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Massey Coal Services

Massey Energy ®

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Mine Safety & Health Administration
Office of Standards, Regulations and Variances
1100 Wilson Boulevard, Room 2350
Arlington, VA 22209-3939

RE: RIN 1219-AB53 - MINE RESCUE TEAMS, 30 CFR Parts 49 and 75 – 72 Fed. Reg. 51320 (September 6, 2007)

Dear Sir/Madam:

Massey Energy Company and its related companies ("Massey Energy") submit these comments in response to the proposed rule on MINE RESCUE TEAMS, 30 CFR Parts 49 and 75, issued by the Mine Safety and Health Administration on September 6, 2007, (72 Fed. Reg. 51320).

With 19 modern mining complexes located in the tri-state nexus of southern West Virginia, eastern Kentucky and southern Virginia, Massey Energy is the fourth largest coal producer by revenue in the United States. Massey Energy operates 45-55 underground coal mine sections and various transport mines. Our underground coal mines are located within a close geographic radius and are generally clustered in groups near to one another. Many of our production mines consist of 1 or 2 sections and employ 40-85 members. Transport mines may have an even smaller workforce.

Presently, these operations may be covered by state rescue teams in Kentucky and Virginia, as well as by Massey Energy company-sponsored teams comprised of Massey Energy members. Our underground mine rescue teams are comprised of well trained, motivated and experienced Massey Energy employees who come from a variety of specialties and occupations across our operations. Some of our existing team members work at multiple mine sites, but are not affiliated with any one mine. Under the current regulations, Massey Energy mine rescue team membership is voluntary and teams are permitted to recruit and select their members based on an interview process. These rescue teams have earned a number of recognitions and awards; they are dedicated employees who are familiar with all aspects of mining. The Massey Energy rescue teams would not fall into any of the classifications established in the proposed rule.

Our specific comments on RIN 1219-AB53 - MINE RESCUE TEAMS, 30 CFR Parts 49 and 75, are the following:

1. The nation's mining industry has a strong and vibrant mine rescue team infrastructure and the existing rules governing the subjects of this proposed rule, *e.g.,* team structure, training and response time, have met the needs of the industry. Any benefit from the proposed actions to reduce response time will be irrelevant if the appropriate agency personnel and their technical support have not arrived at the emergency site in advance of the teams. The proposed rule, however, is silent on this point, as it is on the issue of training for, and the experience of, agency personnel who may serve in a mine emergency command center.

2. The requirement that a composite team maintain two members from each covered mine may be counter-productive to the continuity of team membership and may require the drafting of team members in lieu of motivated volunteers. We urge MSHA to define mine-site and composite teams to encompass teams supported by controlling entities and their related companies (Related Companies") and comprised of Related Companies' employees working in and around their covered underground mines, regardless of the employee-team member's work location.

3. The proposed composite team membership requirement has an inherent bias against smaller coal mines with fewer employees and may have serious unintended consequences for existing teams. This bias can be illustrated by comparing the impact of contributing 4 employees for 2 composite teams on a smaller mine employing 48 employees (1:12 ratio) with a larger coal mine having 480 employees (1:120 ratio).

4. The classification of a rescue team as mine-site, composite, contract or state, is not the appropriate common denominator upon which to base the frequency of mine-site training requirements and overlooks factors such as mine size and complexity of the mine layout.

5. The proposed requirement for underground mine site training is not required by the MINER Act. Given the MINER Act's unusual specificity when addressing mine rescue teams, if underground training had been contemplated, it would have been stated. Benchmen should fall into a special classification exempting them from underground experience and training requirements unless they contemplate filling other team positions.

6. Additional valuable insight may be gained from the operation of our community fire departments. These fire departments train and practice on the basics; they are familiar with the hazards in their coverage areas and may participate in periodic mock emergency drills, but they do not train at every covered structure and they do not

have two fire fighters provided by each covered structure. The analogy to mine rescue teams is clear.

7. The state-sponsored teams in Kentucky and Virginia, where Massey Energy operates, are proven and add value. These state-sponsored teams share concerns similar to the ones raised here.

8. MSHA's estimated costs for starting and maintaining teams are low and do not adequately take into account the practical realities of team operation. Although only six members are required for a team, additional members will be required to assure coverage. In addition, the underlying assumptions do not appear to include costs for transportation, such as mine rescue vans and trailers, fire fighting equipment, such as nozzles, lances, foam machines, communications, such as radios, cell phones and pagers, specialized clothing, such as firefighting turnout gear, and other equipment, such as freezers and air compressors. Experience also indicates that the time spent on contest-related activities extends well beyond the estimated 8-hour shift, with pre-competition, training and preparation and post-competition equipment maintenance.

9. The one-hour travel time from covered mine to station would require Massey Energy to add stations and possibly to relocate stations. The exact impact is unknown at this time, because of the uncertainty of state team coverage and the future configuration of our own teams.

10. Finally, we respectfully suggest that an implementation period of 18 months is appropriate in this instance to permit for the purchase and delivery of equipment, the systematic implementation of changes, and the selection and training of the new teams.

In closing, Massey Energy appreciates the opportunity to provide these comments on this rulemaking and stands prepared to continue to work with MSHA to develop appropriate MINE RESCUE TEAM standards, which will further the principles underlying the MINER Act.

Sincerely,

Elizabeth S. Chamberlin
Vice-President, Safety and Training