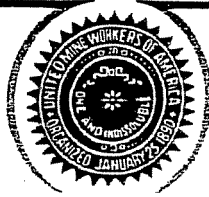


Jim Lamont

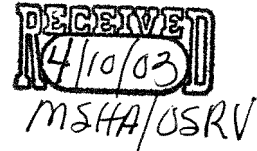
United Mine Workers of America

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April 10, 2003

United States Department of Labor
Mine Safety and Health Administration
Office of Standards, Regulations and Variances
1100 Wilson Boulevard, Room 2313
Arlington, VA 22209-3939

Dear Sir or Madam,

The United Mine Workers of America (UMWA or Union) is pleased to be given the opportunity to submit comments to The Mine Safety and Health Administration (MSHA or Agency) regarding the proposed rule; Underground Coal Mine Ventilation - Safety Standards for the Use of a Belt Entry as an Intake Air Course To Ventilate Working Sections and Areas Where Mechanized Mining Equipment Is Being Installed or Removed.

The Union is concerned the Proposed Rule will have a significant and detrimental impact on miners. The depth of the affect goes far beyond 30 CFR 75.301, 75.371, 75.372, 75.380, 75.350, 75.251 and 75.372 cited by MSHA. The Union intends in these' comments to address the changes the Agency has proposed in each section of the regulations. However, because of the problems this rule will create with other sections of the regulations, as well as mine specific modifications to certain statutes, the Union will offer evidence that the new rule, as currently written, significantly reduces the safety protection miners currently enjoy.

This situation is further compounded by the Agency's decision to withdraw several proposed safety regulations including; Belt Flammability, Training and Retraining of Miners, Continuous Monitoring of Respirable Coal Mine Dust and Self Contained Self Rescuers. These rules, if enacted, would have enhanced protections afforded to miners when implemented in conjunction with a comprehensive belt air regulation.

In writing the proposed rule the Agency arbitrarily selected the information to support their positions. They chose to ignored Reports of Investigations 9380 - Fire Detection for

AA76-COMM-LATE-1

Conveyor Belt Entries, 9426 - Analysis of Underground Coal Mine Fires and 9570 - Hazards of Conveyor Belt Fires. They also singled out testimony of some individuals given during previous Ventilation Rule Hearings regarding ventilating with belt air, while excluding, for unspecified reasons, the information presented by others.

The Agency extensively cited two reports in the preamble to the proposed rule as the basis for making many of their determinations. In that regard, the Union is extremely disappointed with the amount of validity given to the Belt Entry Ventilation Review (BEVR) Report despite the lengthy objections we offered to many of its findings during the hearings on the Ventilation Rule. Finally, the UMWA is disturbed by the method that MSHA used to give the appearance they were complying with the recommendations of the Advisory Committee on the Use of Belt Air to Ventilate the Production Areas of Underground Coal Mines and Related Provisions (Advisory Committee).

In the **Federal Register**, Vol. 68 No 17, Page 3937, The Agency states, "Commenters from labor, on the other hand, maintain that the use of air in the belt entry reduces safety due to increase fire hazards and greater dust levels. Due to these divergent views [operators, academia and labor] when the ventilation rule for underground coal mines was finalized in 1992, it did not include the provisions that would have allowed mine operators to use belt air to provide additional intake air to the working sections". The position expressed by the UMWA during that round of hearings was based on extensive investigations and research. That position is as relevant today as it was in 1989 and the Union stands by its previous conclusions.

There should be no doubt that while belt air petitions have been approved on a mine-by-mine basis and are in place at many mining operations, the use of belt air to ventilate work areas does introduce additional and dynamic hazards that would otherwise not be present. These hazards can be mitigated by incorporating specific safety controls into the mining plans at the operation. It must be understood that the Union is not taking the position that these hazards are eliminated by additional safety precautions, rather the UMWA recognizes hazardous conditions created by the use of belt air may be adequately controlled by utilizing site specific safety enhancements. The proposed rule ignores the safety benefits provided by the PDO's currently in force at various mines throughout the Nation and attempts to apply a one size fits all philosophy in its place. This approach will significantly diminish the level of safety miners at these operations currently enjoy.

The Union would argue that a PDO currently approved for use at a mining operation has the full force and weight of a statutory regulation. The conditions they put forward are requirements the operator must meet in order to use belt air to ventilate a working area. The Agency recognizes these mandatory requirements for purposes of compliance and enforcement. The simple fact is, the conditions outlined in the PDO become the mandatory standard at the particular operation to which they are prescribed. Broad changes in the writing and application of the rule, as is proposed here, will eliminate protections miners have and place the Agency in a position contrary to their Congressional mandate. Section 101(c)(9) of the Federal Mine Safety

and Health Act of 1977 (the Act) states, “No mandatory health or safety standard promulgated under this title shall reduce the protections afforded miners by an existing mandatory health or safety standard.” Congress strictly forbid the Agency from enacting any rule that would offer lesser protection than miners currently enjoy. The Union believes the application of the proposed rule in its current form would undercut the health and safety of miners.

Belt Entry Ventilation Review (BEVR) Report

The Agency has offered the findings of the BEVR as a significant basis for their decision to propose this rule. In the background statement for the rule the Agency cites the BEVR’s finding that, “...directing belt entry air to the face can be at least as safe as other ventilation methods provided carbon monoxide monitors or smoke detectors are installed in the belt entry.” The Agency appears to be summing up the report and using that as justification for moving this rule forward. The UMWA would suggest that the Agency is focusing on a single aspect of the problem that is created by utilizing belt air to make its case. This approach does not lend itself to the enhancement of miners safety. In fact, it is a concept that will in many instances result in an opposite affect. Monitoring the mine atmosphere for carbon monoxide or using smoke detectors may play a critical role in improving the safety of using belt air, however far from the Agency’s implication here, it does not begin to adequately address complexities of the issue.

The Union would argue that MSHA’s brief summation of the BEVR parallels the content of the Report itself. As you should be aware, the **UMWA** authored extensive comments regarding that report. In the hearings on the Proposed Rule; **Safety Standards for Underground Coal Mine Ventilation**, the **UMWA** was highly critical of the report for using data and research that was incomplete, narrowly focused, misleading and that it did not support the Committee’s conclusions. The Union also objected strenuously to the use of this report as a basis for the Agency’s guidelines for the belt air portion of the rule.

The **UMWA** was not alone in its critique of the Report and MSHA’s use of it. The U.S. Department of Health and Human Services, National Institute for Occupational Safety and Health (NIOSH) was also deeply critical of the reviewers findings. NIOSH noted, “the practice of ventilating with belt air at any velocity is unsafe and unhealthy.” Further, “the use of high velocities would increase fire and explosion hazards from coal dust.” NIOSH concluded that, “The use of belt air to ventilate the working faces was not a safe practice, the allowance and use of belt air to ventilate the working areas of the mine is a diminution of the protections of the miners’ safety and health as provided by the Mine Safety and Health Act of 1977.”

The Union has again reviewed the recommendations of the Belt Entry Ventilation Review Committee and determined the Report does not adequately address the conditions the use of belt air will create. The authors of the Report even acknowledge the need for additional research as well as a different approach to maintenance of the mine. The **UMWA** would address the recommendations in the BEVR as follows;

1) **Increased emphasis should be placed on belt maintenance, belt entry clean-up and rock dusting.**

Historically, belt conveyor entries have posed significant hazards to miners. Despite this fact, poorly maintained belt conveyor entries do not receive adequate or routine maintenance. A review of MSHA statistics reveals this is still a chronic problem much as it was at the time the report was first issued. Coal spillage, float coal dust and accumulations of combustible materials (paper, wood, etc.) are continually cited by the Agency's inspection personnel.

For the Agency to offer this recommendation as a solution, is a problem in itself Spillage has continued to exist in the mining industry for years, and without the Agency putting the force of law behind it is disingenuous. Operators who have never found it necessary to improve belt conveyor clean-up will not be inclined to reconsider their maintenance program simply because the Agency suggests it when using belt air to ventilate worlung areas.

2) **Emphasis should be placed on proper construction and maintenance of stoppings separating intake escapeways from intake entries.**

The Agency has never shown the institutional will to hold operators accountable for poorly constructed and inadequate stoppings. This rule will have no effect on stoppings that meet the minimum requirements of the law, but do not provide adequate protections to prevent the quick propagation of a burn through. The Agency has for too long accepted the status quo and a recommendation to improve stopping construction and maintenance will not be headed by mine operators.

3) **Sections should be designed by entry location, number of entries or pressure differential, to enhance the protection of intake escapeways from contamination by fires in adjacent entries.**

The UMWA would suggest a major motivating factor for moving this rule is tied to the number of entries operators are seeking to drive in the development sections. Unfortunately, driving additional entries to address the problem of insufficient face ventilation, which is the position the Union believes to be the proper solution, is not the goal of this proposed rule or the motive of the operators. Instead, they seek to maintain three entry systems, that leave sections starving for ventilation and solve the problem by pushing additional air through the most hazardous entry in the mine. Clearly, the desire to increase face ventilation in this manner is not inspired by a need to increase safety, but by a will to reduce cost.

In the comments submitted during the ventilation rule hearings NIOSH made this point clear when they stated, "Belt air usage represents the least expensive method of increasing ventilation to the face - not the best for worker health and safety.

Maintaining the intake escapeway at a higher pressure than the belt entry and entries in common with the belt is not an absolute requirement in the rule. The UMWA believes such a requirement is necessary to insure the health and safety of miners. Further, this must be accomplished through natural pressurization whereby the air entering the intake escapeway is always maintained at a higher velocity than air entering the conveyor belt entry. The UMWA would caution against establishing a system of false pressurization by means of restricting or regulating the amount of air flowing from the intake escapeway to the working face.

- 4) Intake escapeways should be maintained free of potential fire sources unless such sources are protected by fire suppression or other acceptable devices.**

The Union is disturbed that such a recommendation has made its way into this document. It is the position of the UMWA that maintaining the intake escapeway as free as possible from potential fire sources should be the current practice at all mines and should not be contingent on the use of belt air for face ventilation.

- 5) Directing the air through the belt entry and to the return through a restrictive regulator or pipe overcast does not comply with Section 75.236 and should be discontinued.**

This practice is no longer accepted.

- 6) Training should include drills in communication and evacuation techniques and include precautions to be taken for escape through smoke.**

Training on new and existing plans or regulations is an extremely important element insuring the health and safety of miners. Much emphasis is placed on training miners for new tasks, new and experienced miners, first aid and other issues. The UMWA is on record as supporting training on a much broader scale than is currently the practice. Based on that fact and the changes in the mining industry the Union is concerned that there is insufficient time allotted for such training. Continuing to add training subjects without requiring additional time to adequately educate the miners does not obtain the desired result. Far too many subjects in the current training regiment overburdens the systems and important issues do not get the attention they deserve. Support for this and other training must be contingent upon a requirement that specifies additional training time.

- 7) Belt entries used to ventilate the working places should be equipped with carbon monoxide monitoring systems or smoke detectors. MSHA and the Bureau of Mines should encourage development and testing of improved smoke detectors. MSHA should initiate the development of performance**

standards for CO monitors and smoke detectors. MSHA should continue to stress maintenance of CO monitoring systems.

The Agency continues to hold the position that the use of CO monitors or smoke detectors in the conveyor belt entry is sufficient protection for miners in sections using belt air to ventilate the face. The UMWA on the other hand believes the use of CO monitors and smoke detectors should be utilized in these entries to maximize the protection miners receive. The available technology and new technology driven by such a requirement would insure state of the ~~art~~ fire detection systems.

The Union also views entries in common with the conveyor belt entry as an area that requires special attention. The UMWA has often argued that the safest method of controlling the hazards associated with the belt entry is to have it isolated from all other entries. This position has not changed, however, the Agency has approved mining plans that allows for multiple entries in common with the conveyor belt entry. Because of that the Union believes carbon monoxide monitors and smoke detectors should be required in each these entries at intervals no greater than those in the conveyor belt entry. Entries in common With the conveyor belt entry should be deemed part of the coal haulage system and protections should be applied as if they were.

8) MSHA should consider requiring improvements to or replacement of point-type heat sensors.

Much has been accomplished through various research efforts by labor, industry and the government. These efforts have been extremely beneficial in improving fire detection and monitoring. There is no need at this point in time for any operation to be using point-type heat sensors. Because of technological advances, the Union believes all mines should be equipped with CO monitoring systems and smoke detectors regardless of the use of belt air to ventilate working areas. As stated previously, such systems should be required in all entries that are common with the conveyor belt entry.

There is also a need for the industry not to just accept current technology as adequate to meet a current requirement and eliminate further research and advances. The rule must include language that drives the industry to continue to seek better technology.

9) Where belt air is directed outby from the section, water lines should be relocated from the belt to a separate intake entry to facilitate fire fighting activities.

The recommendation offered here is not germane to the subject. Belt air traveling outby cannot be used to ventilate working faces in the mine. However, the need to protect the integrity of fire fighting equipment including water lines is important. This *is* true regardless of the direction of the air flow. Mining designs and plans should be

reviewed to insure this equipment is placed in locations that will assure their availability and immediate access in the event they are needed.

10) Further research should be conducted to evaluate the impact of air velocities on underground mine fire fighting and to provide information on the growth and spread of mine fires involving material other than conveyor belts.

The UMWA supports further evaluations of fire fighting in underground mining. The Union does not see this as a subject that should be limited to the implementation of any particular rule. A better understanding of the hazards that may be encountered during such operations would benefit miners and the operator.

The **Belt Entry Ventilation Review Report** is no more relevant today than it was when it was first published in July of 1989. The BEVR contains nothing new that would convince the UMWA there is any reason to recognize its validity today. The Union's position that the Committee assigned to conduct this review did nothing more than condone a position the Agency had taken is based on sound judgement.

A narrowly focused, incomplete and misleading report that did not support its own conclusions does not mature and become better with age. It is, as it was when first introduced, an irrelevant document that should not be the basis for formulating any changes in mine health and safety standards. The Union strenuously objects to the Agency dragging this document off the shelf after all these years and billing it as more than what the facts show it to be. Implementation of a rule based on the BEVR would result in a diminution in miners health and safety.

Advisory Committee

Use of Air in the Belt Entry to Ventilate the Production (face) Areas of Underground Coal Mines and Related Provisions (Belt Air Advisory Committee or Advisory Committee)

The UMWA has never fully endorsed the recommendations offered by the Belt Air Advisory Committee. The Union believes that their report should be the starting point for discussions on what additional health and safety protections may be necessary to mitigate the hazards introduced in the mine by the use of belt air.

However, rather than addressing what the UMWA sees as short-comings in the Advisory Committee recommendations by adding additional protections for miners, the Agency has chosen to eliminate some of the suggestions. In essence the Agency has determined that they are more acutely aware of the needs of miners regarding this matter than the panel appointed by the Secretary of Labor to study belt air usage in detail. MSHA has arbitrarily decided what items within each recommendation of the Advisory Committee fits their current rule making and enforcement scheme and laid them out as the proposed rule. This type of selective editing,

beyond the deficiencies in the Advisory Committee report, further erodes miners health and safety protections.

Further, the Agency gives no consideration to the protections miners and their representatives have been able to attain at the mine sites through the 101(c) petition process. The Union would argue that the recommendations of the Advisory Committee coupled with language currently used in these petitions should have been the basis for MSHA's writing of this proposed rule. The Rule eliminates the protections miners currently possess. These protections carry the full weight of a statutory regulation and are fact in enforced as such at the mine site. The Union objects to the Agency's attempt to strip these enhanced health and safety requirements from miners.

The Advisory Committee offered twelve (12) recommendations for the Agency to consider for the use of belt air to ventilate the working areas. The UMWA would offer the following comments regarding each;

The Agency and Advisory Committee agree on the use of belt air, provided carbon monoxide monitors or smoke detectors are installed in the belt entry.

The Union would Agree that monitoring and detection systems must be included as a condition when using belt air for ventilation. Technology is available that allows the use of both of these safety devices in the mining industry, to use one method exclusively does not enhance miner safety.

The Union believes that the use of carbon monoxide monitor and smoke detectors, as well as methane monitoring systems should be utilized in the mining industry regardless of the use of belt air at a particular mine,

Contrary to the assertions of the Agency they have not fully addressed and incorporated this recommendation of the Advisory Committee into the proposed rule.

Training as outlined in the proposed rule would fall under the already overburdened requirements of part 48. The Union's reading of the recommendation does not conclude that was the Committee's intent. The fact that they noted training in Item 1 subsections (b) and (c) clearly demonstrates their intent to offer specific training about the system, its function, installation, maintenance and operation to miners. This goes beyond what should be incorporated into Part 48.

The Committee made special note that, "...early warning fire detection system should be inspected by MSHA." The Committee clearly understood MSHA's responsibility to inspect mining operation and chose to place special emphasis on the inspection of Atmospheric Monitoring Systems (AMS). The Agency does not appear to have given the Committees request any weight at all. They have determined to include

these inspections as just another portion of a regular inspection. That is not what was intended by the Committee in this case.

The air velocity in conveyor belt entry and location of sensors is confused in both the Advisory Committee report and the proposed rule.

The Union has consistently argued that it is not sufficient to make a determination regarding minimum velocity of air allowed to be coursed through the conveyor belt entry without also looking at what maximum should also be placed on it. This determination is essential to assuring the integrity of the entire mine ventilation system. Higher velocities of air will inherently cause more respirable dust to be coursed to the face areas where miners will be working. Greater velocity also possess a greater threat that smoldering coal or other materials become an uncontrollable fire in a significantly shorter period of time than if the velocities are relatively low levels.

The location of sensors in the belt entry is a matter of debate based on the Agency's writing of the proposed rule. The Committee stipulated sensors should be located not further than 1,000 foot intervals in the belt entry. However, the proposed rule leaves that requirement up to interpretation. The Agency has stated, "If the belt drive, take-up and/or tailpiece are installed together in the same air course they may be monitored with one sensor located not more than 100 feet downwind of the last component..." The Union must ask if the Agency's intent is to allow a single sensor to be viewed as adequate protection where the belt is in a single split of air (as it would have to be) without regard to the length of belt in question. That being the case, the language is sufficiently vague to allow several conveyor belts from the section to be monitored with a single sensor, provided they are on the same air split. This is an extremely dangerous proposal and is certainly not the intent of the Advisory Committee. The Agency must immediately take steps, in the rule, to correct this problem.

The determination of a responsible persons has received a great deal of attention recently, unfortunately the Agency has apparently not taken the concerns raised in that debate seriously. The Union is convinced specialized training regarding the monitoring system in place at the mine is essential for someone to be considered responsible for its operation. The lives of every miner at the operation hinges on the individual being acutely aware of not only how and why the system functions as it does, but what precise steps are necessary when the system alerts them of a problem.

The Agency has once again made a determination that routine training is sufficient to insure compliance. The Union would argue that the standard set to meet compliance for this task should be raised. Miners need to be certain that the responsible person in "knowledgeable, reliable and qualified." The Agency must raise the threshold for the responsible person if they are serious about protecting miners health and safety.

The recommendation to include certain information with regard to the AMS in the fire fighting and evacuation plan does not give the Union any comfort level whatsoever. Recent events have demonstrated many of these plans are antiquated and in need of overhaul before adding additional information or requirements to them. The Union would urge that the Agency immediately begin the process of reviewing and updating the fire fighting and evacuation plans at all mining operations to insure they meet the challenges placed on them in today's industry. The Agency can then revisit the proposition of adding this additional material into that plan. The UMWA is convinced that short of such action on the part of the Agency, incorporation of such information and requirements will be useless.

The Union is also convinced MSHA's determination that the need to have management review and initial the data recorded by the AMS is a mistake. The UMWA is not certain how MSHA logically concluded that, "...since the AMS log is available for review by miners and authorized representatives of the Secretary, that the mine operator will also review the AMS log data."

In the preamble for the proposed rule MSHA notes they will not be adopting Item 13 as recommended by the Advisory Committee. They specifically identify slippage switch monitoring and ask for comments on that subject (the UMWA will address that issue in later comments). However, they fail to note that with that decision they are also omitting the use of smoke detectors as recommended by the Advisory Committee. The Union does not believe this to be an oversight, but rather a deliberate attempt to eliminate a portion of the recommendation without offering a valid reason. The Union supports the use of CO monitors and smoke detectors in the conveyor belt entry and would like MSHA to address this issue.

The Union disagrees with the Advisory Committee and the Agency regarding the assignment of alert and alarm levels. The Union takes this position because the proposed rule fails to offer a standard method for determining the ambient level at the mine. Without such a standard the Union cannot be certain levels specified by any particular operator are accurate.

The UMWA would, however agree with MSHA's final sentence in this section. "The issue must be addressed on a mine-by-mine basis as conditions warrant." The UMWA is convinced this should be the rule with regard to the use of belt air to ventilate working places in its entirety. Conditions at each mine do not lend themselves to a rule such as this. The attempt to place a one-size-fits-all with regard to this issue is ill-advised. The use of any other method, but a mine-by-mine determination regarding the use of belt air and what specific safety needs are necessary, will without exception reduce safety protections for miners.

The recommendation of the Committee and agreement by the Agency to

maximum and minimum air velocities on page 3944 of the **Federal Register** Vol. 68 No. 17 is not remotely germane to this issue. There has been no one to the Union's knowledge arguing that sufficient air must be coursed into the conveyor belt entry to adequately control methane and dust levels. The use of belt air to ventilate the working places should not have any affect on this requirement.

The decision not to require lifelines in the primary and alternate escapeway for the reasons cited by the Agency is ill-advised. The assertion that lifelines are quickly destroyed during mining and not a priority for repair is a consequence of MSHA enforcement activity. Roof bolts are routinely destroyed during the mining process, but are replaced immediately in the next bolting cycle. The Agency's logic here would lead one to believe roof bolts are not important because they are easily and routinely damaged also. Many operations are currently required to install and maintain lifeline as part of the mines PDQ. MSHA's decision would eliminate that protection and erode safety protections for these miners.

The Union cannot accept the decision by MSHA not to require the intake escapeway at a higher pressure than an adjacent air course. The integrity of the mine atmosphere and the ability for miners to have a source of fresh air in the event of a fire or other event that requires them to evacuate the mine cannot be overstated. MSHA's has correctly cited that, "...it may be difficult to maintain the pressure differential in the proper direction." However, that difficulty does not justify abandoning the requirement. Should the Agency be allowed to make determinations on which sections of the mine Act to enforce based on how difficult they may be could have a catastrophic impact on miners health and safety.

One again however, the Union would agree with a portion of MSHA's logic that issues "...must be addressed on a mine-by-mine basis..." This is consistent with the use of belt air currently.

General Information Line by Line evaluation of the rule

Proposing to Amend :75.301, 75.371, 75.372, 75.380

The Proposed Rule would also Revise: 75.350, 75.351, 75.352.

Some History

BEVR (Belt Entry Ventilation Review Report August 25, 1989) re-opened the Vent. Rule making on April 1990, and closed on May 1990.

In this, we maintained the use of air in the belt entry reduces safety due to increased fire hazards and greater dust levels. The Vent. Rule was finalized in 1992. This did not include provisions that would allow mine operators to use belt air to provide additional intake air to working sections. MSHA's existing standards do not allow this practice except as approved on a mine-specific basis through the 101(c) process, or when approved by the MSHA District Manager for mines opened prior to March 30, 1970.

January 1992, the Secretary of Labor appointed an Advisory Committee charging it to make recommendations on the belt air issue. The committee made twelve (12) recommendations.

In this proposal (In the Preamble) the BEVR report and the Advisory Committee discuss the recommendations as well as MSHA's experience with the 101(c) petitions on belt air.

Agency Experience:

AMS or existing 75.351, 75.323, 75.340, and 75.362 incorporate technology for granting petitions for modification to 75.350.

MSHA has granted 90 petitions after it determined the Mine Operator had an alternative method which provides the same measure of Safety protection as the existing Standard, or when the existing Standard would result in diminished Safety protection to Miners.

Safety concerns associated with belt air use are addressed by; proper installation, operation, examination, and maintenance of AMS's. Petitions of 101(c) 30 CFR 75.350 contain the requirement that a Mine Operator install an AMS to monitor the mine atmosphere.

- Talk about mandated petition requirements (page 3938 of the proposal) We need to include methane sensors.

Reportable Belt entry Fires: (page 3938)

Since 1970, 75 reportable mine fires occurred in belt entries. The chart on page 3939 ends April 17, 2002. How many fires occurred since then? (84 Mine, Loveridge)

Following are fourteen (14) items from the Advisory Committee: (page 3940)

- Item 1.** (a) Proposed changes outlined in Mine Vent. Plan.
- (b) Miners trained in the basic principles of the early warning fire detection system and the actions required in the event of a section alarm.
- This should include the procedure for an **alert status**. Withdraw the men out by the affected sensor. **Alarm status**, withdraw the men out by to a different air split.

- (c) Talk about training in their duties.
 - **We need to discuss this item. Co-insides with Emergency Evacuation Plan.**
- (d) Talk about MSHA inspecting the System.
 - **MSHA should be doing this, as well as our own folks.**

Specific Training Requirements in Proposed 351(q) (page 3958)

MSHA did not include a separate requirement to inspect the fire detection system because AMS's used in belt entries would be inspected as part of the normal inspection activities. 75.350(b)(2) (page 3950 of the proposal).

Current 75.350 is, "Air courses and Belt Haulage entries." The Proposed rule would be, "75.350 Belt Air Course Ventilation."

The term "**Working Sections**" and not "**Working Places**" is now used to include the area in by the loading point.

- **Where is limiting the velocity of air coursed through the belt entry? This is missing.**

The Rule allows belt air to be used to ventilate equipment setup or removal areas if safety precautions are met. (Page 3950)

If intake air passes through a belt entry where the belt is not operating, and is coursed into a setup or removal area, the specified precautions **would not** apply. The four (4) hour rule is applied.

In 75.350, **they took out the provisions that limit the air velocity in the belt entry.** As per Donald Mitchell, "Higher velocities have a cooling effect."

- There appear to be many changes in Item 1

Item 2: Capabilities of the AMS.

- This looks to be ok, however!

The new rule addresses this in 75.351(a). The rule increases the 4 hours to 24 hours, as well as all provisions of this section will become applicable one hour prior to belt start - up following this idle period. **We should also stress the importance of requiring a pre - shift examination of the belt line be complete prior to the belt being energized and ran.**

Item 3: Minimum Velocity and Location of Sensors.

(c) Is confusing. It reads: One sensor at the drive unit area (belt drive, belt take-up, belt tailpiece or a combination thereof) not less than 50 feet and not more than 100 feet in by on the same split of air. We believe it should be mandated at each unit, and then at intervals not to

exceed 1000 feet.

- The recommendations in Item 3 adds lower air velocities providing sensor spacing is reduced to three hundred and fifty feet (350") (page 3941).
- The proposed rule includes a requirement for other monitoring locations required by the MSHA District Manager and specified in the mine ventilation plan. *This would in our opinion be no different than having a 101(c) petition with the exception of not including comments from the representative of the miners. It would leave the decision making process solely up to the MSHA District Manager without our input.

Item 4: Section Alarms. (Existing Rule for methane is 1.5%)

- The rule adds 75.351 (c)(i)(4) (found on page 3953), 75.351(i) (page 3955). The proposed rule would not require automatic section alarm activation during alert conditions, but rather only during alarm conditions. MSHA believes alerts could lead to complacency.
75.352(b)(1) Identify and immediately begin examination to determine the cause of the alert. How do you know for sure the cause of the alert is not a hazard? (page 3959)
- Again, the procedure for alert should be to withdraw the men outby the affected sensor, and for the alarm, withdraw the men outby to a different air split.

Item 5: Responsible Person at Surface.

- This should be Responsible Persons.
 - (a) appears to be ok.
 - (b) Records and printouts should be in the same room as the system monitoring system.
 - (c) Should also have two(2) independent means off communication not to include the monitoring sensor line.
 1. Install a **Leaky** Feeder Phone System.
 2. Install a **PED** Emergency Communication System.
 - (d and e) appear to be ok.
 - (f) Need to add alert status activation and verification.

Item 6: Actions of Personnel Underground Upon Alert/Alarm Activation and Item 7: Actions of Personnel on the Surface Upon Alert/Alarm Activation.

- (a) This seems to be **ok**. The committee added the alert procedures. However, they stated to withdraw outby the working places. Is this better than outby the affected sensor?
- (b) They have the men being withdrawn outby the affected sensor. This should be outby the section to a different split of air.
- (c) They recommend at the discretion of the Mine **Operator**, they may continue to operate the **belt** until the area is examined. This should also include **communication** and **coordination** of who is doing the **investigating** with the responsible person on the **surface** so as not to have unnecessary **personnel** come into the mine until the incident is verified.

Additional information is in the Proposal under new 75.352.

MSHA's comments in reference to the committees recommendations in (a) above believes the committees recommendation is not warranted prior to an examination. Also, the Proposed Rule does not address (c) above (continued operation of the belt) nor does it address restrictions on persons entering the mine in alert or alarm stages. MSHA believes Mine Operators should be given flexibility in how they respond to emergencies in order to better protect the miners. They believe any persons entering the mine should be those needed to respond to an emergency as per the Mines Emergency and Evacuation and Firefighting program of instruction.

This is not spelled out in the Proposed Rule **75.352**.

Item 8: Avoidance of Nuisance Alarms.

3. The Committees recommendation for Time delays. Not to exceed three (3) minutes. They are also requiring the Operator to demonstrate the need for a time delay.
4. MSHA is not mandating Operators to explore implementation of future technology advances but states," Operators should explore the implementation of future technology advances.

Item 9: Firefighting and Evacuation Plan Contents; Records and **Item 10: AMS Calibration, Testing, Examinations and Records.**

(a,b,and c) Appear to be ok. (See comments on (c) below).

Item 10 (d) Add the Representative of the Miners.

A lot of procedures hinge on the Mine Emergency Evacuation and Firefighting program of instruction, The ink isn't even dry on the comments of the new proposed regulation. Under (c) of Item 9: MSHA isn't proposing to require the Operator to review and initial records on a monthly basis as recommended by the Committee because they feel the Proposed requirements of 75.351(o) and 75.351(p) address this. MSHA is including 75.351(n) which they feel are the same requirements recommended by the committee. We believe the Operator shall be the responsible person to certify these records. The Proposed Rule refers to the persons doing the tests, calibrations or maintenance as being the responsible persons.

Item 11: AMS Malfunction.

(a,b) Appear to be ok.

(c) It is listed as if it lasts eight (8) hours to notify the MSHA District Manager.

In the Proposed Rule, MSHA is not including the requirement to report to the MSHA District Manager if it exceeds eight (8) hours as recommended by the Advisory committee. **MSHA's rational is,"There is no need to limit the use of hand monitoring since it is considered a safe alternative."**

Item 12: Mine Ventilation Map.

75.351(b) (page 3952). This looks ok.

Item 13: Smoke Sensors; Slippage Switches.

MSHA is not adopting the recommendation of the Committee. They believe that properly maintained slippage switches do not require monitoring. The Committee recommended to have these switches should be integrated into the early warning fire detection system.

MSHA would like comments on this.

Item 14: Backup Communications.

(a) Should also have two(2) independent means off communication not to include the monitoring sensor line.

1. Install a Leaky Feeder Phone System.

2. Install a PED Emergency Communication System.

(b) Here we go again. This time MSHA states to evacuate as per the Firefighting and Evacuation Plan. Is this the same as the Emergency Evacuation Plan? If not it should be included as well.

In 75.351 (r) MSHA is allowing the AMS to be one form of communication, and the second one being in a separate entry. (Page 3958). If you include the AMS, you still as we see it, have only one form of a two way system for communications. The phone system.

In (Cj of the Advisory Committees discussion on Velocity Caps, we think they should look at including RI 9380.

Advisory Committee Recommendation 3. (Page 3944) looks ok.

Recommendation 4. What about multiple entries???

Recommendation 5. MSHA decided not to develop approval schedules for AMS's.

Recommendation 6. Does this comply with the Dust regs.? It does however designate to establish permanent sample areas. It establishes a DA. **However, in the rule, the location of the DA appears to be a problem.** The rule is requiring the position of the permanent DA to be at a point no greater than 50 feet upwind from the section loading point in the belt entry when the belt air flows over the loading point or no greater than 50 feet upwind from the point where belt air is mixed with air from another intake air course near the loading point.

This does not give us a true reflection of what amount of respirable dust our men is being exposed to. To have a true reflection the DA should be located at the tailpiece or just inby the tailpiece.

Recommendation 7. Any changes in the ventilation should be by approval of the MSHA District Manager, and notification for comment to the miners Representative.

Recommendation 8. The Committee recommended Life Lines. MSHA did not include this in the Rule.

Recoinmendation 9. This is about the Primary Intake Escapeway to maintained at a higher pressure than adjacent entries. MSHA decided not to propose this as a requirement. **MSHA proposes this to be on a Mine by Mine basis.**

Recommendation 10. Fire Resistant Belting. This has reduced the alert and alarm levels to 5 and 10 respectively. Also, sensor spacing reduced from 2000 to 1000 feet.

Recomnendation 11. Alerts. Our position is to withdraw to outby the affected sensor. Alert and alarm settings should be on a mine by mine basis but never to be at a setting higher than 5 and 10 respectively. There should be *a* specific velocity of air traveling along the belt, not as prescribed in the Maple Creek High Quality petition charts allowing unlimited velocities. These shall be pre-determined by the MSHA District Manager along with the Representative of the Miners.

Recommendation 12. Belt Cleaners and Maintenance.

MSHA is not proposing any additional regulations for this. Our history has shown that at Maple Creek and at 84 Mine, the Regulations are not being complied with. Something needs to be done.

Page 3946 Preamble Summary.

MSHA needs to include language to require limits on the air quantity carried in the belt air course. Requirements are also needed to limit the ratio of belt air quantity to the total intake air quantity to the section. MSHA needs to include RI9380 as a guide.

1. We found no method for determining the ambient CO concentration.
2. No provision to require a MSHA study in mines where more than one entry is common with the belt entry. This is a big problem.
3. No additional restrictions on the use of equipment in the intake escapeway.

75.351 (e) Location of sensors. In (4) MSHA proposes the following: Not more than 100 feet downwind of each belt drive unit, each tailpiece transfer point, and each belt take-up. If the belt drive, tailpiece, and/or take-up are installed together in the same air course they may be monitored with one sensor located not more than 100 feet downwind of the last component;

We believe MSHA must have made a typo in this proposed section. To have the belt drive

tailpiece, and/or take-up, installed together in the same air course, and to be monitored with one sensor located not more than 100 feet downwind of the last component, means, you may have a belt line 10,000 feet long and if as prescribed as above, your only sensor would be located 100 feet in by the tailpiece. We believe MSHA needs to clarify this section.

75.351 (j) Establishing carbon monoxide ambient levels. Should be as follows:

1) A properly calibrated carbon monoxide sensor(s) shall be used for an ambient determination. Measurements from all sensors in the conveyor belt entry shall be used to determine the ambient level for each separate conveyor belt air split. Continuous readings shall be taken and recorded for a total of five (5) production shifts to establish a mine history of carbon monoxide levels. The average of the data collected for each separate conveyor air split will determine its ambient level.

(2) Ambient levels shall be representative of normal operating conditions. Diesel equipment shall not be unnecessarily idled in the air split where the ambient level is being determined.

- (a) The cross-sectional areas where velocity readings are taken which are used for alert and alarm level determination shall be measured at locations in the entry representative of the cross-sectional areas found throughout the entry and not at locations where the entry is abnormally high (i.e. belt drives) or low (i.e. under overcasts). For belt entries that are common with other entries, the sum of cross-sectional areas for belt entries and the common entries shall be used.

75.351(q) Training. We believe the training needs to be system specific as well as in compliance with all aspects of 30CFR Part 48.