

**From:** Art Ostdiek [ostdiek@naxs.net]  
**Sent:** Sunday, March 26, 2006 8:53 PM  
**To:** zzMSHA-Standards - Comments to Fed Reg Group  
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**Subject:** Comment on RIN 1219-AB44

I am an independent designer whose main experience has been in fields other than coal mining. I have tried to bring a fresh perspective to mining problems in the ten years since my early retirement, but have encountered nothing but difficulty. I recently teamed with others who have extensive mining experience, and had hoped that the melding of our skills would help to change this pattern. I had hoped up until your comment deadline to add the last crucial member, who should have experience in responding to such requests. Since that did not happen, I will try myself. I apologize if this is not the correct format, and hope that you can see beyond that.

Recently, the existing team proposed an idea for a miner survival system that was initially devised by the retired mining maintenance mechanic member and then improved by me. The limited response we have received has been, in my opinion, somewhat superficial.

I think that the coal industry is in need of the fresh perspective that could be supplied experienced outsiders. Even thorough treatments of the recent coalmine deaths (such as [http://www.occupationalhazards.com/safety\\_zones/50/article.php?id=14865](http://www.occupationalhazards.com/safety_zones/50/article.php?id=14865)) contain assumptions and constraints that are unnecessarily restrictive. Specifically, that author discusses only survival chambers and underground breathing systems, whether based on stored gas or generator techniques. Our design has a central feature that is neither of these, an approach which was first considered and then abandoned decades ago by NIOSH, but one which now may be practical.

In spite of what may be a general obstacle for others like myself who propose designs that don't fit the conventional methods anticipated by those in the coal industry, I believe that the best solutions can still take root. This could occur if MSHA takes the lead in guiding one crucial function - a forum charged with gathering information to be used in setting insurance premiums that contain safety incentives.

Anyone who is the least bit familiar with the coal industry will surely believe that the operators will not accept any solution that adds to their costs. However, if the costs involved with using any survival equipment could be at least partially amortized through a reduction in insurance premiums, a few proactive operators may well endorse new techniques that also offer the potential for side benefits. If the use of these systems by a few companies does lead to improvements that finally create a positive net impact on survival issues, other companies will then have to follow course.

We believe that our idea has a potential for amortization that is superior to the other approaches being discussed, but reduced liabilities must be weighed fairly in premium calculations before we can expect any market penetration. We are powerless to trigger such events, but believe that the opportunity now exists for MSHA to do so.

I am not plugged into the information loop on the recent mining disasters, but I have been told these four things:

- 1) just before the holidays, there was the same type of fire at the same location in the mine where the two miners were later killed, and that this first fire was barely extinguished,
- 2) there was no smoke-free entry in that mine, surely a cost saving measure,
- 3) the efforts regarding the potash miners in Canada have at least established some comparables for reasonable protective measures, and
- 4) extreme circumstances allow exceptions to workers' comp limitations in WV

If all of these are true, surely some shrewd attorney is now contacting widows and offering them an attractive contingency deal. A jury might some day be left to decide if the coal industry has shown due diligence in pursuing its own safety improvements, and whether the value on the miners' life that can be revealed by potash/coal comparisons is acceptable. If a case does ever reach that stage, the impact on liability premiums seems

almost inevitable. Even the anticipation of that possibility may have an effect. These premiums will surely increase with time if practices do not change, and thus will eventually trigger the needed change.

If my information is not accurate, the industry should still establish the forum I propose. This industry has been given a fair warning by the recent accidents, and should do some preparatory work before a truly huge crisis develops. The chances for such a crisis are increasing, despite improvements in safety. The current market forces will necessitate the development of reserves that are less stable than typical active reserves. Moreover, any effort by terrorists to disrupt the Middle East oil supply that does finally succeed will ramp up the demand for domestic coal. This could easily precipitate a monumental crisis. Given the extremes to which these individuals have clearly shown they are willing to go, this appears to only be a matter of time.

I continue to search for additional support among like-minded people who see this situation as I do, an opportunity. Specifically, I need for the right manufacturer of a critical component now used in the coal industry to at least return my calls. But my position is essentially powerless in an industry noted for raw use of power.

All that may be required for a significant shift in my position is the credibility I might gain by your endorsement of my proposal. Even if the leading carriers take lightly or ignore any such efforts by MSHA, changes can still occur. In a robust economy where the national interests are so closely link to those of coal, there may well be some new or lower tier companies who are hoping for a chance just like this to move up the chain.

The rule that should prevail if this does come about is that we take a fresh look and follow the data. I ask no more than that. As soon as I complete the assembly of my team, I will contact Walter C. Slomski at the MSHA Approval and Certification Center in Triadelphia WV. Someone in the Disaster Prevention and Response Branch at the NIOSH Pittsburgh Research Laboratory gave me his name when our own brief email conversation hit a dead end.

I have prepared a Power Point presentation that sketches some of our ideas if I ever do hear back from the manufacturer. If you can suggest an approach with better chances than an independent retiree waiting for a major manufacturer with a reputation to sign his confidentiality agreement, please inform me of what that might be. The old joke says that I have two chances - slim and none.

I may be in the Baltimore-Washington area early in the week of Apr 9, and could stop by Arlington if you are interested in discussing our ideas.

Arthur J. Ostdiek, PhD