

United Mine Workers of America



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September 29, 2008

Mr. Richard E. Stickler
Acting Assistant Secretary of Labor
for Mine Safety and Health
U. S. Department of Labor
1100 Wilson Blvd., 21st Floor
Arlington, VA 22209-3939

Dear Mr. Stickler:

The United Mine Workers of America writes concerning the September 26, 2008 Federal Register Notice (73 *Federal Register* 55800 – 55801) which includes the notice of public hearings and an extension of the comment period for the Proposed Rule for Alcohol and Drug-Free Mines. The UMWA continues to believe that this rule is unnecessary and needs to be withdrawn, however, we welcome an extension to the comment period as necessary to permit the industry stakeholder's sufficient time to fully evaluate the impact of this proposed rule and prepare comments. We feel more time is necessary and would like to resubmit our original request for a 60 day extension to the comment period on this proposed rule. If MSHA were truly interested in learning what the mining community thinks about these issues it would permit more time for the preparation and submission of comments. As pointed out in our earlier comments, MSHA has not determined there is a significant problem with improper drug and alcohol use in the coal mining industry and provides no statistical data to prove this need is as great as suggested in the proposal commentary. The Agency certainly does not put forth sufficient data to warrant that this proposal be rushed through on such a short calendar.

MSHA's expressed rationale for advancing a rule on drug and alcohol testing seems to be driven more by the Department of Labor's overall policy objectives, rather than any real need in the coal mining industry. Consequently, the UMWA would once again urge that the Proposed Rule be withdrawn; in the alternative, we seek at least a 60 day extension of the comment period.

Richard E. Stickler
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The second issue the UMWA raises objection to is MSHA's proposal for a single public hearing via one videoconference conducted simultaneously at three locations in Washington, DC; Pittsburgh, PA and Denver, CO. I am confused, or maybe not, at why these locations were chosen. My guess is that these locations were chosen to purposely limit if not eliminate the miners participation. Historically, Denver Colorado has had very low turnouts for MSHA's past public hearings. I am also trying to figure out how many active coal miners live in the Washington, DC area that will be participating on the day of the teleconference. My guess is **ZERO**. The UMWA International Office, the National Mining Associations office, and the Bituminous Coal Operators Associations office will be the only participants. How does this keep in step with Congress intent to encourage miners participation if MSHA holds public hearings that set up one roadblock after another? Further, persons who participate at locations in Beaver, WV and Birmingham, AL will not be able to make oral presentations but simply listen via audio connections, which defeats the primary purpose of holding the hearings.

The UMWA objects to the Agency's proposal to hold a single public hearing in which all participants in three locations will need to be accommodated in a single day. We are certain that many from the coal industry will be interested in commenting on this proposal and how it corresponds with current regulations in states; their experiences with such programs; and company sponsored alcohol and drug-testing programs. Those participants will certainly be limited in the time to make their presentations, unlike any other proposed rule public hearings, which are held in separate locations on different days. Further, those participating in Beaver, WV and Birmingham, AL, which are in the heart of coal country, will not be able to make any oral presentation, but can simply sit and listen to what is being said. The UMWA believes that this single public hearing will not provide sufficient platform for those interested in this rule to provide testimony. Therefore, the Union urges the Agency to conduct this proposed rule as it has all the others in the past, with sufficient hearings in various locations, which provide ample opportunity for those interested to testify. Limiting the public to a single hearing further caters to the Department of Labor's objectives rather than providing enough public hearings in coalfield locations to hear what the industry stakeholders have to say on this matter.

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Consequently, the UMWA urges MSHA to provide at least a 60 day comment period extension and to schedule a number of public hearings in various locations near coalfield communities. I thank you for your attention to this matter and await your response.

Sincerely,

A handwritten signature in black ink that reads "Dennis O'Dell". The signature is written in a cursive, flowing style.

Dennis O'Dell, Administrator
Occupational Health and Safety
United Mine Workers of America

cc: Elaine L. Chao, U.S. Secretary of Labor
Edward M. Kennedy, U.S. Senator
George Miller, U.S. Representative
Robert C. Byrd, U.S. Senator
John D. Rockefeller, U.S. Senator
Patty Murray, U. S. Senator
UMWA International President Cecil E. Roberts
UMWA International Secretary-Treasurer Daniel J. Kane