September 17, 2007

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

Re: RIN 1219 – AB52 Sealing of Abandoned Areas, 72 Fed. 28, 796 (May 22, 2007)

Dear Sirs:
Attached are written comments concerning the above stated regulation submitted by me on behalf of Foundation Coal Corporation and its affiliates. Please add these comments to my public testimony that I gave in Morgantown, West Virginia on July 10, 2007.

John Gallick
VP Safety and Health
Foundation Coal Corporation

I have provided public comments at the public hearing in Morgantown, West Virginia on July 10, 2007 on behalf of Foundation Coal Corporation and its affiliates. The following written comments are to complement my public testimony.

MSHA asked in the Emergency Temporary Standard (ETS) to receive comments concerning inerting of sealed atmospheres.

- Artificial inerting via inert gas injection should be permitted via boreholes or through an underground piping system. Some MSHA districts have stated that inerting must include a one-to-one exchange of sealed mine atmospheres with an inerted gas replacement. It is not necessary to require this level of exchange. To our knowledge only a limited amount of inerting (and only for spontaneous combustion control) has occurred in the United States. Both the Australian model and the mines controlling spontaneous combustion used a piped gas injecting in the seal line itself. Pumping inert gas at the seal line to sufficient level is adequate. There is no need to require a complete atmosphere exchange for an inert gas injection program.

MSHA asked in the Emergency Temporary Standard for comments concerning MSHA's proposed three-tiered approach to seal strength.

- We agree with MSHA that there is no empirical or other data necessitating the Agency to require seal strength greater than 120 psi. Based upon the history of explosions in sealed areas there appears to be no reason to require a seal strength requirement of greater than 120 psi. This strength is 6 times greater than the previous standard and is greater than any seal strength standard in the world. Based upon the data available concerning sealed area explosions, only Sago, which was a pressure piling situation, exhibited pressure levels of greater than 50 psi.

MSHA asked the Emergency Temporary Standard for comments concerning either replacing existing seals or upgrading the 20 psi seals to at least 50 psi.

- We appreciate that MSHA recognizes that replacing all existing 20 psi seals would be impractical and may in actuality add another risk to the operation. Generally seals installed prior to the 2006 PIB and cement block Mitchell Barrett seals that have not exhibited any problems during monitoring should be left alone. Our experience with replacing existing seals or trying to develop a reinforced seal where only one side is accessible is difficult and costly.

We would also like to comment on one of the answers given by MSHA in its Q/A on the Emergency Temporary Standard.

- In an answer to question No. 27 on July 19, 2007 MSHA stated that a seal must be designed to withstand a 50 psi pressure from an explosion occurring on the active side of the mine. In his 1971 work on this subject "Explosion-proof bulkheads- present practices" Mitchell studied pressures likely to occur from an active area explosion. Mitchell concluded that an active area explosion would be less than 20 psi overpressure. MSHA has not refuted this report yet has arbitrarily required a 50 psi overpressure design for explosions occurring on the active side of the mine. This level of design requirement adds to the difficulty and costliness of reinforcing existing seals.

The following changes are proposed by NMA for changes to the ETS final standard. We endorse these recommendations as well.

PART 75--SAFETY STANDARDS FOR UNDERGROUND COAL MINES

1. The authority citation for part 75 continues to read as follows:

Authority: 30 U.S.C. 811, 863.

2. Revise Sec. 75.335 to read as follows:

Sec. 75.335 Seal requirements.

Seals shall be designed, constructed, and maintained to protect miners from hazards related to sealed areas. Seal designs and the installation of each seal shall be approved in accordance with Sec. 75.336.

(a) Seal strength requirements. Seals constructed on or after May 22, 2007 shall be designed, constructed, and maintained to withstand--

(1) 50 psi overpressure when the atmosphere in the sealed area is monitored and maintained inert in accordance with paragraph (b) of this section;

(2) 120 psi overpressure if the atmosphere is not monitored, and is not maintained inert, and the conditions in paragraph (a)(3)(i) through (iii) of this section are not present; or

(3) An overpressure greater than 120 psi if the atmosphere is not monitored and is not maintained inert and;

(i) The atmosphere in the area to be sealed is likely to contain homogeneous mixtures of methane between 4.5 percent and 17.0 percent and oxygen exceeding 17.0 percent throughout the entire area;

(ii) Pressure piling is likely due to opening restrictions near the proposed seal area; or

(iii) Other conditions are encountered, such as the likelihood of a detonation in the proposed seal area.

(iv) Where the conditions in paragraphs (a)(3)(i), (ii), or (iii) of this section are encountered, the operator must revise the ventilation plan to be submitted to the District Manager to address the potential hazards. The plan shall include seal strength sufficient to address the conditions.

(4) All pressure requirements are applied with a safety factor (SF) = 1.0 unless site specific requirements dictate a higher level.

(b) Sampling and monitoring requirements. **Effective May 22, 2007, a certified person as defined in §75.100 shall monitor atmospheres of sealed areas. For seals constructed prior to May 22, 2007 and for seals designed for 50 psi overpressure, mine operators shall develop and follow a protocol to monitor methane and oxygen concentrations, and to maintain an inert atmosphere in the sealed area. The protocol shall be approved in the ventilation plan.**

(1)A sample of the atmosphere behind a sealed area can be drawn remotely or a certified person shall sample atmospheres of sealed areas weekly when the seal is outgassing. At least one sample shall be taken at each set of seals. If a seal is ingassing during the weekly examination, a sample shall be collected during the next weekly examination, if ingassing, or at an alternative sampling location or with an alternative method of analysis, if available.

a. If the seal is ingassing during the second consecutive weekly examination, the operator shall examine that seal daily until the seal is outgassing, unless the seal does not outgas. In this case, an alternative plan shall be developed and submitted to the District Manager.

b. The District Manager may approve different sampling frequencies and locations in the ventilation plan or approve the use of atmospheric monitoring systems, including systems that can remotely draw samples in lieu of weekly sampling. The mine operator shall revise the protocol, if repeated sampling indicates that a seal is not likely to outgas.

Rationale: Some seals will always ingas and there are limits to what an operator can do to get a seal to outgas, therefore, the District Manager should take this into consideration and if a seal always outgases then the seals in that seal line that outgas should be accepted as sampling points to demonstrate what is in the sealed area. It should be remembered that may mines are overmined or are very deep with harsh terrain; all of which prohibit the use of vertical boreholes. Operators need to be allowed to use alternative means (or methods) to establish that a sealed area is inert**.** If a seal changes with barometric changes then it should be examined and recorded. The intent of this is if there are several seals along a long seal line that are sampled that represent a gob and a percentage of less than one half are ingassing then the outgassing seals should be considered representative. Alternatively if there are inert seal sets on either side of a non-inert seal set, then the gob area should not be considered explosive.

The sampling requirement needs to be written so that the use of remote samples such as tube bundling or other methods can be used to draw samples rather than relying only on a hand drawn sample.

The preamble (page 28802) discusses MSHA's opinion that leakage into sealed areas as a result of barometric changes would not "significantly impact the atmosphere in a large portion of the sealed area but it may affect the atmosphere at a sampling location, when the seal is ingassing. Therefore, it is important that samples be representative of the atmospheric conditions in the larger portion of the sealed area rather than just the area immediately inby the seal."

As reflected in the above cited preamble language, the proposal acknowledges the need to review the entire sealed area, yet the action plans and sampling protocols ignore other data that can provide a clearer picture of the inertness of the entire sealed area. The recommendation will address this situation by permitting the use of sampling data from either one seal in a set of seals or other means of establishing the condition of the entire sealed area and not rely on an action plan based upon one seal set.

(2) Certified persons conducting sampling shall be trained in the sampling procedures included in the protocol, as provided by paragraph (b)(5) of this section, before they conduct sampling, and annually thereafter. The mine operator must certify the date and content of training provided certified persons and retain each certification for one year.

Rationale: The industry applauds the agency's desire to develop a regulation for training of certified persons using a performance standard. The industry would like to clarify that this training is not part of Part 48 training and does not require a training plan submission.

(3) The atmosphere shall be considered inert when--

(i) The oxygen concentration is less than ~~10.0~~ **12.0** percent;

(ii) The methane concentration is less than ~~3.0~~ **4.0** percent;

or

(iii) The methane concentration is greater than ~~20.0~~ **16.0** percent.

Rationale: MSHA's zone of what is inert is too restrictive. MSHA's inert zone is considered to be less than 3% and greater than 20%; the accuracy of hand monitors would allow the inert zone to be larger and to still have a safety factor. MSHA must also consider that these atmospheres are behind previously approved seals that offer some level of protection. Therefore, there is still a level of protection although the non-inert zone has been increased to 4.0% and greater than 16.0%. Allowable maximum oxygen according to the IC 7901 Determining the Explosibility of Mine Atmospheres is Maximum $O2 = 5.0 + 7 R$. R value for methane which is the primary explosive gas is 1 therefore the maximum allowable oxygen is 12 percent.

The gas levels listed in the ETS mirror the gas levels used in the July 2006 PIB. While providing a safety factor for hand-held sampling is understandable, the failure to acknowledge a chromatograph reading to determine inert levels is not understandable. The regulation should allow for a narrowing of the safety factor when follow-up chromatograph samples are taken. This is how the system works for other gas readings taken by MSHA inspectors and should be provided for in this regulation. A chromatograph reading of oxygen below 12% levels on methane outside the 3% to 20% levels should be the "final decider" of the atmospheric levels for a sealed area.

(4) **When oxygen concentrations are 12.0 percent or greater and methane concentrations are from 4.0 percent to 16.0 percent in a sealed area, the mine operator shall take at least one additional gas sample within a 24 hour period. If the additional gas sample is from 4.0 percent to 16.0 percent and oxygen is 12.0 percent or greater then the operator may take a bottle sample to be analyzed by a gas chromatograph. The results will be plotted on the Zabetakis Nose Curve. If the atmosphere is inert with an R value outside the appropriate triangle the results will be recorded and no further action need to be taken. If the atmosphere is not inert with an R value inside the appropriate triangle, the following action plan will be implemented –**
~~When oxygen concentrations are 10.0 percent or greater and methane concentrations are from 3.0 percent to 20.0 percent in a sealed area, the mine operator shall take two additional gas samples at one-hour intervals. If the two additional gas samples are from 3.0 percent to 20.0 percent and oxygen is 10.0 percent or greater—~~

Rationale: Taking two additional samples at one hour intervals does not give the gob enough time to equalize after a barometric swing. A sampling period over twenty-four hours is much more reasonable. Should these additional samples show that the operator is still in the non-inert range then the operator at his discretion may take additional samples. These samples may be taken and analyzed using a gas chromatograph. Individual gases can be analyzed and the Zabatakis Nose Curve can be calculated and plotted to determine the true explosive nature of the gob. These calculations are outlined in IC 7901. Also, if chromatograph samples are taken then a comparison can be made to a handheld that reads CO2 and a correlation can be established as an indicator as to whether the atmosphere is inert or not even though the oxygen and methane are in the non-inert zone.

The industry agrees with the need for additional samples to verify an initial reading. The industry questions whether the time frame is sufficient when the sample reading is clearly an outlier from the previous samples accumulated at as part of a baseline. In cases where the baseline has established a clear pattern of readings indicating an inert atmosphere, additional time should be accepted to allow for follow-up chromatograph sampling prior to implementing the action plan.

(i) ~~The mine operator shall implement the action plan in the protocol; or~~ **The mine operator shall implement the action plan in the protocol; or**

(i) The size of the zone that has the 4-16.0% methane with oxygen above 12.0% or has a R value inside the appropriate triangle as determined by the Zabatakis Nose Curve then the size of the affected area and the action to be taken will be determined by one of the following methods:

(a) Evaluating the samples from the seals that have been examined to determine that the seal that is out of the inert zone is isolated to that one seal or seal set. A seal sample outside of the inert range will be recorded in the inspection book and re-sampled every 24 hours with a handheld monitor or chromatograph until it is determined to be inert.

(b) Should two adjacent seals or sets of seals be determined to be outside of the inert range, the internal nature of the gob will be examined by an alternative method, , if available, to determine if the internal part of the gob is inert. If the internal part of the gob is inert and the non-inert area is isolated and of limited size, then the designate affected area will limited to that seal and only those persons necessary for inspection will be allowed in the area.

(c) Should the non-inert gob area determined to be extensive, or a line of three or more adjacent seals or sets of seals be determined to be outside of the inert range, then immediate action will be taken to inert the atmosphere by implementing the section addressing this in the protocol as submitted to MSHA.

(d) Should inert seals exist adjacent to a non-inert seal, the internal nature of the gob will be considered inert.

(e) Persons shall be withdrawn from the affected area, except those persons referred to in section 104(c) of the Act.

Rationale: There should be some tiered approach to what action the operator is required to take based on the size of the area that is in the non-

inert range. Samples at times may swing in and out of the zone due to barometric highs and lows. Air changes to the mines ventilation system can impact the sampling results. This tiered approach gives the operator some time to respond without necessarily having to pull the people every time one or two samples may indicate that they are in the non-inert zone. Also, the size of the gob that is sealed in relation to the size of the non-inert zone must be considered and the non-inert zone must represent a small percentage of the sealed gob. This would apply particularly in large sealed areas where the fringe along seal lines where leakage into the gob is a concern.

(ii) Persons shall be withdrawn from the affected area, except those persons referred to in section 104(c) of the Act.

(5) The protocol shall address--

(i) Sampling procedures, including equipment and methods to be used;

(ii) Location of sampling points;

(iii) Procedures to establish a baseline analysis of oxygen and methane concentrations at each sampling point over a 14-day sampling period. The baseline shall be established after the atmosphere in the sealed area becomes inert or the trend reaches equilibrium;

Rationale: The baseline should be used to establish the nature of the sampling point and an indication of what the internal nature of the gob is. These points should not be expected to never enter the non-inert zone because of changes in the mine or barometric swings. The majority of these baseline numbers should be inert, but it can be expected that there are times when they will be non-inert. (See action plan)

Industry would like MSHA to provide the agency's sampling protocol to be used by MSHA inspectors. This doesn't need to be part of a regulation, but should be made available to interested parties for comment. For example, will MSHA rely strictly on a hand-held sample or will a bag sample be used for confirmatory chromatograph readings? If a confirmatory sample is to be taken, what pump system does MSHA plan to use?

The Action Plan is to include affected area. Industry would expect that the affected area be based on more than a generalized "cookbook formula" and that mitigating systems be permitted to minimize the area. For example rockdust and/or water bags added to the active side of the seal can act to reduce explosion forces. These types of actions by an operator should be considered when establishing an affected area. We have heard of Districts stating that the entire

mine is affected, yet the regulations clearly contemplate allowing for operating under an action plan.

(iv) Frequency of sampling;
(v) Size and conditions of the sealed area; and
(vi) Use of atmospheric monitoring systems, where applicable;
(vii) The protocol shall include an action plan that addresses the hazards presented and actions taken when gas samples indicate oxygen concentrations of ~~10.0~~ **12.0** percent or greater ~~for each of the following ranges of methane concentrations~~ **and methane of 4.0-16.0%**

Rationale: The non-inert zone has been narrowed and the actions are outlined above**.**

(A) 3.0 percent or greater but less than 4.5 percent; and
(B) 4.5 percent or greater but less than 17.0 percent; and
(C) 17.0 percent to 20 percent.

(6) The certified person shall promptly record each sampling result, including the location of the sampling points, and oxygen and methane concentrations. The results of oxygen and methane samples shall be recorded as the percentage of oxygen and methane measured by the certified person and any hazardous condition found, in accordance with Sec. 75.363.

(7) The mine operator shall retain sampling records at the mine for at least one year from the date of sampling.

(c) Welding, cutting, and soldering with an arc or flame are prohibited within ~~1~~50 feet of a seal **in the same air-course except when a plan is approved for such work by the District Manager**.

(d) For seals constructed after May 22, 2007, at least two sampling pipes shall be installed **the seals of greatest and least elevation** in each **set of** seal**s**. One pipe shall extend approximately 15 feet into the sealed area and another shall extend into the center of the first connecting crosscut inby the seal **and approximately 150 feet from the seal. A lesser distance or different location may be approved where location may be approved where local conditions preclude this straight-line distance.** Each sampling pipe shall be equipped with a shut-off valve and appropriate fittings for taking gas samples **and be identified as to location and length of pipe. The pipe in the lowest seal shall be approximately 12 inches above the highest anticipated water elevation.**

Rationale: The prohibition of burning and welding within 150 feet of a seal makes mining with a longwall in the west very difficult. The gob isolation stoppings will be within 150' of the tail drive of the longwall, and during a maintenance event, there will likely be times that burning and welding will be required. 75.1106 already addresses the safeguards needed to safely do this work, and a prohibition is not necessary, just because someone failed to carry out the procedures.

The application of the prohibition of cutting and welding within 150 feet of a seal may not be enforceable or cause great interruption in some mines where the next entry or two entries over from the seal contains a pre-existing belt, belt drive, shop area, travel-way or track. There is no "grandfather clause" for these situations. If additional, new seals (as anticipated by the standard and being required in the new ETS plans) are to be built and there is not adequate space in front of existing seals, the new seals may be placed within the 150 feet of the existing areas listed above.

The standard where the 150-foot distance comes from (permissible zone near gob lines) is of a completely different nature from the seal situation. In the 150-foot gob scenario, the hazard is that there are generally no permanent ventilation structures between the gob and the permissible zone so that any of a number of incidents (gob reversal, low gob pressure, large roof fall pushing out gob air) could result in gob air carrying methane to come into the work area. In many areas around seals, there are definite air flow patterns separated by permanent ventilation devices that are designed to carry away any out-gassing from the seals.

(e) For each set of seals constructed after May 22, 2007, the seal at the lowest elevation shall have a corrosion-resistant water drainage system. Seals shall not impound water **except that adequate water may be impounded for the design operation of the water drainage system. In no case shall the water elevation be more than 24 inches above the bottom of the lowest seal in elevation.**.

3. Add Sec. 75.336 to read as follows:

Sec. 75.336 Seal design applications and installation approval.

(a) Seal design applications from seal manufacturers or mine operators shall be in accordance with paragraphs (a)(1) or (a)(2) of this section and submitted for approval to MSHA's Office of Technical Support, Pittsburgh Safety and Health Technology Center, P.O. Box 18233, Cochrans Mill Road, Pittsburgh, PA 15236.

(1) An engineering design ~~application~~ shall:

(i) Address gas sampling pipes, water drainage systems, air leakage, fire resistance, flame spread index, pressure- time curve, entry size, engineering design and analysis, material properties, construction specifications, quality control, design references, and other information related to seal construction;

(ii) Be certified by a professional engineer that the design of the seal is in accordance with current, prudent engineering practices; and

(iii) Include a Seal Design Table that discusses characteristics related to mine-specific seal construction.

(2) Each application based on full-scale explosion tests shall address the following requirements to ensure that a seal can reliably withstand the overpressures provided by Sec. 75.335:

(i) Certification by a professional engineer knowledgeable in structural engineering that the testing was done in accordance with current, prudent engineering practices and its applicability in a coal mine;

(ii) Technical information related to the methods and materials;

(iii) Proper documentation;

(iv) An engineering analysis to address differences between the seal support during test conditions and the range of conditions in a coal mine; and

(v) The application shall include a Seal Design Table that discusses characteristics related to mine specific seal construction.

~~(3) MSHA will notify the applicant if additional information or testing is required. The applicant must provide this information, arrange any additional or repeat tests, and notify MSHA of the location, date, and time of the test(s).~~

(3) ~~(4) MSHA will notify the applicant, in writing, whether the design is approved or denied. If the design is not approved, MSHA will specify, in writing, the deficiencies of the application, or necessary revisions.~~ **Within 30 days, if the design is considered to be incomplete, MSHA will specify in writing, the items in paragraphs (a)(1) or (a)(2) which have not been addressed otherwise, the design will be accepted.**

~~(5) Once the seal design is approved, the approval holder must promptly notify MSHA, in writing, of all deficiencies of which they become aware.~~

(5) MSHA Tech Support will provide a selection of approved generic seal designs, constructed of commonly obtainable materials,

complete with all design criteria and calculations, for use by the Operator and Professional Engineer in choosing a seal design applicable to the site(s) where the seal is to be constructed.

(7) In the case of MSHA designed seals, the operator must promptly notify MSHA, in writing, of all deficiencies of which they become aware.

Rationale: Once a professional engineer has certified that a design meets the required standard, and all required data has been attached to the submittal, the design should become effective immediately. MSHA should not have the ability to deny a design unless the application is not complete. It is the responsibility of the professional engineer to certify the design and it is the responsibility of the mine operator to employ a properly designed seal.

(b) The mine operator shall use an approved seal design provided its installation is approved in the ventilation plan. The mine operator shall--

(1) Retain the seal design approval information for as long as the seal is needed to serve the purpose for which it was built.

(2) ~~Designate a professional engineer to conduct or have oversight of seal installation.~~ **A copy of the MSHA approval** and **applicable (if not an MSHA design)** ~~certify that the provisions in the approved seal design specified in paragraph (a) of this section have been addressed. A copy of the certification shall be submitted to the District Manager with the information provided in Sec. 75.336(b)(3) and a copy of the certification shall be retained for as long as the seal is needed to serve the purpose for which it was built.~~ **Submit the information required in 75.336 (b)(3) to the District Manager and retain a copy of the submittal shall for as long as the seal is needed to serve the purpose for which it was built.**

Rationale: Once the seal design is approved by a professional engineer, there is no need for another professional engineer to get involved in the construction process. The original design should have a range of conditions under which the design would apply. The rest of the information requested in (b)(3) can be provided by mine personnel familiar with the construction site and mine specifics. To ask a professional engineer to certify that the construction was carried out in accordance with the plan is folly. For them to do that, they would have to

be present the whole time the seals were under construction. That is unrealistic.

(3) Provide information for approval in the ventilation plan--

(i) The MSHA Technical Support Approval Number;

(ii) The mine map of the area to be sealed and proposed seal locations. This portion of the mine map shall be certified by a professional engineer;

(iii) Specific mine site information, including'

(A) Type of seal;

(B) Safety precautions taken prior to seal achieving full design strength;

(C) Methods to address site specific conditions that may affect the strength and applicability of the seal;

(D) The construction techniques;

(E) Site preparation;

(F) Sequence of seal installations;

(G) Projected date of completion of each set of seals;

(H) Supplemental roof support inby and outby each seal;

(I) Water flow estimation and dimensions of the water drainage system through the seals;

(J) Methods to ventilate the outby face of seals once completed;

(K) Methods and materials used to maintain each type of seal;

(L) Methods to address shafts and boreholes in the sealed area; and

(M) Additional information required by the District Manager.

4. Add Sec. 75.337 to read as follows:

Sec. 75.337 Construction and repair of seals.

(a) Prior to sealing, the mine operator shall--

(1) Remove **all known** insulated cables from the area to be sealed when constructing seals; and

(2) Remove metallic objects through or across seals, except water pipes, gas sampling pipes, and form ties approved in the seal design.

(b) A certified person designated by the mine operator shall ~~directly supervise seal construction and repair and—~~

Rationale: A certified person conducts the required examinations and enters them in the proper record book. It is not necessary for this person to directly supervise the entire construction process. This requirement may unnecessarily delay important repairs or construction activities until a certified person can be notified. Trained, qualified persons should be permitted to repair or construct seals in accordance with the approved plan and the certified person can then conduct an examination to assure that the plan was followed.

(1) Examine each seal site immediately prior to construction or repair to ensure that the site is in accordance with the approved ventilation plan;

(2) Examine each seal under construction or repair during each shift to ensure that the seal is being constructed or repaired in accordance with the approved ventilation plan;

(3) Examine each seal upon completion of construction or repair to ensure that construction or repair is in accordance with the approved ventilation plan;

(4) Certify by initials, date, and time that the examinations were made; and

(5) Make a record of the examination at the completion of any shift during which an examination was conducted. The record shall include each deficiency and the corrective action taken. The record shall be countersigned by the mine foreman or equivalent mine official by the end of the mine foreman's or equivalent mine official's next regularly scheduled working shift. The record shall be kept at the mine for one year.

(c) ~~Upon completion of construction of each seal, a senior mine management official, such as a mine manager or superintendent, shall certify that the construction, installation, and materials used were in accordance with the approved ventilation plan. The mine operator shall retain the certification for as long as the seal is needed to serve the purpose for which it was built~~. **Upon completion of construction of each set of seals, a senior mine management official, such as a mine manager or superintendent, shall countersign the official seal record book**

Rationale: A senior mine official cannot certify that "the construction, installation and materials used were in accordance with the approved ventilation plan," unless he/she was present during the full period of time it took to complete the job. This is totally unrealistic and puts the senior manager in the position of certifying work they did not personally observe. The senior official should certify that the seal employed was designed by a professional engineer and that the certified foreman conducted the required examinations and entered them correctly in the book. In many cases, the quality control analyses are not available for several weeks after completion of the seal.

(d) The mine operator shall--

(1) Notify the local MSHA field office between two and fourteen days prior to commencement of seal construction;

(2) Notify the District Manager, in writing, within five days of completion of a set of seals; and

(3) Submit a copy of quality control results to the District Manager for seal material properties specified by Sec.75.336.

(e) Miners constructing or repairing seals, certified persons under paragraph (b) of this section, and senior mine management officials under paragraph (c) of this section shall be trained prior to constructing or repairing a seal. The training shall address materials and procedures in the approved seal design and ventilation plan. The mine operator must certify the date of training provided each miner, certified person, and senior mine management official and retain each certification for one year.

5. Add Sec. 75.338 to read as follows:

Sec. 75.338 Seals records.

(a) The table entitled ``Seal Recordkeeping Requirements'' lists the records the operator must maintain pursuant to Sec. Sec. 75.335, 75.336, and 75.337, and the duration for which particular records need to be retained.

Table to Sec. 75.338(a).--Seal Recordkeeping Requirements

Record	Section reference	Retention time

(1) Protocol to monitor methane and oxygen and maintain an inert atmosphere — 75.335(b)..... Same ventilation plan requirements.
(2) Training of certified persons. — 75.335(b)(2)..... 1 year.
(3) Gas sampling records..... — 75.335(b)(6)..... 1 year.
(4) Approved seal design..... — 75.336(b)(1)..... As long as the seal is needed to serve the
(5) Certification of — 75.336(b)(2)..... As long as the seal is needed to serve the
(6) Record of examinations.... — 75.337(b)(5)..... 1 year.
(7) Seal construction certification — 75.337(c)..... As long as the seal is needed to serve the
(8) Certification of training. — 75.337(e)..... 1 year.

(b) Records required by Sec. Sec. 75.335, 75.336, and 75.337 shall be retained at a surface location at the mine in a secure book that is not susceptible to alteration. The records may be retained electronically in a computer system that is secure and not susceptible to alterations, if the mine operator can immediately access the record from the mine site.

(c) Upon request from an authorized representative of the Secretary of Labor, the Secretary of Health and Human Services, or from the authorized representative of miners, mine operators must promptly provide access to any record listed in the table in this section.

(d) Whenever an operator ceases to do business **or transfers control of the mine to another operator**, that operator must transfer all records required to be maintained by this part, or a copy thereof, to any successor operator who must maintain them for the required period.

6. Amend Sec. 75.371 by revising paragraph (ff) to read as follows:

Sec. 75.371 Mine ventilation plan; contents.

* * * * *

(ff) The sampling protocol as provided by Sec.75.335(b) and seal installation requirements provided by Sec. 75.336(b)(3). **The submitted copy of all records required to me maintained by the part, or copy thereof, will be maintained at all times by the District Office where the mine is located.**

* * * * *