with  
23 adequate and thorough training and should not  
24 be changed. Even though the current  
25 regulations do not require additional

1 training, many of our teams actually supercede  
2 the training of these current requirements.  
3 We have additional training such as MERD  
4 exercises, fire brigade training, advanced  
5 mine firefighting training, recovery work even  
6 at our own operations. Mine rescue teams are  
7 professionals and need to be treated  
8 accordingly. These teams did not cause the  
9 accidents, but they responded to the accidents  
10 in a timely and professional manner.

11 Under Section 49.20(a),  
12 participation in two local mine rescue  
13 contests. Clarification is needed on how team  
14 members will receive credit for attending the  
15 contest. For example, if a team consists of  
16 ten members, and many do and will, the current  
17 contest rules won't allow more than eight  
18 people in lock up. These additional members  
19 should get credit for attending the contest  
20 even though the contest would not permit them  
21 in lock up or allow them working --- to be a  
22 working member on the field.

23 Requirement for the top of mine  
24 rescue teams under 49.20(b), excuse me, I feel  
25 that mines with less than 36 employees should

1 be allowed to be part of the composite team.  
2 But mines of this size will not be able to  
3 contribute two members to a team. Therefore,  
4 I think a mine with less than 36 employees  
5 should only have to have one employee member  
6 instead of two members on the team and still  
7 be considered a composite team. This would  
8 assist this model group of operators and we  
9 also cannot ignore the fact that mine rescue  
10 teams members are volunteers.

11 My team has lost two members in  
12 the last two months. One was due to an  
13 unexpected illness where the doctors disabled  
14 him and the other was for his loss of  
15 employment. More importantly I have not had  
16 one person contact me saying they would like  
17 to be a member of my mine rescue team.  
18 Section 49.20(e), mine rescue team training at  
19 each covered mine. With all these additional  
20 practices required at the covered operations  
21 it may make it impossible for interested  
22 individuals, such as me, to remain on a team.  
23 My team is made up of a general mine foreman,  
24 section foreman, supply motorman, shuttle car  
25 operator, a brick plant laborer, safety

1 department representative and a mine  
2 superintendent. We are a diverse group of  
3 individuals representing employees that are  
4 represented by the UMWA, employees who are  
5 non-union and salaried employees. However,  
6 the training --- in other words, we work hand  
7 in hand when it comes to being a mine rescue  
8 team. However, the training at each covered  
9 mine and the required training requirements  
10 could cause employees to second guess their  
11 commitment. If they do continue on the team  
12 you are taking some of the most seasoned  
13 workers away from the mine where day to day  
14 safety enforcement is needed the most. Would  
15 this not reduce the safety level at the  
16 operations with these individuals gone so  
17 much? We have lost a generation of coal  
18 miners with the coal industry downsizing for  
19 20 years. Even if we wanted to replace these  
20 individuals with other employees they aren't  
21 there. It will take years to train new  
22 members so they have the level of expertise we  
23 currently have. I ask you, have these  
24 regulations not caused this to take a step  
25 backwards?

1           I feel the training at individual  
2 mines can be useful in some ways such as  
3 meeting with key individuals and discussing  
4 those items listed, ventilation, firefighting  
5 capabilities, mine maps, SCSR storage plans  
6 and seal locations. This training can be  
7 accomplished by splitting the team to train at  
8 these operations and then rotate those  
9 participants each month, exposing all members  
10 to an overview of the operation and location  
11 annually.

12           When we talk about practicing  
13 underground at each individual mine I see  
14 little need for such training and at most  
15 should be voluntary, but I do support an  
16 existing standard to train underground at  
17 least once each six months. As experienced  
18 mine rescue team members know, when you arrive  
19 at a mine the condition of the mines are  
20 assumed not to exist as they did before the  
21 accident. And you make a recovery plan of how  
22 to enter the mine based on the mine maps, your  
23 prior expertise and experience, not on a  
24 mandated underground mine visit. For example,  
25 with the development of retreating and mine

1 air courses those are, as you visited, are  
2 very likely not even to be accessible when you  
3 come for your next visit or come to an event.

4 I ask, does the New York Fire Department  
5 practice firefighting in every building they  
6 protect? The answer is no, because it's not  
7 necessary. It does not add to the way they  
8 fight the fire. It would be a ridiculous  
9 requirement. Such a requirement of the mine  
10 rescue environment could be instrumental in  
11 destroying the mine rescue structure as it  
12 stands.

13 In conclusion, I continue --- as  
14 you can tell from my comments for the last 26  
15 years I've had a passion for mine rescue. I  
16 want to continue to lead men and women in mine  
17 rescue efforts, but I'm concerned that without  
18 change to the proposed regulations I will not  
19 be able to be effective in doing this in the  
20 future. One other comment I'd like to make is  
21 concerning all additional trainings and the  
22 comments that you have made earlier. These  
23 training sessions at the individual coal mines  
24 and all these operations that you may cover,  
25 it doesn't take into consideration that you

1 have to practice --- if you got to be in two  
2 contests annually, you got to practice to go  
3 to that contest. No one wants to go to a  
4 contest and be embarrassed, and it takes a lot  
5 of time practicing to do that and this is not  
6 time that's associated at a mine that's being  
7 able to comply with the regulation.

8 Another comment that people made  
9 was about why do people not want to be on the  
10 team? If you take hours and hours away from  
11 their family, away from their job and so  
12 forth, it's a hardship. I've been asked by my  
13 wife for the last 26 years why don't you quit?

14 Why don't you get away from this because of  
15 so much time and stress that's demanded by  
16 doing this? But as I say, I have a passion for  
17 it. Not everyone does. And to just think  
18 that we can go out here and pick these people  
19 and fill these positions it can't happen.

20 Another thing I think has not  
21 been taken into consideration is we were  
22 talking about these additional teams. I think  
23 that everyone in this audience today would  
24 confirm that the problem is not just getting  
25 new teams, but it's been trying to hold



1 together the teams that we already have. And  
2 it's also --- when we talk about building new  
3 stations or adding stations or moving  
4 stations, have we considered the fact that  
5 when we put a plan together to open up a coal  
6 mine then the fact they have to add the cost  
7 of putting in a new station just to meet the  
8 one hour travel time when it could very well  
9 be covered within 75 minute travel time away  
10 or even the two-hour travel time would make a  
11 difference between an operation being put into  
12 --- being a go or a no go situation. That's  
13 all the comments I have at this time. Do you  
14 have any questions?

15 MS. SILVEY:

16 Yes, I do. I have a few comments  
17 and a couple of questions. First of all, Mr.  
18 Compton, I want to say that on behalf of all  
19 of us we do appreciate your passion and thank  
20 you for your service. And I'm sorry for your  
21 loss. I'm sure that --- you talked about your  
22 childhood friend. I'm sure his mother felt  
23 comforted by the fact that you were there at  
24 South Mountain. Is your organization located  
25 in Virginia?

1                   MR. COMPTON:

2                   Yes, ma'am.

3                   MS. SILVEY:

4                   Yes, Virginia. Right. And I  
5 take it then that in your situation the mine  
6 rescue team service is provided by your  
7 company?

8                   MR. COMPTON:

9                   Yes, ma'am. We are also ---.

10                  MS. SILVEY:

11                  You all also provide service to  
12 other companies?

13                  MR. COMPTON:

14                  Yes, ma'am. We are actually the  
15 two mines rescue teams, the Dickenson Russell  
16 Coal Company and Paramont, which is owned by  
17 our parent company. We are the state  
18 designated teams for the State of Virginia.

19                  MS. SILVEY:

20                  I was going to --- that's what  
21 --- I'm glad you said that. I was going to  
22 ask you in terms of Virginia. I know that  
23 different states have different relationships.  
24 I mean, we just came from Utah, and actually  
25 Utah doesn't have any state teams. And I know

1 that Pennsylvania's situation is different  
2 from Kentucky, because Kentucky their teams  
3 are all state employees. Pennsylvania uses  
4 like a combination, and they use members from  
5 some of their mines. And so in a way I guess  
6 they are like state-sponsored teams. But what  
7 about Virginia, does Virginia have any that  
8 are state employee teams?

9 MR. COMPTON:

10 We don't have any teams that are  
11 actually state employees. I believe that our  
12 chief division of mines has tried to meet  
13 with ---

14 MS. SILVEY:

15 That's right.

16 MR. COMPTON:

17 --- officials ---

18 MS. SILVEY:

19 We have met with Virginia.

20 That's right.

21 MR. COMPTON:

22 --- and offer suggestions about  
23 us and other teams to be designated as state  
24 employees as such as they are covering for  
25 mine rescue. We did notify the State of

1 Virginia with the passing of the MINER Act  
2 that if they could --- December 15th of 2007  
3 we will no longer be a state designated team,  
4 and we will not be able to offer that service  
5 for the State of Virginia.

6 MS. SILVEY:

7 Oh, you did, huh?

8 MR. COMPTON:

9 Yes.

10 MS. SILVEY:

11 Okay. Now, how many mines ---  
12 your state designed team, how many mines did  
13 you say that you provided the service to for  
14 Virginia?

15 MR. COMPTON:

16 I can't give you the exact  
17 number, but there was probably about 30-some  
18 mines that we actually are --- may not be the  
19 primary, but as a back up for those teams.

20 MS. SILVEY:

21 Can you provide that to us before  
22 the record closes?

23 MR. COMPTON:

24 I think we can.

25 MS. SILVEY:

1                   You did notify them that as of  
2                   December the 30th?

3                   MR. COMPTON:

4                   We --- December 15th.

5                   MS. SILVEY:

6                   I'm sorry. December 15th?

7                   MR. COMPTON:

8                   Our two teams will no longer be  
9                   stated designated teams. There's no way with  
10                  these regulations that we would be able to  
11                  practice at all those operations. And we're  
12                  going to be struggling to be able to service  
13                  our own mine.

14                  MS. SILVEY:

15                  Okay. Well, this is the kind of  
16                  information we need. Okay. Well, you just  
17                  said you notified Virginia that you would no  
18                  longer be a state designated time. So now  
19                  with respect to the service that you provide  
20                  right now, I'm just asking you, not putting  
21                  you on the spot, are you able to meet the one  
22                  hour time requirement now?

23                  MR. COMPTON:

24                  We're going to be very close on  
25                  being able --- on a couple of operations to be

1 able to meet that. One of the things, I  
2 guess, that is not clarified is the travel  
3 time. When we talk about travel time in a  
4 mountainous terrain, are we talking about  
5 winter conditions, are we talking about summer  
6 conditions and so forth? And I don't mean  
7 this as disrespectful, but you know, MSHA  
8 inspectors when they come to a coal mine are  
9 not afforded the opportunity to use a whole  
10 lot of common sense. They have to go by the  
11 regulations and what it says, and I can see  
12 the opportunity for a lot of citations to be  
13 written over someone's personal opinion on  
14 this type of stuff, on what they consider  
15 training and not training and travel times and  
16 the number of practices and time and event. I  
17 guess to back up and talk about some of the  
18 training that we do, we do a lot of additional  
19 training. All of our teams do. I know that  
20 in Virginia particularly spend time at the  
21 MSHA academy going through the fire training  
22 and so forth. These are extra training if we  
23 do it on our own. We don't need to be  
24 mandated to do this, but for instance if you  
25 put in 30 hours training one week, in one

1 month and then if you don't meet the  
2 requirement for the next month at these  
3 individual mines, does that not mean you're  
4 adequate trained? I see a bigger opportunity  
5 just for a lot of citations to be written for  
6 no reason.

7 MS. SILVEY:

8 And that's not the purpose. I  
9 don't think that was the purpose of the MINER  
10 Act, and that's not the purpose of us issuing  
11 a proposal and why we are here today. And,  
12 you know, maybe I'm going out on a limb a  
13 little bit, but you definitely hit the nail on  
14 the head. One of the main things to do is in  
15 crafting the regulation is to try to put some  
16 common sense in the regulation when you do it  
17 in the first place, rather than trying to have  
18 it subject to a lot of different  
19 interpretations and that kind of thing.  
20 Sometimes that --- you know, it's not a  
21 perfect world and sometimes that's not the  
22 case. You know, you can't do that all the  
23 time, but --- and as I said earlier we are  
24 somewhat constrained by the MINER Act, but to  
25 the best of our --- my ability, I speak for

1 myself, I'm going to try to see that we can  
2 kind of try to craft these regulations so that  
3 they reflect some of the needs and concerns of  
4 the mine rescue team community, which is,  
5 what, this is our second hearing here today.  
6 And we've heard some of these sort of same  
7 concerns from the people out west. Although  
8 quite honestly probably more elaborated out  
9 west because they are dealing with greater  
10 distances and that type of thing.

11 MR. KRAVITZ:

12 You mentioned at the beginning of  
13 your testimony that this series of regulations  
14 would disqualify you as a mine rescue team  
15 member. Just considering the two mines in  
16 your particular company could you be specific  
17 as to why that would occur?

18 MR. COMPTON:

19 Well, it's for different reasons.  
20 For one, the amount of time that would have to  
21 be taken away from my operation. You know,  
22 there's no way that I could be able to spend  
23 that much time having to travel to all these  
24 different ---.

25 MR. KRAVITZ:



1                   Just considering the two mines in  
2 your company.

3                   MR. COMPTON:

4                   Well, I didn't say two mines,  
5 it's two teams. We have --- actually I'm a  
6 member of a composite team. We actually have  
7 members from three different underground coal  
8 mines, but we also are as under the new regs  
9 would be considered, I guess, a contract team  
10 because of the fact that we back up one of our  
11 sister company's operations which has got four  
12 or five mines in it. So, you know, you're  
13 talking about seven or eight coal mines that  
14 you're trying to cover for --- as primary for  
15 one and as a back up for the other.

16                  MS. SILVEY:

17                  So you actually are a member of a  
18 mine site team, a composite team and maybe a  
19 contract team?

20                  MR. COMPTON:

21                  It's not a mine site team, it's a  
22 composite team ---

23                  MS. SILVEY:

24                  Oh, it's a composite --- okay.

25                  MR. COMPTON:

1 --- and a contract team ---

2 MS. SILVEY:

3 And a contract team. Okay.

4 MR. COMPTON:

5 --- as under the guidelines  
6 because we serve back up.

7 MR. KRAVITZ:

8 Basically the requirement to  
9 train at each one of these separate mines,  
10 that's the thing you had said about ---?

11 MR. COMPTON:

12 Yes, the amount of time to have  
13 to train and how it's going to be interpreted,  
14 the amount of time at each one of these  
15 operations and the number of visits.

16 MR. KRAVITZ:

17 Right. But that's the only  
18 concern that you have difficulty in meeting?

19 MR. COMPTON:

20 I guess right now, yes. Of  
21 course, as far as the state designated  
22 program, you know, there's many other mines  
23 that we are actually serving as support for.

24 MS. SILVEY:

25 You're going to provide that

1 number to us ---

2 MR. COMPTON:

3 Yes.

4 MS. SILVEY:

5 --- before the record closes?

6 Right. Okay.

7 MR. KRAVITZ:

8 Thank you.

9 MR. KALICH:

10 Are there other teams in Virginia  
11 other than the three that provide the service?

12 MR. COMPTON:

13 Yes, there are other teams.

14 MR. KALICH:

15 How many?

16 MR. COMPTON:

17 I'm not sure right now. I think  
18 we have seven or eight teams. There may be a  
19 member in the audience that would be able to  
20 answer that question better than I can.

21 MR. KALICH:

22 So it's not --- what I'm getting  
23 at is some of those teams could provide  
24 coverage for the mines that they're currently  
25 not in the program that provide the coverage?

1                   MR. COMPTON:

2                   You know, I can't speak for the  
3                   State of Virginia, but I can tell you this,  
4                   that we have had meetings trying to solve the  
5                   program. The problem is that it equates to  
6                   Virginia, and our chief division of mines did  
7                   travel to Washington and tried to make  
8                   interested parties to try to work this out.  
9                   He did try to get commitment from several or  
10                  all the teams in the State of Virginia to come  
11                  on board as a state designated program. And,  
12                  you know, if we could get some variance, I  
13                  guess, on the amount of training time required  
14                  at each of these operations and so forth, but  
15                  it's not a quick fix.

16                  MR. KALICH:

17                  How many mines from your team  
18                  provide coverage for now since you're no  
19                  longer part of state program?

20                  MR. COMPTON:

21                  Right now as the gentleman spoke  
22                  earlier we are looking at seeing how the regs  
23                  are going to unfold, and we will be a  
24                  composite team for the three underground mines  
25                  we have right now. But we will also serve as

1 a back up, and I can't give you the exact  
2 number of four or five different mines. But,  
3 you know, everything is going to have to be  
4 looked at different on what the requirements  
5 are going to come down to be. And we don't  
6 have a solution, we don't have an answer right  
7 now on how that's going to unfold.

8 MR. KALICH:

9 So is --- the requirement that  
10 you train at each particular mine, is that the  
11 major sticking point ---

12 MR. COMPTON:

13 I think it is.

14 MR. KALICH:

15 --- to providing the coverage?

16 MR. COMPTON:

17 That is a major sticking point,  
18 that you have to train in each individual mine  
19 and how much time is going to be required  
20 there at each individual mine and all these  
21 visits.

22 MR. KALICH:

23 In your comments that you submit  
24 did you tell us what you think would be  
25 adequate training to provide coverage at these

1 other mines so we have that?

2 MR. COMPTON:

3 I can do that, but as I stated  
4 earlier what we have been doing in the past  
5 has been satisfactory and there's not been a  
6 problem with it. We're trying to fix  
7 something that is not broke.

8 MS. SILVEY:

9 Well, one of the things you said  
10 that was kind of curious --- not curious, I  
11 was interested in, you mentioned I wrote down  
12 rotation of members. And if you would just go  
13 into a little detail as to --- you know, if  
14 they rotate at the mine service. I mean, I'm  
15 not putting words in your mouth either.

16 MR. COMPTON:

17 Okay. I understand.

18 MS. SILVEY:

19 But every three months or every  
20 --- I mean, every four, every quarter or every  
21 six months or whatever, but if you would just  
22 put a little specifics on that I'd appreciate  
23 that.

24 MR. COMPTON:

25 Basically what I'm talking about,

1 I don't see a need for the entire team to have  
2 to travel to each one of these mines.

3 MS. SILVEY:

4 Yeah. No, exactly.

5 MR. COMPTON:

6 And if we could split up and have  
7 two members go to three different operations  
8 and meet with those people that are the key  
9 people at the operation and then rotate those  
10 people we're still going to be able to ---.

11 MS. SILVEY:

12 Yeah, if you would just write  
13 that up for how --- couple of sentences, two  
14 or three, a paragraph. That'll be helpful.  
15 Okay. Anybody? Thank you very much.

16 MR. COMPTON:

17 Thank you.

18 MS. SILVEY:

19 Okay. That's Mr. Charles and Mr.  
20 Compton, and they were the only people signed  
21 up. And, I guess --- is there anybody else in  
22 the room who wishes ---? Yes, sir.

23 MR. FIELDS:

24 My name is Andy Fields. I work  
25 for United Coal Company. We don't currently

1 have ---.

2 MS. SILVEY:

3 You're being drafted now.

4 MR. FIELDS:

5 My name is Andy Fields,  
6 F-I-E-L-D-S. I work for United Coal Company.  
7 I'm the safety manager. We currently do not  
8 have mine rescue teams, but we are in the  
9 process of setting up teams. I'd like a  
10 little bit of a clarification on the  
11 definition of Section 49.20 of the  
12 requirements for all coal mines on two mine  
13 rescue teams. When you read that item (b)  
14 says, team members shall meet the following as  
15 definition for mine site team where it says  
16 should be training conducted at the large  
17 mines, composite team, mine rescue team  
18 coverage. And 3(i) says, participate in mine  
19 rescue training at each covered mine, at least  
20 annually or semi-annually and small mines.  
21 I'm reading very fast. Item three says, a  
22 contract team. 3(ii) says, participate in  
23 mine rescue training at a covered, large mine  
24 at least quarterly and at a covered small  
25 mine. It doesn't say each. State-sponsored



1 team members who are state employees and  
2 participate in mine rescue training at a  
3 covered mine, not each covered mine. Well, my  
4 question is, if I have a contract team or a  
5 state-sponsored team does it require each mine  
6 that they covered when it says A, covered  
7 mines or, A --- is that A or is that A or all?

8 MS. SILVEY:

9 I think it should have --- no,  
10 I'm here speaking. It should have said each,  
11 yes.

12 MR. FIELDS:

13 I understand that, but it says  
14 what it says.

15 MS. SILVEY:

16 I understand, but you asked for  
17 clarification. That should have been each.

18 MR. FIELDS:

19 Well, another thing ---.

20 MS. SILVEY:

21 I understand.

22 MR. FIELDS:

23 Another statement that I would  
24 --- I've been on mine rescue since 1977. I've  
25 been a part of teams that's won national

1 championships, I've been part of teams that  
2 have went in and fought fires, I've been part  
3 of teams that have recovered bodies, coal  
4 miners. I have mine rescue experience. A  
5 couple of items here that I'd just like to  
6 say. Number one, this one hour time frame is  
7 ambigatory. It's --- we got called one day,  
8 we did not --- we would not meet the  
9 requirement of one hour. We was there within  
10 45 minutes. State police escorted us. We had  
11 a plan, we had --- the mine rescue team had  
12 set up what we would do if we had to provide  
13 help for somebody else. So we made that one  
14 hour. That one hour was not the main issue.

15                   Second thing I'd like to say is,  
16 I've been around mine rescue all my life and  
17 the one thing that this community has very  
18 well said, you don't want to do anything to  
19 harm mine rescue as it is. My biggest fear  
20 right now is I have 200 employees. To provide  
21 two teams would be a minimum of 12 people.  
22 With the current turnover rate that I have at  
23 the coal mine, which includes mine rescue team  
24 members, it would behoove me to have at least  
25 15 to 18 people on my team to make sure that

1 I've got 12 at any given time. It starts  
2 getting into the point where it's not going to  
3 be voluntary, it's going to be mandatory. I'm  
4 going to have to have people on this team to  
5 satisfy these regulations that really don't  
6 want to be there. I've got to satisfy those  
7 regulations, and I don't think that's good for  
8 mine rescue.

9 I got one more comment. I think  
10 I wrote it down here. That's all I have. One  
11 other comment to comment on a cover team and  
12 the impact that when we mandatory people to be  
13 mine rescue team members.

14 MS. SILVEY:

15 So you're in the process of  
16 setting up mine rescue team, but you said the  
17 one hour is not going to be a problem you  
18 said?

19 MR. FIELDS:

20 Well, I'd have to comply with  
21 that, but I'm just saying that's --- there's  
22 teams out there right now that would provide  
23 help, and they would not be able to qualify.  
24 You know, you all have asked questions about  
25 state teams in Kentucky and state teams in

1 Virginia, and those are the same teams that  
2 qualify for MSHA regulations right now. There  
3 is some differences between the state  
4 regulations and the MSHA regulations,  
5 primarily one will be the one hour time limit.

6 I think we should grandfather existing teams,  
7 I think that we shouldn't throw those out. In  
8 the State of Kentucky, one of the biggest  
9 resources we have is our state mine rescue  
10 teams, and they are familiar with all of their  
11 mines, they're in them every day. There's  
12 somewhere every day, and they have  
13 apparatuses. They have the facilities, they  
14 have the knowledge to do these mines and they  
15 have the knowledge of these mines. And if  
16 we're going to maintain who to train mine  
17 rescue teams throwing 20-some --- throwing  
18 several teams out the window is not good.  
19 That's all I have.

20 MS. SILVEY:

21 Okay.

22 MR. KALICH:

23 You said with a police escort you  
24 made it in 45 minutes. I'm thinking, you  
25 know, without a police escort you couldn't

1 have met the one hour, is that what you meant?

2 MR. FIELDS:

3 Yes.

4 MR. KALICH:

5 You still could have --- you  
6 could not meet the hour without a police  
7 escort?

8 MR. FIELDS:

9 Yeah, that's --- we was there  
10 within a hour. Matter of fact, there's people  
11 in this room that was there within that hour,  
12 other teams.

13 MS. HUTCHISON:

14 With the police escort?

15 MR. FIELDS:

16 I don't know if they had police  
17 escort or not, but they would not meet this  
18 one hour time frame. Thank you.

19 MS. SILVEY:

20 Thank you.

21 MS. HUTCHISON:

22 Thank you.

23 MS. SILVEY:

24 Is there anybody else who wishes  
25 to speak? Yes, sir.

1                                   MR. XANDERS:

2                                   Thank you. My name is Greg  
3                                   Xanders, and I probably will have to spell  
4                                   that. It's X-A-N-D-E-R-S. I'm with Peabody  
5                                   Coal Company, attorney specialist. Been in  
6                                   the mining industry for over 30 years, and  
7                                   involved with mine rescue for over 20 years.  
8                                   Basically I just wanted to reiterate from  
9                                   Indiana standpoint, because it sounds like  
10                                  you're in a learning process here today, about  
11                                  the status in the State of Indiana. Now,  
12                                  we're fortunate in Indiana that the coal-like  
13                                  rock lays from one end to the other within one  
14                                  hour, okay, traveling about 60 miles an hour.

15                                 So that's not a big issue, but with the six  
16                                 mines in Indiana the definition of state  
17                                 teams. Now, when you talk about a state team,  
18                                 which we still refer --- we have a state team.

19                                 We have actually equipment wise two state  
20                                 teams in Indiana, equipment wise, but getting  
21                                 the members is difficult. Now, I'm with  
22                                 Peabody and so we have our own team. We have  
23                                 an in- mine site team for the mine, but then  
24                                 like my colleagues ahead of me here was  
25                                 talking about, we provide coverage because

1 mine rescue knows no boundaries economically  
2 when it comes to covering other mines. So we  
3 cover other mines with their coverage, okay,  
4 and we can easily get to them within one hour.

5 But the state team in Indiana much like my  
6 understanding in Illinois is just the state  
7 being equipment. There's no state employees.

8 MS. SILVEY:

9 And Pennsylvania is sort of like  
10 that, too.

11 MR. XANDERS:

12 Exactly.

13 MS. SILVEY:

14 Right.

15 MR. XANDERS:

16 So therefore that really --- when  
17 you're talking about a state team you're  
18 talking about composites or a contract team is  
19 what you're talking about.

20 MS. SILVEY:

21 Or state-sponsored if you want to  
22 bring in ---.

23 MR. XANDERS:

24 Yeah. And that's what we're ---.

25 MS. SILVEY:

1 I'm just, you know ---.

2 MR. XANDERS:

3 We need some clarity in terms of  
4 what really is a state team and such. Again,  
5 there's only six mines, six underground coal  
6 mines in Indiana. I'm using that because it's  
7 a smaller model compared to Virginia or  
8 Kentucky that you've just been talking about.

9 But with those six mines four of them are  
10 larger mines, and I'm going to use the words  
11 larger and smaller. Obviously, small has a  
12 definition, but smaller we typically consider  
13 a one-unit coal mine. Okay? So it may be  
14 more than 36 employees, but it obviously is  
15 not a real large mine by most standards. And  
16 so therefore they can probably afford to have  
17 a couple of employees go and participate on a  
18 state team. They're probably not going to ---  
19 their members are not going to come and  
20 participate on a Peabody team or an Alliance  
21 Coal Company team because then you get into  
22 other employees and such as that. So they're  
23 pretty well going to have to be that state  
24 team.

25 So my point though is really it's



1 the small word, at. And I realize you're  
2 hampered there because Congress when they did  
3 the MINER Act mandated and used the word at.  
4 Okay? My example will be essentially then the  
5 state team, state-sponsored team, which is  
6 either going to be a composite or a contract  
7 team and our team and possibly Alliance Coal  
8 Company in the State of Indiana will be a  
9 contract team. All right. Then they'll have  
10 to visit those mines four times a year or  
11 possibly two times a year at the mine. Now,  
12 the difficulty with that is that --- which my  
13 colleagues have just mentioned is, you know,  
14 I've done a lot of training.

15 To maximize your training a lot  
16 of the little mines that you go visit, smaller  
17 mines, they don't have adequate training  
18 facilities, so you're going to spend  
19 approximately one hour getting there. Okay?  
20 And by law you can spend ten minutes there  
21 because in ten minutes you can cover the  
22 ventilation, the operation of the mine and  
23 then you spend one hour traveling back from  
24 the mine. So if you have to go as a contract  
25 coverage for that particular mine you're going

1 to waste eight hours a year of just traveling  
2 to and from the mine, a mine. So in the State  
3 of Indiana alone on a smaller scale, currently  
4 as you well know six days is all that's  
5 required annually for training. Okay. Last  
6 year we trained 26 days, which is pretty  
7 modest compared to a lot of teams that  
8 participate in the national contest. We're  
9 looking to increase that to 43 days. I'm just  
10 talking about our own team. Okay. We're  
11 talking to increase that to 43 days. If we  
12 still continue to provide coverage for some of  
13 those other mines in the state, you know, as a  
14 back up to, say, the state-sponsored team then  
15 we're looking at 19 days, almost half of our  
16 budgeted time of just going to the mine sites.

17 What I propose, if you could get around the  
18 word at, is there's other ways that you can  
19 train. You can have members of that mine come  
20 to --- we have a training facility, and  
21 actually the state team trains at our facility  
22 as well as the Black Beauty Peabody team  
23 trains there. But you're set up with practice  
24 fields, you're set up with equipment and all  
25 these other things. And even though it's

1 important to go to the mines we do rotate  
2 those when we go to the mines because it is  
3 important to know how to get to the mine and  
4 how the layout of the mine is, but to do that  
5 four times a year, as my colleague ahead of me  
6 mentioned, I don't know is beneficial. Okay?

7 But what is important you could have members  
8 --- and I don't know how you mandate that in  
9 the law, come to your training facilities and  
10 accomplish essentially the same thing by  
11 laying out maps and explaining the layout of  
12 your mine and blowing exhausting systems, your  
13 fans and et cetera. Okay? And therefore  
14 you'll maximize your training much more than  
15 you will going to a facility and walking into  
16 sometimes pretty limited facilities. They may  
17 be an office type trailer, so you walk out of  
18 the pitch, you go underground maybe and you  
19 still --- it's a good idea to go underground  
20 and we would rotate it around so that those  
21 six mines and the two times a year we go to  
22 mine A, then mine B, then mine C and then mine  
23 D. But to have to do that under the current  
24 requirements will be a pretty good burden.

25 And like my predecessors here,

1 it's sometimes then a company will then say,  
2 well, that's a pretty big burden and even  
3 though we'll go through in an emergency, but I  
4 don't know if contractually we can cover that.  
5 That's my concern. I did want to also  
6 reiterate their comments about the lack of  
7 volunteers. The mine that I'm --- actually I  
8 trained for two mines that make up a composite  
9 for one mine and a mine site team for the  
10 other mine, out of 200 --- over, well over,  
11 300 employees, we currently have seven members  
12 on the team, and I'm in the process of getting  
13 a few more. It is a real problem to get  
14 volunteers. We've talked about having people  
15 just assigned to be on the team and then you  
16 get into questions, are they just going to be  
17 on the team from a compliance standpoint or  
18 are they going to be on the team from a  
19 competition standpoint or are they going to be  
20 on the team if we have an actual emergency?  
21 So those are some real concerns, but that is  
22 true. I have seven members on the team and I  
23 have five applicants, and, again, people get  
24 sick, people decide to be off. And our good  
25 mine rescue members is a concern is older like

1 myself, not old but are older, and we do want  
2 to get some of the young folks into the mine  
3 rescue, and it's not happening. You'll get a  
4 trickle of a person here and there. Why?  
5 Your question earlier. I don't know. Why is  
6 blood driving the Red Cross down? I just  
7 think the overall volunteer attitude in this  
8 country is less, but that's a separate issue.  
9 But they're right on in the fact that the  
10 lack of volunteers in mine rescue is a real  
11 concern. I thank the committee for letting me  
12 make my comments.

13 MS. SILVEY:

14 Thank you. I want to ask you  
15 just one thing and that is, the states --- and  
16 for lack of a better word right now, I will  
17 stay state-sponsored team because you're  
18 exactly right there. We are finding out there  
19 are different configurations. Quite honestly  
20 I'm not sure that there's any other quite like  
21 Kentucky in terms of the state employees make  
22 up the team. Most of them, I would probably  
23 say are like state-sponsored that may take  
24 members from the mine.

25 MR. XANDERS:

1 Correct.

2 MS. SILVEY:

3 In Indiana how do they train now?

4 MR. XANDERS:

5 Actually the state team which  
6 consists of members from like four of the  
7 mines ---

8 MS. SILVEY:

9 Of the mines.

10 MR. XANDERS:

11 --- in the state, ---

12 MS. SILVEY:

13 Okay.

14 MR. XANDERS:

15 --- they come to our training  
16 facility at Peabody and train with the Peabody  
17 team.

18 MS. SILVEY:

19 Oh, okay.

20 MR. XANDERS:

21 So actually those two teams train  
22 together. Again, geographically we're very  
23 small, so therefore even --- there's a third  
24 team ---. There's only three teams in the  
25 state, and so the third team, Alliance Coal

1 Company, they also train with us from time to  
2 time and then former members of the Indiana  
3 state. So we have an advantage there, but  
4 even at that I can appreciate the burden that  
5 they're going to go through in Kentucky and  
6 Virginia because it's a burden on us and we  
7 got a small house. The rest of the  
8 regulations I don't have much of a problem  
9 with, and I really believe in training but  
10 it's --- to be mandated --- and as one of my  
11 colleagues here just mentioned, when it comes  
12 down to a compliance type question you'll get  
13 an inspector. I mean, if we'll argue about  
14 one part per million of CO, we'll obviously  
15 argue about one hour of training, so ---.

16 MS. SILVEY:

17 I appreciate that really. I  
18 mean, I wouldn't let you go without my saying  
19 that I appreciate exactly what you're saying,  
20 and we do not --- and as I said earlier, you  
21 know, you don't want the regulations that you  
22 craft to result in that type. That's not the  
23 goal, that's not what you're looking for.

24 MR. XANDERS:

25 But, again, if I could reiterate,

1 when you do something with the Act and allow  
2 these teams to have the flexibility that they  
3 need to provide proper training that would be  
4 the real goal there.

5 MS. HUTCHISON:

6 I have a question. You said that  
7 there --- that this --- okay. Indiana, six  
8 underground coal mine, four larger, two  
9 smaller, three mine rescue teams, one from  
10 Alliance, from one Peabody and one state-  
11 sponsored. So the rest of the equipment for  
12 the state-sponsored team is being unused now?

13 MR. XANDERS:

14 Well, they maintain 12  
15 apparatuses and all the equipment as well as  
16 we maintain 12, and the Alliance team  
17 maintains at least six and probably more  
18 equipment. So we have tons of --- I have more  
19 equipment than people to put on them.

20 MS. HUTCHISON:

21 Okay. But you're still just  
22 talking three times, not ---

23 MR. XANDERS:

24 Yes.

25 MS. HUTCHISON:



1 --- two state-sponsored?

2 MR. XANDERS:

3 Well, the one time the State of  
4 Indiana had two teams and members because they  
5 have the equipment, but now they can only get  
6 enough members for one team.

7 MS. HUTCHISON:

8 Okay.

9 MR. XANDERS:

10 Yes, yes. And actually to make  
11 sure you have the correct information there,  
12 of those six mines I would categorize three of  
13 them as large. Larger mines in the sense that  
14 they are three, four production units where  
15 three of the mines are one or two unit mines,  
16 so there's much smaller.

17 MS. HUTCHISON:

18 Thank you.

19 MR. XANDERS:

20 Thank you.

21 MS. SILVEY:

22 Okay. Thank you very much, Mr.  
23 Xanders. Is there anybody else? Yes, sir.

24 MR. MCCORKLE:

25 My name is Don McCorkle,

1 M-C-C-O-R-K-L-E. I just have a point to make  
2 because all my colleagues have pretty much hit  
3 on the main parts, a hypothetical situation.  
4 I work for the Department of Labor for the  
5 Indiana Bureau Mines and trained with Mr.  
6 Xanders, our composite state team. With the  
7 new regulations, if I'm reading this right, a  
8 contracted team would have to visit each mine  
9 site once each quarter; correct?

10 MS. SILVEY:

11 Uh-huh (yes).

12 MR. MCCORKLE:

13 So if we have six mines they  
14 would have to make a trip to each mine, so  
15 they'd have to make 24 trips a year in these  
16 six mine sites.

17 MS. SILVEY:

18 Uh-huh (yes).

19 MR. MCCORKLE:

20 So we have three mine rescue  
21 teams, one state which we cover all mines, and  
22 we would like to contract Black Beauty or  
23 Alliance Coal. Let's say because of these  
24 stipulations they don't want to make --- let's  
25 just say for the safety ---. Let's say they

1 don't cover them, they cover each other. Then  
2 the state would have to come up with another  
3 team from MSHA law to have two teams coverage  
4 for their remaining mines. Then we go to the  
5 volunteer aspect. If I had one mine rescue  
6 team and the mines have to provide me people  
7 to make up my other mine rescue team what if I  
8 can't get volunteers for that? Then I've got  
9 four mines that cannot have two team coverage,  
10 so the MSHA inspector can walk in and say,  
11 your operation is shut down because you don't  
12 have two mine rescue teams. So I don't see  
13 how we can physically go into the mine. I've  
14 met Mike before, but say, Mike, you're going  
15 be on mine rescue team. How can you do that?  
16 I mean, how can I force a gentleman to be on  
17 --- to volunteer, not volunteer but make him,  
18 you know, ---

19 MS. SILVEY:

20 No, I understand.

21 MR. MCCORKLE:

22 --- compete or train for a mine  
23 rescue team. So that's kind of the problem we  
24 have. Yes, ma'am?

25 MS. HUTCHISON:

1 I was going to say, but you draw  
2 members on your teams from the existing mines,  
3 would that not make them composite teams?

4 MR. MCCORKLE:

5 Technically, yes. We are ---  
6 they are trained by the state. We take two  
7 members from each mine that makes up the state  
8 team. We don't have state employees to make  
9 up a team. Does that answer your question?

10 MS. SILVEY:

11 Yeah.

12 MR. MCCORKLE:

13 That was the only --- I was just  
14 trying to make a point.

15 MS. SILVEY:

16 No, I understand.

17 MR. MCCORKLE:

18 You run into that problem  
19 because ---.

20 MS. SILVEY:

21 Yeah, you do your teams just like  
22 Pennsylvania does.

23 MR. MCCORKLE:

24 Correct.

25 MS. SILVEY:

1                   That's what happens in  
2                   Pennsylvania.

3                   MR. MCCORKLE:

4                   But we're either a state-  
5                   sponsored or a composite team, ---

6                   MS. SILVEY:

7                   That's right.

8                   MR. MCCORKLE:

9                   --- but so is Black Beauty.  
10                  They're a composite team, but once I ask them  
11                  to help us they become a contract team, so  
12                  that changes the things from two to four. So  
13                  you're ---.

14                  MS. SILVEY:

15                  Yeah.

16                  MR. MCCORKLE:

17                  Anyhow, that's the point I want  
18                  to make.

19                  MS. SILVEY:

20                  No, I --- yeah, I can see, you  
21                  know ---. I can see from talking to you all  
22                  some of these configurations depended on how  
23                  one person wants to look at it and you might  
24                  look at it a little differently than me. You  
25                  know, you may call it one thing and I may call

1 it something else. Yeah, I understand. Yeah.

2 MR. MCCORKLE:

3 That's it.

4 MS. SILVEY:

5 Yeah. Thank you.

6 MR. MCCORKLE:

7 Thank you.

8 MS. SILVEY:

9 You can imagine what they're  
10 asking me. Is there anybody else in the  
11 audience who wishes to speak? Okay. So we  
12 are taking a ten-minute break, and we'll pick  
13 up after the break, ten minutes.

14 SHORT BREAK TAKEN

15 MS. SILVEY:

16 Before I reconvene the hearing I  
17 would like to say, welcome and thank you. We  
18 have a professor from the University of  
19 Cincinnati and some of his graduate students  
20 here. So I want to say that we welcome them  
21 and appreciate that they are here and took an  
22 interest in this hearing. And, in fact, I  
23 think it's good for people to see, you know,  
24 sometimes maybe they don't --- maybe they can  
25 be pleasantly surprised. I was trying to

1 think of a little humor, but I guess when it  
2 comes to the federal government there's not a  
3 lot of humor you can --- not a lot of humor in  
4 things you could say, even working for the  
5 federal government. But I do think it's good  
6 for people to see the American public, to see  
7 the government at work. And this is going to  
8 come out sounding a little self serving, but I  
9 think that here today what we want to do to  
10 the best of our abilities is to take the  
11 comments and concerns into consideration and  
12 see if we can craft a final rule that takes  
13 into consideration and that's reflective of  
14 those comments and concerns so that people do  
15 have a sense that the government does work and  
16 that it does work in the manner that it's  
17 supposed to work. So now we will continue on  
18 with the Mine Safety Health Administration's  
19 hearing on mine rescue team proposed  
20 regulations, and our next speaker is going to  
21 --- the floor is now yours.

22 MR. FARLER:

23 Thank you very much. I wasn't  
24 going to speak today, but I guess I kind of  
25 stepped in again. My name is Pearl Farler,

1 F-A-R-L-E-R, and I'm a member of the James  
2 River mine rescue team. I'm now a trainer.  
3 I've been in mine rescue since 1981. Our team  
4 has been very successful. We had five  
5 national championships, last national we  
6 placed second to the Peabody team. But the  
7 things that I have to say the teams have not  
8 been the problem at the disasters that we've  
9 had. They have reported there timely. When  
10 they get there they're ready to go. The  
11 problems have been  
12 --- and I'm not being disrespectful or  
13 anything like that, but the problem has been  
14 with MSHA, the state and the company arguing  
15 about who's in charge. When they send the  
16 mine rescue teams underground the rescue teams  
17 are there. They're ready to go, but the  
18 decision has to come from the command center  
19 for those rescue teams to go do their thing.  
20 It's not how the rescue team performs their  
21 function. They do that and they do that  
22 effortlessly. They really do. They're really  
23 good at it. Our team has responded to quite a  
24 few, South Mountain, the fire down in  
25 Tennessee, the fire --- actually in a train



1 tunnel, also with the Darby explosion. The  
2 teams that responded to the Darby explosion  
3 were kind of criticized by MSHA about the  
4 response and how the expiration went and  
5 things like that, but if you look back on it a  
6 man was saved from the Darby explosion. The  
7 other men were already dead. Had they not  
8 done what they did that man might not have  
9 made it out. The Kentucky state teams,  
10 they're well trained, they're very capable. I  
11 don't want to see them where they cannot  
12 respond and cannot cover miners. They are  
13 very capable of doing what they need to do.  
14 However, Kentucky state teams have different  
15 protocol than MSHA guidelines have in  
16 expiration and they have different outlooks on  
17 it, which is not to say it's a bad thing, but  
18 obviously it worked at Darby. I've been in  
19 mine rescue going under the MSHA protocol  
20 since 1981, starting to look at the state  
21 protocol now. I have reservations about some  
22 of the things, but it works. It works, so  
23 just because it's different doesn't mean that  
24 it's not right, so these teams are  
25 --- and they are very well equipped. They

1 have the equipment, they have the people to do  
2 this. Mr. Kalich --- I believe I'm pronouncing  
3 that right. Mr. Kalich, you asked how many  
4 teams would the state have to add to meet the  
5 training requirements. Well, I can't answer  
6 that because I'm not a state employee, but the  
7 teams are made up of state inspectors and  
8 analysts. These people go to coal mines and  
9 do inspections and do analyst work and things  
10 like that. This is in addition to their jobs.

11 If they have to go to every coal mine in the  
12 state of Kentucky two times a year they can't  
13 do it. They are not mine rescue specific.  
14 Okay. That is an addition to their job, so  
15 they just can't do that. They don't have the  
16 staff to do that. Another thing, the  
17 responsible person. The responsible person  
18 most of the time is a very qualified mine  
19 foreman or mine superintendent that can run  
20 that coal mine, he knows what he's doing. He  
21 can get a mine evacuation going. He can start  
22 the mine evacuation, he can contact personnel,  
23 he can deploy firefighting equipment, he knows  
24 where it's at, but as far as setting up a  
25 command center directing firefighting

1 personnel, directing mine rescue teams,  
2 establishing a fresh air base, deploy rescue  
3 teams, gas sampling and analysis with what?  
4 There's no regulation that tells us that we  
5 have to be able to do an analysis of gas  
6 that's coming from that mine. We don't have  
7 the equipment. He can't set up security.  
8 Now, he may communicate appropriate  
9 information, but the way I look at this  
10 communicating appropriate information of the  
11 emergency you better have somebody that knows  
12 that they do not say something wrong like we  
13 had in the Sago where they said we've got 12  
14 men alive. All of them are alive. Okay? You  
15 make one slip up like that that is very  
16 detrimental to what's going on, so you have to  
17 have a person that's well informed and the  
18 responsible person is not the person to do all  
19 those things. He may be able to do some of  
20 them. He's already required to do some of  
21 those, but he cannot --- you cannot put him in  
22 charge of the command center, direct  
23 firefighting personnel, mine rescue teams.  
24 You just can't do that to him. He's already  
25 overwhelmed as it is. So another thing on the

1 rescue teams, I have two surface members. Two  
2 surface miners are members of our rescue team.  
3 They are very competent people, they are  
4 engineers, they know what's going on, but one  
5 of them has never --- he's practically never  
6 been in an underground mine except for when we  
7 go in and practice for our training  
8 underground. He's learning a lot, he knows  
9 what's going on, but I would take him  
10 anywhere. I would take him with me. He's a  
11 good man, but according to these regulations  
12 if he don't work in an underground coal mine  
13 he can't be on our rescue team. So we need  
14 to, again, make some kind of a provision like  
15 it was stated before that these people can be  
16 grandfathered in. If you have a rescue team  
17 now you should be able to keep those people.  
18 And the number of people on rescue team, if  
19 you have to have two members per mine to cover  
20 --- our mine rescue team covers almost all of  
21 James River coal. We are spread out, we've  
22 got six different companies that we have under  
23 the James River umbrella. We cover five of  
24 them, five of the different mines, the  
25 different companies. One of them is Bell

1 County Coal. They are --- they straddle  
2 Kentucky, Tennessee. The other one we have is  
3 in Indiana, and they're covered by the Indiana  
4 state team right now. We cover the rest of  
5 them. We are within the one hour. Man, it's  
6 close on some of them, but we are within the  
7 one hour but of course that's mandated by  
8 Kentucky state anyhow, one hour. The other  
9 people and other states may be spread out  
10 enough to where they cannot do that without  
11 adding stations. As a matter of fact, we're  
12 adding a station to our Pikeville mines to  
13 cover ourselves on that, so we --- our company  
14 themselves have to add one station in addition  
15 to the one that we have now. And our other  
16 two mines according to how these hearings come  
17 out may or may not be covered, so we might  
18 have to do something else on that.

19 Some of the things that I have to  
20 ask you is, will MSHA accept the Kentucky  
21 state expiration protocol in this hearings and  
22 is that different or are they going to be  
23 mandated to go with the MSHA protocol?

24 MS. SILVEY:

25 Well, that's interesting because

1 I was going to ask you. You said that  
2 Kentucky state team --- first of all, in terms  
3 of you asking me any specific question about  
4 how this is going to come out, I can tell  
5 everybody right now, I can't tell --- I can't  
6 say to you how the regulation is going to come  
7 out. I know most people who've been involved  
8 in rulemaking know that. The comment period  
9 ends on the 9th of November, and then we will  
10 take all these comments and testimony and  
11 craft the final work. So it would be  
12 premature for me to say what MSHA is going to  
13 do, and even if I felt like --- and people who  
14 know me know that I sort of do some of these  
15 issues. If I felt like I had a good idea of  
16 where I want it to come out, but even if I did  
17 I can't say because my boss is the one who  
18 really makes the policy call, Mr. Stickler, --  
19 -

20 MR. FARLER:

21 I understand.

22 MS. SILVEY:

23 --- and the Secretary of Labor,  
24 Ms. Chao. So I can't say how they're going to  
25 come out, but I want to ---. When you said --

1 - and maybe I shouldn't --- but I will  
2 guarantee you that we are going to try to be  
3 mindful of comments. I said that. I was  
4 going to ask you and maybe I should know this,  
5 but I don't and I'm going to ask. When you  
6 said Kentucky teams have different protocols,  
7 different from MSHA what exactly --- when you  
8 say protocols what exactly do you mean by  
9 protocols? Do you mean the requirements, do  
10 you mean the procedures or do you mean both?

11 MR. FARLER:

12 Both really. Expiration  
13 procedures is the big thing.

14 MS. SILVEY:

15 Okay.

16 MR. FARLER:

17 Okay? The Kentucky state they  
18 kind of want to get to the section.

19 MS. SILVEY:

20 Okay. I see.

21 MR. FARLER:

22 They want to get to where they  
23 think the men are in the shortest amount of  
24 time.

25 MS. SILVEY:

1 MSHA has ---.

2 MR. FARLER:

3 MSHA wants to tie across behind  
4 --- go through the whole mine.

5 MS. SILVEY:

6 Yeah, that --- yeah, I couldn't  
7 answer that.

8 MR. FARLER:

9 I understand that.

10 MS. SILVEY:

11 You understand, yeah.

12 MR. FARLER:

13 I guess I stated this wrong. I'm  
14 not looking for an answer.

15 MS. SILVEY:

16 Yeah, answer right now.

17 MR. FARLER:

18 I'm looking --- these are  
19 questions that I ---.

20 MS. SILVEY:

21 You want to address?

22 MR. FARLER:

23 Yes, yes.

24 MS. SILVEY:

25 I did want to ask you though when



1 you were talking about the Kentucky state  
2 teams, and I gather from what you said they  
3 did respond at Darby?

4 MR. FARLER:

5 Yes.

6 MS. SILVEY:

7 They responded at Darby, and for  
8 the Kentucky state teams. One of the things I  
9 think is my understanding, and you correct me  
10 if I'm wrong, the Kentucky state teams don't  
11 train at the covered mines now, at the mines  
12 they serve?

13 MR. FARLER:

14 No, they don't.

15 MS. SILVEY:

16 How do they train now?

17 MR. FARLER:

18 Just like our ---.

19 MS. SILVEY:

20 We heard some of it. Right,  
21 right.

22 MR. FARLER:

23 As you said, they come to  
24 different mines. As a matter of fact, they've  
25 come to some of our mines and practiced in our

1 mines. We provide practice sites for them,  
2 and we help them as much as we can. And they  
3 also do MERD exercises. We have participated  
4 in their MERD exercises. The one down in  
5 Pikesville was excellent. It was great  
6 training. We came out with a lot of new  
7 experiences and a lot of things we need to  
8 work on on our team, but the --- what you get  
9 on these MERD exercises especially is team  
10 working with team. Okay? In mine rescue  
11 contests teams don't work with teams.

12 MS. SILVEY:

13 No, they won't --- you want to  
14 beat that other team.

15 MR. FARLER:

16 I want to beat that other team.

17 MS. SILVEY:

18 That's right, yeah.

19 MR. FARLER:

20 And, you know, I don't share a  
21 lot of our little things that we do that makes  
22 the team click. I don't share that with other  
23 teams, and sometimes that's bad especially  
24 when you're working together ---

25 MS. SILVEY:

1                   That's right.

2                   MR. FARLER:

3                   --- at a disaster. That means  
4 --- time means everything.

5                   MS. SILVEY:

6                   And I probably should have  
7 started out by saying to you, congratulations  
8 on your own excellent and successful service  
9 that your team has had in the many years  
10 you've been involved in this.

11                   MR. FARLER:

12                   Thank you very much.

13                   MS. SILVEY:

14                   One of the things I want to say  
15 and the other --- several other speakers  
16 mentioned this. It's funny how more and more  
17 testimony you take you hear some of the same  
18 comments, but you were talking about what the  
19 responsible person. And you said responsible  
20 person can't organize the command center,  
21 rectify --- and you went on down. And, you  
22 know, it's something said to me. You know,  
23 they're making sense there, and I said, you  
24 got a lot --- I got to read this, but I want  
25 to clarify so everybody knows. The regulation

1 doesn't require that the responsible person do  
2 those things. If you read under there from  
3 rule 1 to 11, there are 11 things under there.  
4 It says that the responsible person shall be  
5 trained annually in these things, and training  
6 shall include knowledge in the following. So  
7 that's training. I wouldn't disagree at all  
8 that we would require responsible person of a  
9 particular mine rescue team to come out and  
10 organize a command center. We know generally  
11 speaking, and I don't want to speak out of  
12 school, the command center is sort of like ---  
13 the decision is sort of joint, just like you  
14 said, between MSHA, the state and et cetera.  
15 So this provision says training shall include  
16 knowledge of the following. Now, you know, if  
17 there is some way --- I mean, obviously, we  
18 follow that. That could be some simulated  
19 ways or some ways that persons could be  
20 trained in these types of things. And if  
21 there are problems with how or people to be  
22 trained in them then you have to let us know  
23 that, but I wanted to clarify that.

24 MR. FARLER:

25 Well, I understand that, but if

1 you look up in (a), A75.1501(a).

2 MS. SILVEY:

3 Right.

4 MR. FARLER:

5 It says that that responsible  
6 person designated by the mine operator are  
7 taking charge during mine emergencies,  
8 involved in fire explosion or gas and water  
9 inundation.

10 MS. SILVEY:

11 Right.

12 MR. FARLER:

13 If he's in charge he has to do  
14 all these things.

15 MS. SILVEY:

16 Well, it does say take  
17 charge, ---

18 MR. FARLER:

19 Yes, it does.

20 MS. SILVEY:

21 --- I wouldn't jump to it saying  
22 that take charge meant that this person has to  
23 do all of these. This says --- this one  
24 specifically says training, but I'll look at  
25 that and make sure that it's ---.

1                   MR. FARLER:

2                   If I was the inspector I'd look  
3 for that.

4                   MS. SILVEY:

5                   I don't know. I won't comment.

6                   MR. FARLER:

7                   Okay.

8                   MS. SILVEY:

9                   I'll keep my comment to myself on  
10 that, but I'll look at that and make sure, you  
11 know --- to make sure that it's clarified as  
12 best as it can be.

13                   MR. FARLER:

14                   I have one other thing and then  
15 I'm finished. MSHA has a mine rescue training  
16 manual. Okay? And, again, this is a general  
17 question. Will that rescue training manual be  
18 updated to meet these regulations and what  
19 protocol to follow and things like that?  
20 That's a general thing on that. So I don't  
21 understand what actually promulgated the mine  
22 rescue rules changes that we have here. If  
23 the rescue teams have done nothing that  
24 hindered any of the rescue attempts or  
25 anything like that, why are the rescue teams

1 being --- why are we in question? I mean,  
2 that's what I'm thinking about on these rules  
3 here. Now, some of the equipment --- and  
4 you'll cover that.

5 MS. SILVEY:

6 I'll cover that later, yeah.

7 MR. FARLER:

8 That's --- I fully agree, but  
9 with this it's just ---. Where is the  
10 problem?

11 MS. SILVEY:

12 Yeah. No, I --- and I hope that  
13 I have ---. I hope that I have adequately  
14 stated this for everybody, that this proposal  
15 would implement the MINER Act, and you all  
16 know the MINER Act was passed by Congress and  
17 signed by the president June 15th, '06. And  
18 once, you know, you have a law in the book, we  
19 are MSHA and we have to try to --- and it says  
20 that we should issue regulations within a  
21 specified time period, and that time period is  
22 December 15th of '07. And that's what this  
23 proposal and these hearings and this  
24 rulemaking is all about. But I hear y'all's  
25 concerns, and I hear --- I mean, as I said, we

1 heard some of these same concerns in Salt Lake  
2 on Tuesday. Yeah, I appreciate it, sir.

3 MR. FARLER:

4 That's all I have.

5 MS. SILVEY:

6 One of the things I think --- and  
7 if anybody wants to come up and join Mr.  
8 Farler you can feel free to do so. One of the  
9 things we heard several people say that ---  
10 and we are mindful of it, that you didn't need  
11 to train at every covered mine. And some  
12 people made suggestions, some people talked  
13 about rotation, and I think as a follow up  
14 either right now or in your comments, you  
15 know, we need it for the record. I'd like you  
16 to specifically address the alternatives to  
17 training at each covered mine, the impact that  
18 you see in it if a positive or negative impact  
19 of not training at each of the covered mines  
20 during the time period required, and --- is  
21 there anything else?

22 MR. MACLEOD:

23 You covered it pretty much, yeah.  
24 Yeah. Just other ways of approaching that  
25 issue. Be creative, I guess, is what we're



1 looking at.

2 MR. FARLER:

3 Well, really I don't see the  
4 problem in that because, again, mine rescue  
5 teams have responded and they've done what  
6 they needed to do. Even if they haven't been  
7 at that mine before, before they go  
8 underground they attend a briefing session.  
9 They go over everything. They're limited to  
10 the thousand foot intervals by the MSHA  
11 expiration protocols. If you go thousand foot  
12 at a time you can cover it pretty well in 10,  
13 15 minutes on which way the ventilation is  
14 supposed to be going, where the belt entry is,  
15 this is the intake, this is the return, this  
16 is what we had in there, this is their  
17 equipment. I mean, it doesn't take a whole  
18 lot of time. I don't think in the past that  
19 the rescue teams have had a problem with that,  
20 you know, because they are --- they brief  
21 before they go --- are briefed before they go  
22 underground by the command center. Command  
23 center basically tells you what they want you  
24 to do anyhow. All you do is do it, and you do  
25 it right.

1                   MR. MACLEOD:

2                   Thank you.

3                   MS. SILVEY:

4                   I do want --- for the prior  
5 speakers, you, Mr. Farler. I want everybody  
6 --- if you feel like the way with your current  
7 set-up, the method of your current set-up, you  
8 can't meet the one hour ground travel time  
9 either by way of --- either if that'll mean a  
10 change in teams, a change in stations,  
11 configuration together, if you would provide  
12 us with that specific information before the  
13 record closes. Yeah, everybody if you would do  
14 that. Okay. Thank you. We appreciate it.  
15 Okay. Thank you. Is there anybody else who  
16 wishes to testify? Anybody else, any more  
17 comments? Okay. Okay.

18                   MR. KENDRICK:

19                   My name is Gerald Kendrick,  
20 K-E-N-D-R-I-C-K. I've been involved in mine  
21 rescue since 1975 and approaching --- nearing  
22 the end of my career, but I've been an active  
23 captain of the mine rescue team. I've been in  
24 training in several --- many years of teams as  
25 well as being manager of safety. The one

1 thing that I really want to speak with when  
2 we're talking about small mines, we currently  
3 have five company mines and we have ---  
4 actually right now we have six contract mines,  
5 but we have had as many as ten. And when I'm  
6 talking about contract mines we're talking  
7 about small mines, one section mines from 10,  
8 15 people working at those mines. So we're  
9 talking small, very small. Most of those  
10 people operate on a shoestring, and we do  
11 provide mine rescue coverage for those people,  
12 and in that regard I guess our team would be  
13 considered contract mine, contract teams for  
14 company mines. Both teams are actually  
15 composite teams.

16 MS. SILVEY:

17 The other teams are composite  
18 teams?

19 MR. KENDRICK:

20 Yes, ma'am. They're composed of  
21 people from our safety department,  
22 engineering, our central shop. They have  
23 actually been underground miners, but they  
24 work as mechanics and repair underground  
25 equipment in our central shops. We also have

1 two people on the surface who have been  
2 underground miners and no longer work  
3 underground. They've been mine foreman,  
4 electricians and those kind of things, so we  
5 have a diverse group of people on mine rescue  
6 teams.

7 The thing that --- and the way I  
8 read the regulations primarily is that being a  
9 composite team we'll have to have one to two  
10 members from our company mines. And in that  
11 regard we have two large mines with over 36  
12 people and the other three mines have 15 or  
13 less people, so that's our five company mines.

14 My concern, I guess, basically is  
15 do we have to replace current team members  
16 with men from one of those particular mines?  
17 We have to have one or two people from each  
18 one of our covered mines. Are we going to  
19 have to replace our experienced team members,  
20 those people? We have 14 apparatuses in the  
21 mine rescue station. We have 14 team members.

22 MS. SILVEY:

23 So tell me --- you have ---.  
24 Forget your --- not forget, but your small  
25 contract mines. Let's put them over to the

1 side.

2 MR. KENDRICK:

3 And that's what I was doing,  
4 putting them over to the ---.

5 MS. SILVEY:

6 That's right. Let's do that for  
7 --- right now. So you have five other mines?

8 MR. KENDRICK:

9 Right. Five company mines.

10 MS. SILVEY:

11 That five company mines that you  
12 provide coverage to; right?

13 MR. KENDRICK:

14 Yes, ma'am.

15 MS. SILVEY:

16 You all --- the company owns  
17 these mines and you provide coverage to them?

18 MR. KENDRICK:

19 Yes, ma'am.

20 MS. SILVEY:

21 Okay.

22 MR. KENDRICK:

23 You see where I'm coming from?

24 And our team members all come from either the  
25 mines or as I'm concerned --- the service

1 departments, engineering division.

2 MS. SILVEY:

3 So if the teams --- the 14 team  
4 members now come from just two of the mines?

5 MR. KENDRICK:

6 We have team members from, yeah,  
7 just --- the team members other than our  
8 service people including myself. I'm a team  
9 member believe it or not, 60 years old still  
10 active team member. We have two people from  
11 one of our mines, one from the other and then  
12 most of the other people are from service  
13 organizations, our engineering group, our  
14 safety group, our shops, those kind of things.  
15 And these are people who are underground at  
16 all of our locations at some time during the  
17 year. We're all underground on occasion, but  
18 yet we would be considered an underground  
19 miner. And that's some of my concern, I  
20 guess, as far as any people come from that,  
21 from that aspect of that. Who will replace  
22 them? What will we have to do to replace  
23 those people, experienced people who have  
24 actually participated not only in contests,  
25 but in actual situations with people who have

1 no experience. My experience takes --- and  
2 you make --- as a reference in the preamble,  
3 for a good mine rescue team it makes that  
4 reference it takes four to five years to take  
5 a group of inexperienced people and make a  
6 good mine rescue team from my experience. And  
7 I've been doing this, like I said, since 1975.

8 So again, it's one of those things that --- I  
9 guess we just have a lot of concerns. What do  
10 we do? What do we do as a company? Again,  
11 talk about training. If both teams are  
12 actually --- each mine be covered semi-  
13 annually, which is --- other than our larger  
14 mines, you're basically talking 22, 22 to 28  
15 days to cover those locations. It's going to  
16 take a lot of time away from them and the jobs  
17 that they normally do.

18 MS. SILVEY:

19 Well, I'm going to ask --- I  
20 understand what you're saying, so I'm going to  
21 ask you the same thing that we asked some of  
22 the other speakers. If you would --- and some  
23 of them mentioned, that one of the major  
24 issues is training at the covered mine. But  
25 if you got specific alternatives to what we

1 propose, training that was satisfied and that  
2 you think would meet the intent of the law,  
3 training at the covered mine for the rotation,  
4 but it would be coming from --- now, I'm kind  
5 of saying. Coming to a common facility and  
6 have people from the covered mines who are  
7 knowledgeable in the ventilation as you put up  
8 the map and that type of thing, and the escape  
9 routes ---. Well, the map would show you.  
10 You can go over all that and the direction of  
11 the ventilation in the mine and that type of  
12 thing, however, if you have alternatives and  
13 how often that should be done whether you  
14 think then by going through that type of  
15 training that the mine rescue team members are  
16 appropriately and well --- sufficiently  
17 trained. I mean, you --- and I mean, somebody  
18 might know better than somebody like you with  
19 the many years of mine rescue service who ---.  
20 And you've been familiar with the type of  
21 training, traditional type of training and so  
22 you can ---. I think you can legitimately  
23 make the call on whether you think that's  
24 appropriate or not.

25

MR. KENDRICK:



1                   Again, I just want to reiterate,  
2                   too, in the state program although our company  
3                   is not a part of that Virginia state program  
4                   to cover mine rescue teams, I was in a meeting  
5                   recently with the chief of the provisional  
6                   mines. And with a lot of the small operators  
7                   that do actually cover, and he basically told  
8                   them that with new regulation effective  
9                   December the 15th that they probably wouldn't  
10                  have miners rescue coverage under a state  
11                  program. We're talking between 30 and 20  
12                  mines in southwest Virginia that are small,  
13                  remote mines, and the majority of them say we  
14                  don't have an option. Just close our doors.  
15                  We're talking probably 450 to 600 jobs if they  
16                  do that. I'm not saying all of them will.  
17                  Some of them will try to come up with some  
18                  alternatives, but a lot of them say we have an  
19                  alternative, just shut the door. The Virginia  
20                  program was different things probably any of  
21                  the other states at all because they did use  
22                  other teams, other companies' mine rescue team  
23                  to provide coverage for those. Even that,  
24                  there's a lot of mines. It's going to be more  
25                  than one hour away from any mine rescue

1 station, but especially in the area of, like I  
2 said ---.

3 MS. SILVEY:

4 In your area?

5 MR. KENDRICK:

6 Right. Southwest Virginia.

7 MS. SILVEY:

8 And see I know you're speaking  
9 for your company, but I was going to ask if  
10 anybody --- you know, and all these questions  
11 go sort of for everybody here, to know the  
12 specific impact of the one hour requirement,  
13 how many would not meet the one hour  
14 requirement?

15 MR. KENDRICK:

16 The reason our company  
17 participated is because just the mere fact  
18 that we got --- we were a designated team at  
19 one time, but we got out of it just from the  
20 liability standpoint. Not that we wouldn't go  
21 if we were called.

22 MS. SILVEY:

23 You were a designated state team?

24 MR. KENDRICK:

25 At one time, yes, ma'am, but we

1 dropped out of the program. We've been  
2 approached at the end to be that, but with the  
3 training requirements --- we just wouldn't  
4 have time to cover that many teams and to make  
5 that ---. It's unfortunate, but we just  
6 couldn't do it. We couldn't afford to have  
7 people away from their jobs longer than we  
8 have to anyway. I had other comments, but I'll  
9 send those to you.

10 MS. SILVEY:

11 Make sure you do send them to us.

12 Okay. Thank you very much.

13 MR. KENDRICK:

14 Thank you.

15 MS. SILVEY:

16 Okay. Is there anybody else?  
17 Anybody else who wishes to speak? Okay. One.  
18 If nobody else wishes to speak then I'm going  
19 to conclude this public hearing on the Mine  
20 Safety and Health Administration's proposed  
21 rule on mine rescue team for underground coal  
22 mines. As I do so, I want to reiterate that we  
23 appreciate very much your testimony and your  
24 comments to us here today, that we --- for  
25 those of you who came and did not speak, but

1 came and attended the hearing we appreciate  
2 your interests in the rulemaking. And I want  
3 to say again because I think that to --- that  
4 is it unfortunate that the rules came out and  
5 seemed to have been a reflection as some  
6 people interpreted it as a negative reflection  
7 on mine rescue service. Because as I said  
8 from the beginning, we clearly believe that it  
9 is necessary and it has been --- provided a  
10 meaningful and a life saving service  
11 throughout the mining industry, throughout  
12 history. So what we're going to try to do  
13 when we go back is to take the comment and  
14 testimony that we get during this public  
15 hearing process and to try to craft a final  
16 rule. And granted, we got to give meaning to  
17 the MINER Act, and I know that. I'm not so  
18 naïve that I don't know that, but at the same  
19 time to maintain the solid and historical  
20 purpose of mine rescue team service as  
21 voluntary and meaningful and not to do  
22 anything that will negatively impact that  
23 service. So with that we thank you, again,  
24 and I will start the second hearing. So for  
25 those of you who are here for the second

1 hearing, I will probably --- strike probably.

2 I will start the second hearing at one  
3 o'clock today in this same room. Thank you.

4

5

\* \* \* \* \*

6

HEARING CONCLUDED AT 11:30 A.M.

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