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August 12, 2008

MSHA  
Office of Standards Regulations and Variances  
1100 Wilson Boulevard Room 2350  
Arlington, Va. 22209-3939

Re: Comments regarding Refuge Alternatives for Coal Mines; Proposed Rule (RIN1219-AB58)

Dear Sir/Madam:

Cumberland Resources Corporation appreciates the opportunity to comment on the above referenced proposed rule. The objective of all involved (miners, companies, enforcement agencies and lawmakers) should be legislation and regulations that provide a safe working environment in today's mines and not action taken without thorough investigation and input from all involved parties prior to the implementation of such legislation and regulations. Mine safety is a constant effort and the achievement of such is not aided by the constant changing and modification of regulations and enforcement policies and procedures without review and comment by miners and companies who must apply and comply with those regulations daily.

My comments are not intended to argue against the safety of mines but are intended to aid in developing and manufacturing better and more sustainable refuge chambers.

Your consideration of these comments is appreciated.

Sincerely,

  
Harry D. Childress  
Government Affairs Agent

AB58-COMM-19

Comments on RIN1219-AB58

1. The proposed rule and preamble are confusing and are in contradiction with PIB 07-03. This PIB was issued by MSHA and was used by operators to comply with the breathable air provisions of The Miner Act. This PIB addressed the construction of safe areas and provided diagrams of such areas for the operator to use for compliance with the Miner Act. In the development of an ERP submittal, operators were encouraged to provide refuge alternatives that complied with the West Virginia requirements.
2. A great deal of money has been expended by coal operators and vendors to provide refuge chambers much earlier than the effective date and now these chambers and their components appear to be required to be discarded after five and ten years respectively.
3. PIB 07-03 had no guidance or requirements as to surface area or volume per miner. MSHA was aware of the lack of volume or surface area requirements in approving ERP's that contained these refuge chambers.
4. Requiring the ability to signal the surface from the refuge alternative will be of little benefit unless a commitment is made to deploy the surface portion of this activity each and every time needed and to insure the deployment is made in a timely manner.
5. The proposed rule would require total redesign and reengineering of the current refuge chambers. It is unlikely those units that have been produced or are currently in production could be modified to meet the proposed rule.
6. This proposed rule requires technology that I do not believe is currently available. Therefore, compliance dates in the future are needed to allow the development and application of such technology.
7. Grandfathered refuge chambers should be allowed to be moved from mine to mine if needed.
8. Lighting is an issue that was not initially addressed but is now and would require design engineering and retrofitting. MSHA should be very flexible on this issue and not require a specific amount of lighting per occupant. Lighting could contribute to heat and humidity issues within the refuge alternative. Glow sticks are a very effective lighting source and should be one of the solutions. Minimal lighting is needed as this is an emergency shelter.
9. The minimum space and volume requirements are excessive. This is an emergency shelter and the area of deployment must be considered in regard to the

safety and security of the deployed unit. Space and volume allowances of current refuge chambers are adequate. Increasing the size of the refuge alternatives will require additional compressed air and oxygen cylinders thereby increasing the hazards that are being introduced into the underground atmosphere. This is an emergency refuge alternative and should be designed to sustain and save lives not to worry about comfort.

10. The proposed 96-hour supply of breathable air is excessive and should be reduced based on the research of past situations of barricading by NIOSH. Forty-eight hours appears to provide adequate breathable air based on this research. Many enhancements have been made to other safety aspects to quickly locate and reach trapped miners and enhancements have been made to assist miners in evacuating mines in case of emergency. These advancements should be considered in determining the amount of oxygen needed in refuge alternatives. Mine conditions, mine planning and mine size and depth would also affect the amount of oxygen needed to sustain refuged miners.
11. The proposed rules require pre-shift examinations when in most cases the manufacturer requires weekly examinations. A visible exam could be made of the outside of the unit and maybe some of the interior components depending on the design. There should be no requirements as to entering the structure except for that recommended by the manufacturer. Any exam should be on a weekly basis.
12. The capacity issue can be easily addressed by any operator for their employees but the operator has no control as to the number of state and/or federal inspectors that may be present at any time in the mines. Operators have purchased and/or constructed refuge alternatives with the maximum number of miners that would be in the mine at any time. If the number of inspection personnel present would cause that capacity to be exceeded then the inspection personnel should delay their presence until the capacity of the refuge alternative would not be exceeded.
13. There should be no requirement to sample the atmosphere outside the refuge alternative. The interior atmosphere is much more important. Miners should not exit the refuge alternative once they enter until they are rescued which is the current practice for men behind barricades.
14. There should be a maximum distance for the refuge alternative to be located from the face not a minimum.
15. There should not be a prohibition for placing a refuge alternative within the line of site of the faces due to mining plans, mining condition and refuge alternative size.
16. There should not be an absolute prohibition to placing a refuge alternative within 500' radially of a belt drive, etc. Mining plan and conditions may dictate the

placement at such location. This should be addressed on mine by mine basis in the ERP approval process.

17. The provision to require the location of a refuge alternative where mechanized equipment is being installed or removed would require duplication and would affect fewer personnel than on a normal active section. There may be only four to six or fewer miners in these areas. Again we would be introducing additional compressed gas cylinders into the underground atmosphere. This issue could also be addressed on a mine by mine basis in the ERP approval process.
18. There should not be a requirement that miners be evacuated if the refuge alternative is removed from service. The operator should be able to provide a replacement or alternative that would provide the same level of protection and continue to operate.
19. The requirement for expectation training is complex. It would be difficult to subject miners to the heat and humidity that miners would encounter in the refuge alternative. No expectation training is currently required and simulators are not developed or available. The rule should provide for a development and implementation schedule as was done with the SCSR expectation training.
20. Communication facilities are required in the refuge alternative. There has not been a resolution of the wireless communication required by the Miner Act in the open portions of the mine. This would require that hard wired communication facilities be used for compliance and would result in areas where there could be excursions of the outside atmosphere into the refuge alternative.
21. The proposed rule has no implementation schedule or effective dates for many provisions that are not currently available and would require extensive design, engineering, production and implementation work. This area needs to be addressed.
22. The issues of locating refuge alternatives in outby areas should be addressed in the ERP approval process. A "one sized fits all" distance would not be in the best interest of mine safety and should be addressed on a mine by mine basis in consideration of mine plans and mine conditions.
23. MSHA and NIOSH have had two years to study this issue and expects industry to evaluate and comment in two months. Additional time is warranted for review and comment considering the time and money that industry has invested in compliance with the breathable air portions of the Miner Act and with the changes and new requirements of the proposed rule. This would result in a regulation that would provide the best safety for underground miners.