

PUBLIC HEARING FOR 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; PROPOSED RULE

HEARING: Tuesday, April 8, 2003
10:10 a.m.

LOCATION: Marriot Hotel
200 Lee Street East
Charleston, WV 25301

WITNESSES: Gary Trout, Clyde McKnight,
James R. Patsey, Mart Lane,
David Mullens, Roger
Slayton

ALL PARTIES VIA TELEPHONE

Reporter: Tamara Y. Doxey

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A P P E A R A N C E S

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2

3 Carl Lundgren, Economist OSRV,
4 Arlington, Virginia

5 Bill Francart, Mining Engineer
6 Technical Support,
7 Pittsburgh, PA

8

9 Marvin Nichols, Director OSRV,
10 Arlington, VA

11

12 William Knepp, Acting District Manager
13 Morgantown, WV

14

15 Mark Eslinger, Supervisory Mine
16 Engineer Coal Mine
17 Safety & Health
18 District 8 Vincennes, IN

19

20 Kevin Hendrick, Electrical Engineer
21 A&CC, Triadelphia, WV

22

23 Herman Narcho, Esquire, Solicitor's
24 Office Arlington, VA

25 ALL PARTIES VIA TELEPHONE

E X H I B I T S

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NONE OFFERED

P R O C E E D I N G S

MR. NICHOLS:

Okay. Let's get started. Good morning everybody and thanks for being patient. We thank you and our assistant secretary, Dave Lauriski thanks you for coming out and being in attendance and giving us comments on this proposed rule today.

I'm Marvin Nichols, I'm the Director of our Office of Standards, Regulations and Variances with MSHA. Let me introduce my colleagues up here. On the far end is Mark Eslinger. Mark is with MSHA District 8 out of Vincennes, Indiana.

Herman Narcho, is with our Solicitor's Office and Headquarters. Bill Knepp is the Acting District Manager in

1 District Three, Morgantown and
2 Bill is also the Chair of the
3 Belt Air committte. Carl
4 Lundgren, Carl is an economist
5 with my office.

6 Kevin Hedrick is with
7 the Electrical group in
8 Pittsburgh and Bill Francart,
9 who is with the ventilation
10 group in tech support. I may
11 have gotten Kevin's location
12 --- I may have gotten those
13 titles crossed at the end.
14 He's from Tridelphia, West
15 Virginia.

16 This is the second of
17 our five scheduled hearings on
18 the belt air proposed rule.
19 Last Thursday, we had a public
20 hearing in Grand Junction,
21 Colorado. This Thursday, we
22 will be at the Holiday Inn at
23 the Meadows in Washington, PA.
24 On April the 29th, we'll be at
25 the Holiday Inn-Birmingham,

1 Airport Holiday Inn, in
2 Birmingham, Alabama. **On** May
3 the 1st, we'll be at the
4 Holiday Inn North in Lexington,
5 Kentucky.

6 The initial announcement
7 of these rulemaking hearings
8 was contained in the Notice of
9 Proposed Rulemaking published
10 on January 27, 2003 in the
11 Federal Register. Three of the
12 hearings were rescheduled due
13 to conflicts with other
14 hearings the Agency will be
15 holding on plan verification
16 and single sample rules. A
17 modified hearing location and
18 date notice was published in
19 the Federal Register on March
20 12th, 2003. Both of these
21 documents are available out in
22 the hallway on the sign up
23 table. **Also**, my office
24 notified many of you by e-mail
25 on March the 7th that we were

1 doing some rescheduling.

2 The purpose of these
3 hearings is to receive
4 information from the public
5 that will help us evaluate the
6 proposed rule on belt air. The
7 scope of the issues we're
8 addressing with this proposed
9 rule are well defined in the
10 rule and this hearing will be
11 limited to soliciting public
12 input on these issues.

13 I'd like to give you
14 some background that led us to
15 this proposed rule. MSHA's
16 proposed rule is based on
17 careful consideration of
18 existing ventilation rules. A
19 review of belt entry
20 ventilation ordered by the MSHA
21 assistant secretary in 1989, a
22 Secretarial Advisory Committee
23 in 1992 and MSHA's experience
24 in granting over 90 petitions
25 for modifications where belt

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air has been used safely in
underground coal mines.

MSHA published a
proposed rule to revise safety
standards for ventilation of
underground coal mines in
January of 1988. Included in
that proposed rule, were
provisions to allow for the use
of belt air. In response to
public comments and information
submitted during six public
hearings in June 1988, the
Assistant Secretary called for
a thorough review of safety
factors associated with the use
of belt air. That was in March
of 1989. MSHA completed this
review and concluded in August
1989 in the Belt Entry
Ventilation Review Report that,
directing belt entry air to the
face can be at least as safe as
other ventilation mentions
providing carbon monoxide

1 monitors or smoke detectors are
2 installed in the belt entry.

3 After the Belt Entry
4 Ventilation Review report was
5 issues, we reopened the
6 ventilation rulemaking record
7 and held a seventh public
8 hearing in April 1990, to
9 receive public comment on
10 issues raised in the report.
11 Comments received during and
12 after the seventh public
13 hearing expressed widely
14 divergent views on the
15 recommendations of the Belt
16 Entry Ventilation Review
17 Committee. Some commented that
18 the use *of* belt air provides
19 positive ventilation and
20 reduces the possibility of a
21 methane build-up in the belt
22 entry. Other commenters
23 maintained that the use of belt
24 air reduces safety due to
25 increased fire hazards and

1 greater dust levels.

2 Due to these divergent
3 views, when the ventilation
4 rule for underground coal mines
5 was finalized in 1992, it did
6 not include provisions that was
7 have allowed mine operators to
8 use belt air. However, MSHA's
9 existing standards continued to
10 allow for the use of belt air
11 on a mine-specific basis
12 through the petition for
13 modification process.

14 MSHA decided that the
15 use of belt air to ventilate
16 working places should continue
17 to be evaluated. As far as
18 this effort, the Secretary of
19 Labor appointed an Advisory
20 Committee in January 1992, and
21 charged it to make
22 recommendations concerning the
23 conditions under which belt air
24 could be safely used in the
25 face areas of underground coal

1 mines. This committee was
2 designated as the Department of
3 Labor's Advisory Committee on
4 the Use of Air in the Belt
5 Entry to Ventilate the
6 Production, Face Areas of
7 Underground Coal Mines and
8 Related Provisions. This
9 Advisory Committee held six
10 public meetings over a
11 six-month period. After
12 reviewing an extensive amount
13 of material, the Advisory
14 Committee concluded that belt
15 air could be safely used to
16 ventilate working **places** in
17 underground coal mines,
18 provided certain precautions
19 were taken. These precautions
20 included the use of new AMS
21 technology.

22 The Advisory Committee
23 made 12 recommendations to
24 support this conclusion. The
25 Advisory Committee submitted

1 its report to the Secretary of
2 Labor in November of 1992. We
3 published a December 1992
4 Notice in the Federal Register
5 announcing the availability of
6 the Advisory Committee's final
7 report and stated that we would
8 review its recommendations.

9 In the preamble of this
10 proposed rule, we discussed the
11 recommendations of the Belt
12 Entry Ventilation Review Report
13 and the Advisory Committee.
14 The proposed rule also
15 incorporates MSHA experience
16 with petitions for
17 modifications under 101(c) of
18 the Federal Mine Safety and
19 Health Act of 1977. In
20 instances where we have not
21 followed a recommendation made
22 in the Belt Entry Ventilation
23 Review or Advisory Committee
24 Report, or a term and condition
25 from the petitions for

1 modification, we provide an
2 explanation in the preamble.

3 MSHA has included
4 definitions of Appropriate
5 Personnel, Atmospheric
6 Monitoring System, AMS
7 Operator, Belt Air Course,
8 Carbon Monoxide Ambient Level
9 and Point Feeding in the
10 proposed rule.

11 Proposed section 75.350
12 maintains the prohibition that
13 the belt air course cannot be
14 used as a return air course and
15 requires that the intake and
16 return entries be separated
17 with permanent ventilation
18 controls. It would allow the
19 use of belt air to ventilate
20 sections so long as certain
21 requirements are met. These
22 requirements include the
23 installation, operation,
24 examination and maintenance of
25 an Atmospheric Monitoring

1 System, or AMS; training
2 requirements; the establishment
3 of designated areas for dust
4 monitoring; and monitoring the
5 primary escapeway for carbon
6 monoxide or smoke. When belt-
7 air is used to ventilate the
8 working section, point feeding
9 would be allowed under these
10 conditions:

11 **I**f the point feed and
12 the belt air course are
13 monitored for CO or smoke;
14 there is a means available to
15 remotely close the point-feed
16 regulator; a minimum velocity
17 is allowed through the point
18 feed; the locations is approved
19 in the mine ventilation plan;
20 and an AMS is installed,
21 operated, examined and
22 maintained.

23 Section 75.351 of the
24 proposed rule also includes
25 provisions for the following:

1 requirements for the AMS
2 operator and a designated
3 surface location; minimum
4 operating requirements for the
5 AMS; location and installation
6 of AMS sensors; establishment
7 of alert and alarm levels;
8 establishment of CO ambient
9 levels; installation and
10 maintenance requirements for
11 the AMS, sensors, time delays,
12 training and communications.

13 Section 75.352 of the
14 proposed rule specifies actions
15 by the AMS operator and miners
16 in the case of alerts, alarms,
17 malfunctions and insufficient
18 air velocity.

19 The proposed rule in
20 section 75.371 would add six
21 requirements, subject to
22 ventilation plan approval
23 including designated areas;
24 location of point-feed
25 regulators; additional CO

1 sensors in belt-air course, if
2 required; time delays, reduced
3 alert and alarm settings and
4 alternate instruments for alert
5 and alarm levels for
6 monitoring.

7 The proposed rule in
8 section 75.372 would require
9 the location and type of all
10 required AMS sensors on the
11 mine ventilation map. Section
12 75.380, escapeways, would be
13 monitored to address the use of
14 point feeding.

15 The issues surrounding
16 the use of belt air are
17 important to MSHA. We welcome
18 comment on the following issues
19 in particular: One, the
20 benefits of integration of
21 slippage switch monitoring into
22 AMS or belt air mines, the cost
23 of such requirements. And any
24 difficulty operators may
25 experience in accomplishing

1 this action, if required and
2 two, whether or not lifelines
3 in escapeways are needed; if
4 so, what are the associated
5 costs and maintenance issues.

6 These two issues were
7 discussed in the January **27th**
8 Federal Register document. We
9 will use the information
10 provided by you to help us
11 decide how best to proceed with
12 this rulemaking. These five
13 hearings will give
14 manufacturers, mine operators,
15 miners and their
16 representatives, and other
17 interested parties an
18 opportunity to present their
19 views on this proposed rule.

20 To date, we have
21 received three written comments
22 on the proposed rule. You can
23 view these comments on our
24 website at the following
25 address:

1 www.msha.gov/regs/comments/belt
2 air/beltairdocket.htm.

3 The format for this
4 public hearing will be like all
5 we have. It will be conducted
6 in a formal manner. When you
7 come up to speak, please state
8 your association affiliate and
9 spell your name for the court
10 reporter.

11 In addition to offering
12 comments here today, you can
13 submit comments to MSHA, but
14 you need to do it by June 30th.
15 That will be the close of the
16 comment period.

17 We'll have a verbatim
18 transcript of the public
19 hearing and it will be
20 available also on our website
21 as soon as we can get it
22 posted.

23 So we'll begin with the
24 people that have signed up and
25 then, once we work through that

1 group, if there's anyone else
2 that would like to offer
3 comment, we'll take those.
4 Okay. The first presenter will
5 be Gary Trout with the UMWA.

6 MR. TROUT:

7 Hi. My name is Gary
8 Trout. G-A-R-Y, T-R-O-U-T. I
9 worked for the United Mine
10 Workers of America and also I
11 also am an Health and Safety
12 representative.

13 I'd like to first of all
14 thank the committee for what I
15 --- I have reviewed the
16 comments on the belt air
17 ventilation the Belt Air
18 Ventilation Advisory Commission
19 Report. The report does not
20 address all the conditions that
21 we encounter using **belt** air. I
22 would like to address some of
23 those today. The authors
24 themselves acknowledge that
25 additional research is needed

1 in areas such as mine
2 maintenance. The Advisory
3 Committee report lists 14 items
4 for **MSHA** to consider. I would
5 like to address some **of** those
6 items and some of the things in
7 them.

8 The first item here is
9 actions before using belt air
10 for ventilation. I would like
11 to take an excerpt from it. It
12 says the proposed changes
13 should be outlined in the mine
14 ventilation plan. The miners
15 shall be trained in the basic
16 principles of early warning
17 fire detection systems and
18 actions required in the event
19 of such alarm.

20 Appropriate personnel
21 responsible for installation,
22 maintenance, operation and
23 inspection of the system should
24 be trained in their duties.
25 Just to stop right there for

1 just a second and make a couple
2 of quick comments here. I
3 agree that we need more
4 training and I agree --- I
5 think the more training we
6 have, the better miners we are,
7 the more safer we are.

8 As we go on down, just
9 to skip a couple of items here,
10 it says these specific training
11 requirements could include ---
12 be included in the training
13 required under part 48. That's
14 where I have a problem. Part
15 48 is pretty crammed up the way
16 it is right now with all
17 different parts of training
18 that's required there. I think
19 it's time that we need to step
20 back and take a look and maybe
21 have an addition --- more than
22 eight hours training or have an
23 additional time span --- more
24 time spent in training.

25 You can take the mine

1 ventilation plan, and the alert
2 and the alarm system plan and
3 the fire drills that we have
4 and the emergency evacuation.
5 I think those right there, you
6 can put a good eight-hour
7 training course on right there
8 itself. I think it's time that
9 we need to step back and look
10 at some more time spent for
11 training and not just limit
12 that out.

13 It also goes on to say
14 in part **D**, that the early
15 warning fire detection system
16 should be inspected by MSHA. I
17 fully agree with that. I
18 think that **MSHA** needs to take a
19 look at the entire system.
20 They need to go along with the
21 maintenance people, see that
22 the maintenance is being
23 performed properly. We need to
24 take a look at that. We need
25 to take a look at the printouts

1 from the alarm systems, to see
2 what the problems have been,
3 doing investigation of each
4 alert or alarm, to see what the
5 cause was, to see if we're
6 having a nuisance alarm or just
7 see what the problem is.

8 Maybe we're not taking
9 care of the system. I think
10 that not only do you go in and
11 **look** at the books and make sure
12 that they're up to snuff, but
13 you also take a look at the
14 entire system to make sure it's
15 performing properly.

16 As we go over in item
17 three, it says amendum block
18 and location of sensors. Just
19 one brief comment here. We
20 pretty much got a system set
21 for those, but in the past,
22 it's come to mind that I --- we
23 have had problems with not
24 properly setting those
25 standards.

1 Now, I'm not talking
2 about that physical. At one
3 time we were running into that
4 problem, but it was very
5 seldom. How they hang those,
6 you know, we need to have
7 specific regulations to say
8 that they need to be hung here
9 and here and that way, it's not
10 a judgmental call if an
11 inspector comes in to look at
12 the situation. He knows how
13 it's supposed to be hung, knows
14 where it's supposed to be hung
15 and it makes his life easier
16 and it could save a lot of
17 miners lives.

18 In item four, it says
19 sectional alarms advisory
20 committee recommends, the
21 proposed rule would not require
22 automatic section alarm
23 activations during alert
24 conditions, but rather only
25 during alarm conditions. MSHA

1 believes that the frequency of
2 the alert signals could lead to
3 complacency among miners.

4 I think that here, that
5 any time there's an alert on a
6 section belt and you've got
7 maybe a suspicion of a fire or
8 a belt fire or some type of
9 smoke coming up your belt line,
10 the people in the sections need
11 to know about it. They need to
12 be alert, they need to be
13 withdrawn at that point in
14 time, back below that
15 particular sensor and then,
16 investigate it to see what it
17 is.

18 If you have an alarm,
19 then they need to be evacuated.
20 Some people think they need to
21 go back to the next foot of
22 air. I think we need to take
23 precautions here, when you hear
24 this, it's going to be a part
25 of the law, and withdrawn from

1 the mines to investigate the
2 alarms to see what the problem
3 is.

4 People need to be alert.
5 I don't think they're getting
6 complacent because you have
7 various people who monitor
8 these systems and they see the
9 alerts go off and when they do,
10 they know they have --- they
11 have certain procedures they
12 have to do. I don't think they
13 get complacent in it. I think
14 the more alert we are ---. When
15 an alert goes off and we know
16 that we're going to have to
17 evacuate, we need to be making
18 preparations right then. I
19 think we need to alert the
20 sections immediately if they
21 have an alert.

22 On the responsible
23 person the Advisory Committee
24 recommended that at all times
25 the miners are underground, a

1 reasonable person should be A,
2 on duty on the surface so that
3 the alert and the alarm signals
4 can be seen or heard, maintain
5 a record of each alert and
6 alarm signal and the actions
7 taken.

8 I think that record
9 needs to be kept in a place
10 where the system is. We've got
11 in industry today, we've got a
12 lot of folks that are doing
13 this that are contractors.
14 They don't even have miner
15 certificates. Some of them
16 have never been in a mine. I
17 think we need to look and set
18 down some regulations which
19 stipulate the qualifications
20 for these people. I mean,
21 we've got people right now, who
22 are looking at them, that are
23 --- that have never been in the
24 mines.

25 So when you have a

1 responsible person, you know,
2 the ideal situation in my
3 opinion and a lot of larger
4 mines, is like the dispatchers.
5 He knows where everybody is in
6 that mine. Each piece of
7 equipment that's moving in that
8 mine, that's on that track, he
9 knows where it's at.

10 Be knows where people
11 can get off the track, he knows
12 where they are that particular
13 day. He knows the proper way
14 to get ahold of people in the
15 section and if you had all
16 those systems incorporated in
17 one place, it'd be much easier
18 for the person, whoever is
19 designated responsible person
20 on that surface, to take
21 control of the situation and
22 quickly and efficiently get
23 those folks out from
24 underground.

25 I think time is of the

1 most essence when you have an
2 emergency of this type for
3 smoke, to get people outside.
4 With that, I thank you. Is
5 there any questions?

6 MR. NICHOLS:

7 Does anybody have a
8 question for Gary? They're
9 talking it over here. No
10 questions, Gary. Thank you.

11 MR. TROUT:

12 Thanks a lot.

13 MR. NICHOLS:

14 Okay. The next
15 presenter will be Clyde
16 McKnight with the United Mine
17 Workers.

18 MR. MCKNIGHT:

19 Good morning. I am UMWA
20 coal miner Clyde McKnight, Jr.,
21 C-L-Y-D-E, M-C-K-N-I-G-H-T, Jr.
22 I work for Eastern Association
23 Coal over at Harris Number One
24 Mines.

25 I would like to thank

1 MSHA for scheduling this public
2 hearing on the proposed rule,
3 underground coal mine
4 ventilation, safety standards
5 for the use of belt entry, as
6 an intake air course, to
7 ventilate working stations and
8 areas where mechanized
9 equipment is being installed or
10 removed.

11 I am here today to speak
12 in opposition to the proposed
13 change. I and other members of
14 the UMWA have concerns that the
15 proposed rule will have serious
16 and detrimental impact on
17 miners. In as such, the new
18 rule, **as** currently written
19 significantly reduces the
20 safety protection that miners
21 currently endure.

22 The use of belt air to
23 ventilate work areas does
24 introduce additional and
25 greater hazards than otherwise,

1 would not be there. It must be
2 understood that these hazards
3 aren't eliminated strictly by
4 additional safety precautions,
5 but rather with --- that these
6 hazardous conditions created by
7 **the use** of belt air, may be
8 controlled by utilizing site
9 specific safety enhancements.

10 The proposed rule
11 ignores current safety benefits
12 provided by the PDOs currently
13 enforced at various mines
14 across this nation.

15 **A one size fits all**
16 approach will not work, but
17 **will** diminish the levels of
18 safety. There can be no cuts
19 **in** safety, only improvements.

20 The simple **fact is that**
21 conditions outlined in the PDO
22 in the mining operations become
23 the mandatory standards and
24 requirements for the purpose of
25 compliance and enforcement.

1 Broad changes in the
2 writing and application of the
3 rule as proposed here, will
4 eliminate protections that
5 miners have and **place the**
6 agency in a position contrary
7 to their Congressional mandate.

8 Section 101(c)(9) of the
9 Federal Mine Safety and Health
10 Act of 1977 states, and I
11 quote, no mandatory health or
12 safety standards promulgated
13 **under this title shall** reduce
14 the protection afforded miners
15 by an existing mandatory health
16 or safety standards.

17 Congress strictly forbid
18 the Agency from enacting any
19 rules that would offer less
20 protection than miners
21 currently enjoy. The union is
22 not alone in being critical of
23 **this proposed rule. NIOSH has**
24 noted the practice of
25 ventilating with belt air in

1 any velocity is unsafe and
2 unhealthy. Further, the use of
3 high velocity will increase
4 fire and explosion hazards of
5 coal dust.

6 More emphasis to be
7 placed on belt maintenance,
8 **clean-up and** rock dusting.
9 MSHA's own statistics reveal
10 that coal spillage, float dust
11 and accumulation of combustible
12 material are continually cited
13 **problems on beltways.**

14 Operators who have never found
15 it necessary to improve belt
16 conveyor clean-up, would not be
17 inclined to do so just because
18 the Agency suggested it.

19 Emphasis needs to placed
20 on the proper construction of
21 stopping or separate in-take
22 escapeways from in-take entries
23 with non burn through
24 materials. Operators are
25 currently seeking to maintain a

1 three entry system which leads
2 stations starving for
3 ventilation. And they want to
4 solve the problem by pushing
5 additional air through the most
6 hazardous entry in the mine.

7 Clearly, the desire to
8 **increase** space ventilation in
9 this matter is not inspired by
10 the need to increase safety,
11 but only to cut costs by not
12 driving additional entries
13 **needed.**

14 There can be no dollar
15 amount placed on any miner's
16 safety. The location of
17 sensors in the belt entry, is a
18 great matter of debate based on
19 the Agency's writing of the
20 proposed rule. The Advisory
21 Committee stipulated that
22 sensors should be located not
23 further than 1,000 foot
24 intervals in the belt entry.

25 However, the proposed

1 rule leaves that requirement up
2 to interpretation. The Agency
3 has stated if the belt drive
4 take up and/or tail pieces are
5 installed together in the same
6 air course, they may be
7 monitored with one sensor
8 located not more than 100 feet
9 downwind of the last component.

10 The union must ask is it
11 the Agency's intent to allow a
12 single sensor to be viewed as
13 **adequate** protection for the
14 belt within a single split of
15 air, as it would have to be,
16 without regard of the length of
17 the belt in question.

18 That being the case, the
19 language is provisionally vague
20 to allow several conveyor belts
21 from the section to be
22 monitored with a single sensor,
23 **provided they are** on the same
24 the same air strip. This is an
25 extremely dangerous proposal.

1 The Agency must immediately
2 take steps in this rule, to
3 correct that problem.

4 The Agency has made some
5 comments that **there's --- it is**
6 time to be the things that
7 smoke detectors or CO monitors
8 are sufficient to take care of
9 the problems on their conveyor
10 systems that we have in the
11 coal mines.

12 I know the members of
13 **UMWA, we strongly feel** that
14 smoke detectors and CO monitors
15 are needed to take care of the
16 extremely hazardous conditions,
17 to make sure that safety is
18 maximized, not minimized.

19 Again, I emphasize that
20 we strongly believe that CO
21 monitors and smoke detectors
22 should be used.

23 And in **closing**, the
24 industry needs to continue to
25 seek fair technology and

1 advances on safety, not looking
2 at the dollar bill, but looking
3 at miner's safety because just
4 maintaining the status quo
5 safety isn't enough. We need
6 to do more. Thank you.

7 MR. NICHOLS:

8 Thank you, Clyde. Any
9 questions or comments? Carl?

10 MR. LUNDGREN:

11 Yes. I have a question.
12 You're reference of some sort
13 of NIOSH document, I believe,
14 to the effect that NIOSH
15 proposed the rule. Is that a
16 document that's already in the
17 record or is there some other
18 document?

19 MR. MCKNIGHT:

20 No. I was just doing
21 some research on my own. The
22 research they had on mine
23 ventilation, it was the exact
24 document that's been
25 introduced. Any type of

1 record, I'm not really sure.
2 But I can check on that and get
3 back with you, if you would
4 like.

5 MR. LUNDGREN:

6 Yes. You will have
7 until June 30th to try to
8 locate that document.

9 MR. MCKNIGHT:

10 That's fine.

11 MR. NARCHO:

12 This is Herman Narcho,
13 for the court reporter. It
14 would be helpful if --- do you
15 have a NIOSH document?

16 MR. MCKNIGHT:

17 uh-huh (yes).

18 MR. NARCHO:

19 I could give you my
20 card. If you could mail that
21 --- if I could ask that if **we**
22 could get a copy of that, we'd
23 **really appreciate that.**

24 MR. MCKNIGHT:

25 That would be fine.

1 MR. NAKCHO:

2 Thank you.

3 MR. MCKNIGHT:

4 **Any other** questions?

5 MR. NICHOLS:

6 No, Clyde. Thanks.

7 MR. MCKNIGHT:

8 Thank you.

9 MR. NICHOLS:

10 Okay. The next
11 presenter will be James Patsey
12 with the UMWA.

13 MR. PATSEY:

14 My name is James Patsy,
15 J-A-M-E-S, P-A-T-S-E-Y, United
16 Mine Workers. I'd like to
17 thank you for having an
18 opportunity to be here to speak
19 today on behalf of this
20 regulation **that you're**
21 proposing there.

22 Our mine is one of the
23 mines --- presently, we do use
24 belt air and we use CO
25 monitoring systems. Our CO,

1 it's our plan --- we have them
2 every 1,000 foot. We have them
3 at the tailpiece, pick-up, head
4 drivers and stuff. It's worked
5 pretty good for us. We've got
6 a three entry system. I
7 examined the belts.

8 We do a good job in our
9 mines, as far as upkeep on the
10 belts, slippage, rock dusting.
11 I don't think this would be for
12 every mine, though. I don't
13 think you can take and
14 incorporate this new rule. I
15 don't think it applies to every
16 mine, because I think it would
17 be have to be individual. You
18 have to look at everything
19 individually.

20 Some mines wouldn't do
21 the upkeep that other
22 operations do. Some just
23 **slack. They just let it slide**
24 by. There's no enforcement on
25 it. That's why I think you

1 have to look at a mine from a
2 mine station.

3 It's worked good for us,
4 I can say that. The COs that
5 we have **and** how we **got it set**
6 up, our plan, it's probably
7 saved us more than a couple of
8 times.

9 I wouldn't want to see
10 **yu** take nothing **away from what**
11 our plan has. As far as the
12 guys that are going to go on
13 the sensors', I agree with them
14 100 percent. By looking at
15 that, I wouldn't want to just
16 have our plan to follow down to
17 where it on that split, to be
18 **at** the piece. I think you know
19 you need to keep it, you know,
20 if you're going to do
21 something, you need to improve
22 - - -

23 **Especially on the plan**
24 we got now, we've got a good
25 system. It's maintained good,

1 our people's trained on it. We
2 do a pretty good job on it.

3 But like I said, I don't
4 think it's for every operation.
5 **That's all I've got, unless you**
6 **have questions.**

7 MR. NICHOLS:

8 Any questions or
9 comments for James?

10 MR. ESLINGER:

11 What mine?

12 MR. PATSEY:

13 U.S. Steel 50 Mine.

14 MR. ESLINGER:

15 Mark Eslinger. Last
16 name is E-S-L-I-N-G-E-R, first
17 name Mark.

18 MR. NICHOLS:

19 Thanks for your comment.
20 The next presenter will be Mart
21 Lane, UMWA.

22 MR. LANE:

23 **My name is Mart Lane,**
24 **M-A-R-T, L-A-N-E. I am with**
25 **Mine 50. I work at U.S. Steel**

1 Number 50 Mine. I had his
2 system for the last ---. Like
3 I said, my name is Mart Lane, I
4 work at U.S. Steel Number 50
5 Mincs.

6 We've probably had this
7 belt air in place for the last
8 10, 12 years. Like James
9 Patsy, who just spoke, it has
10 **seemed** to work good for us.
11 We do have a system that has a
12 lot of checks and balances in
13 it. It's maintained well. It
14 has a --- it's a --- I get most
15 of the calls off of that system
16 on my shift.

17 I think if it's
18 corrected, you know, if we get
19 a system that's not
20 functioning, we immediately go
21 to it, correct it. If we have
22 people that's in the check
23 system that **had one out** of
24 compliance, then we have a
25 person who is told to shut the

1 belt down. It doesn't run if
2 the system's not up and running
3 unless you have a person there
4 hand monitoring that system
5 **while it's being repaired.**

6 I think that's some of
7 the things that make this
8 system work for us. Like
9 James, it would be almost a
10 crime to take that off of that
11 1,000 foot intervals with those
12 sensors and allow a whole belt
13 to be monitored with one
14 sensor. I think in the mines,
15 it's the size of airs that has
16 10, 12 mile belt lines. If you
17 could actually handle fire at
18 the mouth of the belt, if you
19 had a sensor that was 100 feet
20 inby the tailpiece, the fire
21 might burn for an hour and a
22 half before the air got to the
23 **sensor. So I think that's one**
24 **thing that that doesn't really**
25 **fit well there, at least,**

1 maintain that system --- at
2 least at those 1,000 foot
3 intervals. Our permit it's
4 2,000 apiece. What I
5 understand, if we go ahead to
6 1,000 feet.

7 It has worked good.
8 Mines today, they're set on
9 production. That's what it's
10 all about. The competition is
11 fierce out there. The amount
12 of coal that mines produce
13 anymore that's all that goes
14 down that belt. It needs
15 monitored.

16 If we're going to do
17 anything, we should try and
18 improve on this interest to
19 pick up the belt, when the belt
20 spins or smokes. That's one of
21 the drawbacks on this system,
22 that it doesn't pick **up** that
23 **actual belt smoke** until it
24 becomes somewhat carbon, I
25 guess. It doesn't pick it up.

1 That air system has
2 worked well for us and I could
3 sit here and tell you stories
4 the rest of the afternoon of
5 **times that it's actually saved**
6 us. I've seen this at one
7 point there ---. When we first
8 got the system in --- by the
9 way, I thought it was junk. I
10 **thought it was just junk.**
11 That's what it's going to be.
12 But it's changed my mind over
13 the years.

14 Probably about five or
15 six years ago, I saw this
16 system keep identifying a spot.
17 Probably over a four or
18 five-hour period, I've probably
19 sent ten people to it,
20 different people. It came
21 about that this system was
22 actually picking up a
23 **smoldering pile of coal at a**
24 belt stand. The belt stand was
25 actually working as a link.

1 The smoke was rolling up
2 through it.

3 It went up a couple
4 breaks and coming out, where
5 the CO was --- we couldn't
6 locate the CO, so we wasn't
7 going to the right place there.
8 We finally, but turning the
9 lights off, found the glowing
10 embers and the system was right
11 on the money.

12 So it's really worked
13 good for us. Like I said, I'd
14 like to see it continually
15 monitored. I wouldn't like to
16 see them have the right to
17 spread those COs like if they
18 just had one to monitor the
19 belt. That's pretty much what
20 I know.

21 MR. NICHOLS:

22 Okay. Any questions or
23 comments on what Mart has given
24 us here?

25 MR. KNEPP:

1 Yes. I have a question
2 for Mart. This is Bill Knepp,
3 K-N-E-P-P. First of all, I
4 wanted to clarify the 1,000
5 **foot distance. The intent of**
6 the regulation was not to
7 eliminate that 1,000 foot ---
8 in addition to that monitor.
9 We'll check that language and
10 make **sure there isn't a**
11 loophole there or the
12 interpretation.

13 MR. LANE:

14 That's kind of what we
15 were getting feedback from,
16 that that could actually be
17 interpreted to the mean that
18 through the and and/or there,
19 in the paragraph, that **you**
20 could actually see that's the
21 main one.

22 MR. KNEPP:

23 **That's** interesting that
24 you read it that way. That's
25 --- we'll look at that, sir. I

1 just wanted to clarify that.
2 The other thing, have you had
3 any problem, in your mine, with
4 false alarms or that kind of
5 thing?

6 MR. LANE:

7 We have had that. You
8 know, I think with any system,
9 there's time you'll have
10 glitches. **But we've always** had
11 good people, we've had trained
12 people, our people's been
13 trained on it.

14 When we have a glitch,
15 we get it straightened up and
16 it works. It's a safe system.
17 I think it ---. We just don't
18 need to go backwards with it.
19 I think, you know that if
20 you're going to use the belt
21 air, you've got to have it.

22 MR. NARCHO:

23 **Mr.** Lane, this is Herman
24 Narcho for the District Office.
25 With those glitches, do those

1 occur, you think more often at
2 the beginning, when you first
3 installed it or ---?

4 MR. LANE:

5 They could occur right
6 now. They can, I guess just do
7 --- they can actually --- some
8 of these sensors can pick up
9 rock dust, if there's rock
10 dust. We treat **them all as if**
11 they're real. We might
12 physically --- if it is rock
13 dust, we will make sure that's
14 what it is. It's what we do.
15 It's worked good. They will
16 pick up things like rock
17 dusting or something like it.
18 Some of them, we've tried to us
19 a battery charger situation,
20 they don't work right there.

21 MR. KNEPP:

22 This is Bill Knepp
23 **again.** Does this result **in**
24 evacuation of mine or outby the
25 sensor, you know, if you have a

2 problem with rock dust or did
3 you check out first for ---?

4 I guess I should back up
5 now. Do you have an alarm
6 **setting** ---?

7 MR. LANE:

8 There's an alarm system
9 that goes off ---.

10 MR. KNEPP:

11 And then an alert
12 system?

13 MR. LANE:

14 Right.

15 MR. KNEPP:

16 If it goes into alert,
17 then you --- they normally
18 withdraw outby that sensor
19 until the alert is
20 investigated?

21 MR. LANE:

22 It would record how many
23 parts per million. Ours is
24 actually **set** lower than what
25 the federal requirements is. I
 theirs is ten, we do nine.

1 MR. KNEPP:

2 That gives you maybe
3 some leeway, flexibility to
4 investigate the alert or an
5 **actual evacuation is started?**

6 MR. LANE:

7 Right.

8 MR. NICHOLS:

9 We've got one more here.

10 MR. LUNDGREN:

11 This is Carl Lundgren.
12 Mart, I'm not sure how much how
13 much the court reporter heard
14 when you first go up, so could
15 you please ---.

16 MR. NICHOLS:

17 He started over.

18 MR. LUNDGREN:

19 Just the spelling of
20 your first and last name for
21 her.

22 MR. LANE:

23 My first name is
24 spelled, M-A-R-T. Last name is
25 spelled L-A-N-E. I'm with

1 United Mine Workers. I work
2 for U.S. Steel in Wyoming
3 County, West Virginia, Number
4 50 Mine.

5 MR. LUNDGREN:

6 Thanks for your
7 comments, Mart.

8 MR. LANE:

9 Thank you.

10 MR. NICHOLS:

11 The next presenter will
12 be David Mullens, UMWA.

13 MR. MULLENS:

14 My name is David
15 Mullens, D-A-V-I-D,
16 M-U-L-L-E-N-S. I'm also with
17 U.S. Steel Number 50 Mine. I
18 am a mechanic that maintains
19 our system there where I work,
20 the installation of it and the
21 monthly calibration of it.

22 I think it's a good
23 system, what we've got. It
24 works for us. It's maintained
25 well. I think that our plan

1 needs more regulation to it and
2 make sure that we are
3 maintaining it and the
4 education of our people. I
5 think it needs to be done, more
6 of it. And that's really all I
7 have.

8 MR. NICHOLS:

9 Thanks, David. Any
10 questions or comments for
11 David? Okay. Thanks, That's
12 all the people we have signed
13 up. Does anybody else in the
14 audience like to come up and
15 offer comment?

16 MR. SLAYTON:

17 Good morning. My name
18 is Roger Slayton, I'm with the
19 United Mine Workers. I'm local
20 8842. Listening to these guys
21 here, you know, it sounds like
22 they've got a real good place
23 to work. It wouldn't work at
24 the operation that I'm at.

25 We don't have what you

1 say belt maintenance unless we
2 get shut down, unless an
3 inspector would ---.

4 My last name is,
5 S-L-A-Y-T-O-N. I think --- you
6 know, if it would come to this,
7 for all mines to --- our people
8 would definitely have to have
9 better maintenance of belt
10 lines, rock dusting, the
11 cleaning of them and training,
12 more time spent on training of
13 our people.

14 Unlike the other guys,
15 I don't feel like we've had the
16 sufficient amount of training,
17 basically about any of our
18 safety issues at work. I think
19 there's not enough time spent
20 on that. Basically, that's all
21 I have.

22 MR. NICHOLS:

23 Okay, Roger.

24 MR. SLAYTON:

25 We've got maintenance,

1 belt maintenance standards now,
2 don't we, separate and ---?

3 MR. MCKNIGHT:

4 Yes, we've got them.

5 Yes, we've got safety

6 standards, but we're not

7 keeping up with them.

8 MR. NICHOLS:

9 Any questions or
10 comments for Roger? Thanks,
11 Roger. Anyone else? Okay.
12 Let me tell you kind of how
13 this will unfold.

14 We have three more
15 hearings. The public comment
16 period closes June 30th. As I
17 mentioned in my opening
18 statement, this issue has been
19 talked about and debated for
20 over a decade. What we plan to
21 do is take the best evidence
22 that people present to us in
23 **thesc hearings, and also the**
24 written comment and make some
25 decisions on how to best

preserve the health and safety
of the miner, but also how to
move forward with this
rulemaking.

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All of the comments that
--- and most of you are
familiar with how we do our
rules. In the preamble, we
will address all the comments
and if for some reason, we do
not accept the recommendations,
we'll explain why and there
will be a thorough discussion
of all the comments.

Again, thanks for being
patient. Thanks to the court
reporter for good work on short
notice and so thanks for
showing up. That's the end of
the hearing.

* * * * *

HEARING CONCLUDED AT 10:55 A.M.

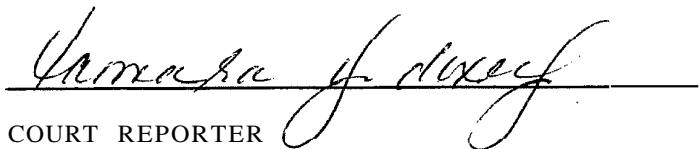
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C E R T I F I C A T E

I HEREBY CERTIFY THAT THE FOREGOING PROCEEDINGS
WERE REPORTED STENOGRAPHICALLY BY ME AND THEREAFTER
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