

October 6, 2008

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

Dear Ms. Silvey,

Please accept this letter as request for Representatives of the United Mine Workers of America to speak at the October 14, 2008 public hearing on the Proposed Rule for Alcohol and Drug-Free Mines: Policy, Prohibitions, Testing, Training, and Assistance. Those to testify for the UMWA include: Cecil E. Roberts, Daniel J. Kane, Dennis O'Dell, Linda Raisovich-Parsons; Jim Weeks; Ron Bowersox; Jim Lamont; Edgar Oldham; and Max Kennedy. In addition, a number of UMWA members have voiced an interest in testifying at this hearing and will be attending at the various locations. We ask that you include them in the unallocated time at the end of the hearing at the locations where miners may actually get to participate rather than watch from the sidelines.

We would like to object and voice my disappointment to the Agency's limiting the miners to a single hearing held simultaneously via videoconference in various locations. We especially object on behalf of the miners in the heart of the coalfields in and around Beckley, WV and Birmingham, AL who are being limited to only being able to listen to an audio of the proceedings. By doing so, the Agency has chosen to restrict the ability of these miners to orally present their thoughts on this rule. Listening is not participating.

The Mine Act specifically states under SEC 101. (a) (3) "the Secretary shall provide for procedures that will afford interested parties the right to participate in the hearing, including **the right to present oral statement** and to offer written comments and data." How, pray tell, in the failing economy that we are now faced with, are miners to afford to miss work to travel to Washington, D.C., or Pittsburgh, Pa. if they live in

Alabama, Kentucky, or West Virginia? Moreover, you have excluded most of the Western miners except those close to Denver, in which the closest coal mines are about 5 hours away and most are much further. This is the first time when MSHA's procedures for hearings on a proposed rule do not provide for multiple locations on multiple days. By conducting the hearing in the manner in which you have chosen, it is clear that the agency is turning their backs on the miners and catering to the operators. In addition, I question whether there will be enough time allocated to sufficiently address their concerns on such an important issue for those who are fortunate enough to live in an area where they can actually participate and testify orally. Because three sites have been combined into one single hearing, time will certainly have to be cut short for each speaker.

Therefore, we would like to reiterate the Union's request that additional hearings be held throughout the coalfields and to extend the comment period on these rules for an additional 60 days. If MSHA were truly interested in learning what the miners think about this very important issue, it would permit additional hearings, provide more than audio access to all locations and allow more time for the preparation and submission of comments. We thank you in advance for your attention to this matter as we eagerly await your response.

Sincerely,

Dennis O'Dell

Dennis O'Dell, Administrator
Department of Occupational Health
and Safety

cc: Elaine L. Chao, U.S. Secretary of Labor
Edward M. Kennedy, U.S. Senator
George Miller, U.S. Representative
Robert C. Byrd, U.S. Senator
John D. Rockefeller, U.S. Senator
Patty Murray, U. S. Senator
UMWA International President Cecil E. Roberts
UMWA International Secretary-Treasurer Daniel J. Kane