From: McGilton, Allen [mailto:amcgilton@coalsource.com]
Sent: Monday, September 08, 2008 12:24 PM
To: zzMSHA-Standards - Comments to Fed Reg Group
Subject: RIN 1219-AB59 Comments

AB59-COMM-10

Patricia W. Silvey, Director
MSHA, Office of Standards, Regulations, and Variances
1100 Wilson Blvd., Room 2350
Arlington, Virginia 22209-3939

Dear Ms. Silvey:

Thank you for the opportunity to provide comments on the proposed rule, "Safety Standards Regarding the Recommendations of the Technical Study Panel on the Utilization of Belt Air and the Composition and Fire Retardant Properties of Belt Materials in Underground Coal Mining; Conveyor Belt Combustion Toxicity and Smoke Density; Proposed Rules", dated June 19, 2008. We are confident the panel has carefully examined the information used to develop the rule, and will also consider comments given by all parties during the comment period. Murray Energy Corporation looks forward to working with MSHA on this important issue. If you have any questions regarding these comments, please feel free to contact me at your convenience at (740) 926-1351, Ext. 351 or amcgilton@coalsource.com .

Respectfully submitted,

Wm. Allen McGilton
Interim Corporate Safety Director
Murray Energy Corporation

Comments on Proposed Rule

75.323- Actions for Excessive Methane (In preamble) - MSHA is requesting comments on including a requirement in the final rule which would limit methane levels in the belt entry to prevent gas liberated on a conveyor belt or from the belt entry from increasing the methane content on the working section. MSHA is considering requiring that operators take action when methane is between 0.5 and 1.0 percent.

In regard to methane concentrations in the belt conveyor entries, numerous layers of protection are already afforded to the miners through current regulations. The current regulations recognize that methane is inherent to coal mines and provide protection from mixtures that could potentially jeopardize miner's safety. Further lowering of these standards does not significantly improve safety for miners. Throughout its history, the current regulation has provided a successful and proven measure of protection for miners and requires methane to be maintained well below concentrations that would present a hazard to miners.

Under current regulations, miners on the working section have been successfully protected from excessive methane through numerous requirements. Section 75.323(b)(1) currently limits methane to below 1.0 percent in intake air courses, Section 75.342(a)(1) requires methane monitors to be installed on mining equipment used to extract coal to give a warning at 1.0 percent. Section 75.360 requires that prior to anyone working in an area, a pre-shift examination including tests for methane be conducted on roadways and travel ways, working sections including working places, approaches to worked out areas, and ventilation controls, high spots along intake air courses where methane is likely to accumulate, and underground electrical installations. Section 75.362(a) (1) requires that an on-shift examination including tests for methane be conducted once during each shift on working sections. Section 75.362(b) requires an examination for hazardous conditions be conducted along each belt conveyor during each shift that coal is produced. In addition, Section 75.362(d) contains stringent requirements to test for methane at the face (i) at the start of each shift at each working place before equipment is energized, (ii) immediately before equipment is energized, taken into, or operated in a working place, (iii) at 20-minute intervals during operation of equipment in the working face. Additionally, Section 75.362(f) requires during each shift that coal is produced a certified person test for methane in each return split of air from each working section.

The current regulation already limits the methane in intake air courses to below 1.0 percent. The belt air course would be considered intake air when used to ventilate the working section. This requirement has successfully provided protection to miners on working sections for years. Reducing the limits of methane in the belt conveyor entries to 0.5 percent provides no

measurable increase in protection than what is already presented. In light of the numerous safety requirements regarding methane, the perceived benefits of this proposal do not equate to a measurable increase in safety. Additionally, attempts to maintain methane concentrations in the belt conveyor entry below concentrations in the primary escape way will often create undesired pressure differentials from the belt entry into the primary escape way. In some cases, depending on the mine and inherent methane liberation, a belt air course could exceed 0.5 percent without any coal on the belt conveyor. Our position is that the requirements of maximum allowable limits of methane for intake air courses be applied to belt air courses. This current regulation, combined with strict methane limits and tests already in place for the working section, provide a successful and proven measure of protection for miners and are well below concentrations that would present a hazard to miners.

75.351(q)(2) – In addition to required annual training outlined in (q)(1) for AMS operators, the proposed section requires that at least once every six months, all AMS operators must travel to all working sections to retain familiarity with underground mining systems including haulage, ventilation, communication, and escape ways.

We feel that based upon the responsibilities of the AMS operator that this requirement is unnecessary. We agree that AMS operators should be familiar with underground mining operations; however, traveling to all working sections once every six months will not provide the proposed benefit. Additionally, the responsible person already required by MSHA regulations is available to take charge and make critical decisions in addition to the AMS operator.

75.351(q)(3) - Requires training records to be maintained for 2 years. Other records are maintained for a 1 year period, and 1 year retention would permit any AR to verify AMS operator training. This requirement does not appear to be properly justified.

75.1103-8(a) - Proposed rule requires sensor and warning device systems shall be examined at least once each shift when belts are operated as part of a production shift. A functional test shall be made every 7 days. Inspection and maintenance of such systems shall be by a qualified person. This needs to be clarified in that "examination" and "inspection" are used interchangeably. In addition, does a functional test every 7 days mean that each individual sensor, CO or thermal, must have CO gas or heat applied as part of the testing procedure? Presently CO systems are on a monthly schedule for testing and calibrating of sensors. A weekly schedule of testing would add a tremendous burden, especially at larger mines.

75.1103-8(b) - Requires that a record of the functional test be maintained by the operator for a period of 1 year. The current regulation requires that records of weekly inspections be maintained at the belt drive location. It is not specific as to where the records of proposed functional tests are located and maintained.

75.1731(a) – The proposed rule requires that damaged rollers and other malfunctioning belt conveyor components must be immediately repaired or replaced. The wording of this proposed regulation will create issues from both a compliance and enforcement perspective. This proposed requirement is extremely open to interpretation to the definition of the words "damaged" and "malfunctioning" and does not allude to any indication that the components are creating a hazard or unsafe condition. To narrow the window of interpretation, it would be more clearly defined from both an enforcement and compliance perspective if the regulation applied to a damaged or malfunctioning component that created a hazard or unsafe condition.

It also states that the subject components be immediately repaired or replaced, however, the regulation does not state that a hazard or unsafe condition exists. Section 75.362(b) states that during each shift that coal is produced, a certified person shall examine for hazardous conditions along each belt conveyor haulage way where a belt conveyor is operated. Examiners are trained to detect and focus on hazardous and unsafe conditions, and this is another example of the need for attaching these terms to "damaged" and "malfunctioning". The proposed wording would then open the possibility of widespread inconsistent enforcement concerning examinations, even though examiner's primary duties are to detect hazardous conditions.

If one roller is damaged but not in an unsafe condition, the proposed rule still requires it to be immediately replaced even though it may be safer to replace components with a two-man crew. Why is the term "immediately" associated with a requirement that does not mention any unsafe or hazardous condition? This proposed regulation is wide-open to interpretation and still requires conditions that do not pose an immediate safety hazard to be immediately corrected.

In current Section 75.1725(a) belts have been required to be maintained in a safe operating condition or removed from service immediately. We feel that the current 75.1725(a) standard covers this concern and that the proposed regulation is vaguely worded. We respectfully suggest the proposed regulation be clarified to define the intent, which in its present form is not clearly defined or understood. The current language of this proposed regulation has the distinct potential of becoming a compliance and enforcement catastrophe. Currently Section 75.1403-5 provides safeguards to minimize hazards in belt conveyor entries.

75.1731(c) - This proposal requires that noncombustible materials shall not be allowed to accumulate in the belt conveyor entry. This language of this requirement is exceptionally vague and utterly impossible from both a compliance and enforcement standpoint. If the intent is to eliminate potential frictional ignition sources, as stated in the preamble, we respectfully request that the regulation be clarified to address accumulations of noncombustible materials that may create sources of friction. In its current form, the proposal is completely open to interpretation in reference to the terms "accumulation" and "noncombustible" and compliance with a part such as this is virtually impossible. As written, accumulations of noncombustible materials could

include rock, metal belt structure, concrete block used in stopping construction and these noncombustible items may be located in a crosscut not exposed to any moving belt components or near travel ways. We respectfully request that the language be more clearly defined to address hazards from any such noncombustible accumulations.

In reference the statement in the preamble that accumulations of noncombustible materials may pose potential tripping hazards in the belt entry, Section 75.1403-5(g) plainly states that a clear travel way at least 24 inches wide should be provided on both sides of all belt conveyors. Compliance and enforcement of this requirement currently addresses any potential tripping hazards in the belt conveyor entry.