

Form #3 ☐

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2382 NGV -9 P 4: 16

WEST VIRGINIA
SECRETARY OF STATE

AGENCY: WV OFFICE OF MINERS' HEALTH,
SAFETY AND TRAINING TITLE NUMBER: 56CSR10

CITE AUTHORITY: 22A-1-6

AMENDMENT TO AN EXISTING RULE: YES____ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED:_____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 10

TITLE OF RULE BEING PROPOSED: RULE GOVERNING REPORTING REQUIREMENTS
FOR INDEPENDENT CONTRACTORS

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

Authorized Signature _____

SCANNED



BUREAU OF COMMERCE

Bob Wise, Governor • Alisa Bailey, Commerce Bureau Chief

August 14, 2002

Doug Conaway, Director
Miners' Health, Safety and Training
1615 Washington Street, East
Charleston, West Virginia 25311

Dear Director Conaway:

Upon review of your request to file a procedural rule under Title 56, Series 10, which governs reporting requirements for independent contractors registered with the West Virginia Office of Miners' Health, Safety and Training, I find your proposed rule satisfactory and approve your filing of the regulations. A copy of the proposed rule is attached for the record.

Sincerely,

A handwritten signature in cursive script, appearing to read "Alisa L. Bailey".

Alisa L. Bailey
Commerce Bureau Chief

/cfd

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: NOVEMBER 8, 2002

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) WV OFFICE OF MINERS HEALTH, SAFETY & TRAINING
1615 WASHINGTON STREET EAST
CHARLESTON, WV 25311-2126

LEGISLATIVE RULE TITLE: TITLE 56 SERIES 10
RULES GOVERNING REPORTING REQUIREMENTS FOR
INDEPENDENT CONTRACTORS

1. Authorizing statute(s) citation 22A-1-6

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:

AUGUST 15, 2002

b. What other notice, including advertising, did you give of the hearing?

MAILED NOTICE TO ALL REGISTERED (PERMITTED) INDEPENDENT
CONTRACTORS OF PUBLIC HEARING DATE (OCTOBER 1, 2002) AND
COMMENT PERIOD (AUGUST 30, 2002 - OCTOBER 1, 2002)

c. Date of Public Hearing(s) *or* Public Comment Period ended:

COMMENT PERIOD: AUGUST 30, 2002 - OCTOBER 1, 2002
PUBLIC HEARING: OCTOBER 1, 2002 @ 10:00AM

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached X No comments received _____

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

NOVEMBER 8, 2002

- f. Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive all written correspondence regarding this rule: (Please type)

DOUG CONAWAY, DIRECTOR

WV OFFICE OF MINERS HEALTH, SAFETY & TRAINING

1615 WASHINGTON STREET EAST

CHARLESTON, WV 25311-2126

(304) 558-1425 EXT 13

(304) 558-4875 - FAX

jdconaway@mines.state.wv.us

- g. IF DIFFERENT FROM ITEM 'f', please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

N/A

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing or comment period:

N/A

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

d. Attach findings and determinations and reasons:

Attached N/A

BRIEF SUMMARY

Title 56 Series 10

The proposed regulation requires that on or before the end of each calendar month, each independent contractor registered with the WV Office of Miners Health Safety and Training file a report covering the preceding month providing information on the number of employees, days and hours worked, any accidents and injuries, and the mining operations where employee hours were worked and/or where accidents or injuries occurred.

BRIEF FACTS AND CIRCUMSTANCES

Title 56 Series 10

Given the agency's mission of helping to assure that all people working at mine sites are provided with a reasonably safe working environment it is essential that data pertaining to employee hours worked by independent contractors be reviewed. The same data has been received from mine operators for many years. This data is used to compute relevant statistical information that is used for comparison and evaluation purposes. Such information is also critical in the development of appropriate safety programs to effectively address health and safety issues more correctly. There is no alternative equally effective method of computing appropriate health and safety comparison statistics.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Rule Governing Reporting Requirements for Independent Contractors

Type of Rule: X Legislative Interpretive Procedural

Agency: WV Office of Miners' Health, Safety and Training

Address: 1615 Washington Street East
Charleston, WV 25311-2126
(304) 558-1425

Contact: Doug Conaway EMAIL: jdconaway@mines.state.wv.us

1. Effect of Proposed rule:

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

2. Explanation of Above Estimates:

The proposed rule will have no financial effect on the agency's budget.

3. Objectives of These Rules:

To require independent contractors to report employee information that will require independent contractors to the same standards as mine operators.

Rule Title: Rule Governing Reporting Requirements for Independent Contractors

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

None

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:

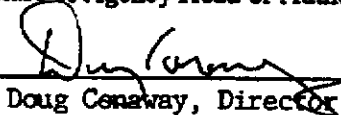
The rule will require minimal paperwork to meet filing requirements. Independent contractors should already have the requested information for payroll.

C. Economic Impact on Citizens/Public at Large.

None

Date: AUGUST 15 2002

Signature of Agency Head or Authorized Representative:



Doug Conaway, Director
WV Office of Miners' Health, Safety & Training

TITLE 56
LEGISLATIVE RULE
OFFICE OF MINERS' HEALTH, SAFETY AND TRAINING

SERIES 10
RULE GOVERNING REPORTING REQUIREMENTS
FOR INDEPENDENT CONTRACTORS

56-10-1. General.

1.1. Scope. -- This rule governs reporting requirements for independent contractors registered with the WV Office of Miners' Health, Safety and Training.

1.2. Authority. -- W. Va. Code 22A-1-6

1.3. Filing Date. -- August 15, 2002

1.4. Effective Date. -- October 1, 2002

1.5. Applicability. -- This rule applies to each independent contractor registered with the WV Office of Miners' Health, Safety and Training as required by West Virginia Code 22A-6-63(e).

56-10-2. Effect of Law and Rule.

2.1. This rule has the effect of law and violations are a violation of law and so cited with the same effect as law.

56-10-3. Reporting Requirements.

3.1. On or before the end of each calendar month, each independent contractor registered with the West Virginia Office of Miner's Health, Safety and Training as required by West Virginia Code 22A-2-63(e), shall file with the Director a report covering the preceding calendar month on forms approved by the Director. Such report shall contain the following information for each mine(s) where independent contractors performed work or provided services:

- (1) The total number of employees performing services at a mining operation.
- (2) The ~~total days~~ and employee hours worked at a mining operation.
- (3) The total reported accidents and occupational injuries that occurred to employees while performing services at a mining operation pursuant to Series 19.
- (4) The mines(s) identification number where employee hours were worked and/or where the accident or occupation injury occurred.

**PUBLIC HEARING ON TITLE 56 SERIES 10
OCTOBER 1, 2002
10:00 AM
CONFERENCE ROOM
1591 WASHINGTON STREET EAST
CHARLESTON, WV 25311**

PERSONS IN ATTENDANCE:

DOUG CONAWAY, DIRECTOR
WV OFFICE OF MHST

CHRIS HAMILTON,
WV COAL ASSOCIATION

DAN BICKEY
MINE POWER SYSTEMS, INC.

DAVID COYNE
RM WILSON CO.

STEVE MERCER
RM WILSON CO.

ERNEST SCHLATT
KANAWHA RIVER TERMINALS

**TRANSCRIPT OF PUBLIC HEARING
OCTOBER 1, 2002
10:00 A.M.
1591 WASHINGTON STREET EAST
CHARLESTON, WV 25311**

FILED

2002 NOV -8 P 4: 16

**RULE GOVERNING REPORTING REQUIREMENTS FOR INDEPENDENT CONTRACTORS
TITLE 56 - SERIES 10**

Mr. Conaway: We do have a new regulation out there that you are aware of and that is why you are here. I did mention that we've had four meetings, which I think resolved a lot of the issues with people. I'm not going to say that this thing is a perfect rule but I do want to explain a little bit about why we are doing this. We didn't sit down and say gosh, and really this meeting is not about me talking so much either, but I just want to set the tone a little bit. It is not about us sitting down and going, let's just think of some kind of burdensome task that we can put on the industry because we don't have anything better to do. We also got a situation too where this puts a tremendous amount of work on the agency. We are getting a lot of reports coming in. I know that guy from somewhere. What we need the hours for - here is the situation. Independent contractors and I start out meetings like this in saying, this is not to say that independent contractors are bad or all those kinds of things just state the facts. Over thirty percent (30%) of all our fatal accidents in West Virginia historically have involved independent contractors, over 30%. And we have a situation where we don't even know, if someone asks me today "How many independent contractors are working today in West Virginia", I have no idea. Nobody can tell you that answer. We have fifteen to sixteen thousand (15,000 - 16,000) miners, people that are actually mining coal. There have been estimates as high as ten to twelve thousand (10,000 - 12,000) on any given day of people that are working on mine property in addition to those fifteen thousand (15,000) that are independent contractors and we have no idea where they are at, we don't know who they are, we don't know what they are doing. So part of this is an effort, is their safety record good? Is it bad? I don't know. One thing I do know is thirty percent (30%) of all the fatal accidents we have involve independent contractors, I do know that. That's a fact. But as far as accidents and injuries, where they're happening, that's part of what this effort is about, first just trying to figure out whose where; whose doing what; how big is this situation? So that is why we are trying to put this thing together. Now we did try to say with this reporting, we are going to take a look at it. I know there have been some questions

about days; the form says days worked. We are thinking about changing that. If you can give me man-hours and where they worked, I can figure out the days. Is it a eight hour day, a ten hour day?

Audience: Has this already been legislated? I thought this was a form regarding impending.

Mr. Conaway: The rule is on emergency status, so it is in effect. It goes into effect, today, October 1, 2002.

Audience: Okay, is it a situation where you have to file a report every time you have a service call performed or are you looking for an annual report?

Mr. Conaway: No, it is a monthly report. So what you have is that this thing goes into effect October 1. So, what will happen is November 1, between November 1 and November 30 you will submit a report, the contractor will submit a report reflecting the man-hours that they worked on mine property for the month of October. So you got from November 1 to November 30, or however many days are in November, you've got all that length of time to submit a report to say here are the man-hours I worked in the month of October on mine sites. So come December 1 and all through the month of December, you've got to submit a report reflecting November. So, that gives you plenty of time. Some people misunderstood and thought on November 1 they have to submit a report that reflects October. You got the whole month of November to submit that report. There are activities...I know these questions are going to come up so I will go ahead and hit on them, they came up in a lot of the meetings we had.

There are activities we are not looking for. Service calls. For example, you go out and try to sell a product and you are sitting in an office; that is not reportable to us. You don't have to be registered with the State of West Virginia to go out and do that. The activities that we are looking for are those where there is some degree of exposure, out there performing some kind of work. If you are out there consulting, consulting is exempt. If go out there and stand and say, "do it this way, do it that way, looks okay to me". You don't even have to be registered with the State of West Virginia.

Audience: We're in the battery business, our guys do go underground and they all maintain underground certifications, they go through a yearly safety class that our company performs. We did six hundred and

forty-one (641) calls last year and what you are saying, is that you want a monthly record of each of those calls.

Mr. Conaway: Yes.

Audience: I haven't seen the form you guys are...

Mr. Conaway: It just basically says what manhours were at what permit. That is what we are looking for. I understand that in some cases it is going to ... this one gentleman talked about scrapers, and it is going to get pretty extensive but I think we've understood that it is vital that we maintain and find out what the situation is. Who is where? Who is doing what?

Audience: I know you have a lot of contract supplying even equipment operators and in all mining occupations in the mines, I understand that but most of the time we are very seldom by ourselves or do anything without their people doing it pretty much themselves.

Audience: Well, that's my question. According to your regulation, we are not allowed to have a guy go underground without a mine employee with him. So, what would be the necessity of another instrument for you guys to track injuries. If there were any injuries ...

Mr. Conaway: We are not only tracking injuries here, it is critical for us to track the man-hours as well because as I mentioned, if you have ten or fifteen accidents and six thousand employees, that's not significant. But if you have fifteen or twenty employees and they have fifteen accidents then that becomes very significant.

Audience: We have never had an accident in over twenty some years.

Mr. Conaway: I understand, but there are more companies than...you are one company of sixteen hundred that we have registered. So it is trying to get a handle on what that situation is.

Audience: I understand what their question is, and somewhat will apply in my case also. Like the month of October, at the end of October they got to sit down go through all their paperwork, all their invoices and what not they have sent out. How many man-hours for this whole month, I have to go through every invoice. How many hours did I work at this mine site? Put those hours down. How many hours did I work at the other mine site? Like you said, you go to jobs, well I do the same thing. I clean mine equipment. I'm at different locations also. Maybe I will only be there 3 hours, 4 hours. I leave that job site and go to another job site. Then I got to go back and count up all those man-hours and look through all the invoices and

everything and put down each one and the mine permit number, got to keep up with that, all your records on mine permit numbers, which mine permit is that and where. It creates a lot of paperwork, I understand what they are saying too.

Audience: It's hard to do business in West Virginia. I have been a WV vendor all my life, but it is the hardest state in the United States to do business in.

Audience: Is there anyway you could make it annual. Annual would be so much easier than..

Mr. Conaway: I don't think the data would help us ..

Audience: We are on the verge of laying off people, now we are going to have to create another job task for someone. I'm just looking for a sympathetic ear here. We are this close to taking health insurance away from our employees. Patriot Ford just did that. Times are bad. I understand your role as a regulatory agency, but ...

Mr. Conaway: My thought on what you're saying too is you pretty much go to the same jobs consistently, do you not? Where there are 400 mines in the state, you don't go to all 400?

Audience: No.

Mr. Conaway: If you do Massey's, you pretty much show up at Massey operations.

Audience: Right.

Mr. Conaway: You show up at Sylvester, or wherever. So there is some degree of consistency to that. And I think what we are looking for is ... nobody is going to follow you around and say gosh he put down 3 1/2 hours and he was there 4. We are looking for a good solid estimate of the time you spent there. That is what we're looking for. And I think for most cases you are going to see a pattern that you do the work for the same people consistently for the same amount of time. Now there is going to be exceptions to that but I think you are going to see that as a constant. Not in all cases.

Audience: In our case, I don't know about you but we work with about ... I know I client list is over 500, that's not all in WV that's in Virginia, Kentucky, Illinois.

Mr. Conaway: Right.

Audience: We have a similar type of thing. We have already had a lay off due to the fact that sales and everything is hitting rock bottom.

Audience: Mining has went down.

Audience: This right now could be pretty devastating to companies trying to supply...it's not that we are hiding anything or trying to get around anything, it's just creates another burden when you trying to do business.

Mr. Conaway: I understand that. I hear you.

Audience: I understand what you are saying. You're saying you want to know exactly or get a closer total of how many man-hours are worked at a mine. You say there are 15,000 registered coal miners within all the 400 coal companies in the State of West Virginia. You don't know if another 10,000 is being supplied by contract work. I see where you are coming from. And you want to get a workable, manageable man-hours to say okay in WV instead of 15,000 miners we actually have 25,000 miners that and so now are incident rate, where you thought you had a real high incident rate, we might had a really low. Or we are finding out that a lot of the accidents are not being reported, which is another whole can of worms. As far as I know, we are reporting our accidents. We did have an accident in Kentucky. We had a guy who had a back injury and never did even get to return back to work but it was an accident. He slipped and pulled something and fell.

Audience: We've had accidents but never at a mine site.

Mr. Conaway: I think one of things too we are trying to do is ultimately impact that injury rate, not only find out how many people are working, but for us to fully understand this picture. Where the accidents are happening? The man-hours are critical so that we can equate this one accident occurred here or two or three at this one location. Was it serious? Was there a lot of man-hours naturally it weighs that down, waters that down so to speak. If it just a few man-hours and a bunch of injuries at one location that is something I need to put resources in there to prevent those injuries. I think that is part of the big picture too. One accident at one location reported to us may not be significant but if I look at the picture the number of man-hours there or how many companies are working there it may become very significant. So that I can say, "I need to put resources there to deal with this problem", which now I know is a problem. Right now, I don't know. So there is a lot of different angles to this thing.

Audience: That is why in part I am here, because we had like he said, they had somebody hurt in the shop. We had somebody with our company that says because we have a permit number, a contractor's number in to work WV that we file all our accidents. We don't need to file our accidents in PA that happened in PA in WV. We just came through that. The guy we had said no, you got to file all these accidents with every state. And we said no we don't, even accidents driving to and from.

Mr. Conaway: No, it is only on the mine site. Yes, there is a lot of misunderstanding about some of these things.

Audience: Are saying though that you are not interested in days, it's more hours.

Mr. Conaway: Yes, we have listened to the people in the three meetings that we have had so far, about 250 people have showed up and had similar types of discussions as here and because how do you equate an 8-hour workday, a 10-hour workday, is it a 12-hour workday. If you give me man-hours and the number of employees I can figure out my own workdays from the information you give me. We'll be satisfied to get total man-hours at a mine location. I don't think the number of days is critical at this point and a lot of people seem to think it was creating them a lot more problem to do that.

Audience: The company I work for went into business as contract labor and I was at the meeting down at the mine academy. The way I understood that and I just want to get that cleared up is that if we have a guy who is one of our track crew, doing that kind of work, you know general labor we have to report his man-hours, but if he is running a shuttle car then does the mine already report his hours.

Mr. Conaway: No. That is totally different, these guys are primarily service contractors now you are talking about people who are performing normal mining duties per say. You got permitted under a C-number, as a service contractor. Some of those people are under a real permit number. What we are trying to get here is a clear picture. I don't want duplication. If you get with the mine owner or who has the permit and say, "here this guy is working, either he needs to get reported by him or by you, not by both. We have allowed people lead way in that kind of situation to just kind of work it out and figure out who is going to report just so we get it and not get it in a duplicated form. So I would say if he is working for you that mine owner is not reporting that.

Audience: This is what I was thinking but just the way I understood it was that the mine operator already reports...I know they are report their hours.

Mr. Conaway: His employees.

Audience: Just the way something was said, I took it that he was reporting

Mr. Conaway: You know when you go on mine property you know who your employees are and you know that the operator is not going, as a service contractor, you know the operator is not going to submit those hours. When we start getting into the actual working, the mining, it gets a little. I just think there needs to be a quick discussion with the operator, I'm reporting my employees, and if you got 3 people you're reporting your 3, right. And I think that will take care of that. And that just gives us a clear picture of the number of people.

Audience: That's the reason all this has come up because they are using so many contract miners they are not reporting.

Mr. Conaway: It's easy to go to a mine site. I can go up here to Kanawha Eagle and I can walk in that mine and see, I know where they are at, I know how many people are there, but to say, where are the contractors working here, then you really got to search and dig and look, and it is hard to figure out. That is where we are with the whole industry, nobody knows. For us to get a handle on this thing, I think it is important to realize whose where and whose doing what.

Audience: You said that 30 percent of the injuries involve contractors.

Mr. Conaway: Fatals.

Audience: Does that mean contract labor as well.

Mr. Conaway: No, that's service contractors. It even goes higher.

Audience: What are these guys doing?

Mr. Conaway: Well, now I said, "historically". We're looking at truck drivers, you go back ten years, truck drivers were the leading cause of fatals for a couple of years

Mr. Conaway: You go back ten years truck drivers were the leading cause of fatals there for a couple of years.

Audience: I understand that.

Mr. Conaway: We had two people killed dismantling cranes in the last ten years.

Audience: You mentioned truck drivers. Are you talking about delivery truck drivers.

Mr. Conaway: No, these were coal truck drivers. Delivery people are exempt, if you look at this thing. If you just come in and you drop off a product and turn around and go back. You pick up a pump or whatever it is, those people according to regulation are exempt. Now I understand most mining companies are saying I don't care what they say, you getting a certificate of approval. Where it gets complicated is well my guy he delivers but then he also gets out there and he starts unloading and he has to take it over here, then it starts getting more complicated. But a strictly pick up and delivery type person is exempt from this requirements.

Audience: We got sales that exempt from it, consultants exempt from it and delivery exempt from it. Is there anyone else that is exempt?

Mr. Conaway: I think that the good rule is just like we've talked about, if there is exposure there, they are doing some kind of work.

Audience: If they sweat

Mr. Conaway: I wouldn't use that I've seen a lot of them that don't sweat.

Audience: Shouldn't we if we fall in that category have a different contractors number rather than just be thrown in as a contractor. Doesn't that have, could that have effects on Worker's Comp, because if Worker's Comp wants to say well you are registered as a contractor your rates are going to go up because you're a contractor. You're a contractor because you say you are a contractor. Should those of us that fall in these categories should we not have a contractor's license as the coal companies dictate that we have but could it not be exempt from what you are trying to accomplish. I understand what you are saying and where you are going and where it needs to go to but those of us that have a contractors number because we are told to have one in order to do business with them we are getting throwed in and it could have ill effects on us down the line. I don't know, I'm just throwing this out there.

Mr. Conaway: I don't know what the effect would be because we, quite frankly Worker's Comp has no, I mean we have some contact with them but they don't look at our records.

Audience: If they classify you as an underground miner, it thirty-three dollars a...

Mr. Conaway: Yes, I understand that

Audience: That's devastating, we're at 5.40 now and it's killing us.

Mr. Conaway: That's a totally...I wish I could.

Audience: If someone gets smart down there.

Mr. Conaway: Watch what you're saying.

Audience: I'm just saying all they have to do is look at this, inadvertently raise it and leave it up to us to fight it. They could do that. All I am asking is it seems to me like there ought to be a different code at least for those of us that fall in that category.

Mr. Conaway: Well we talked about, a couple of thoughts on that. First of all you come to me and say you want to be a contractor. I'm saying you don't have to be and you are coming to me saying you want to be, I'm going to do it, you have to keep that in mind. But what we are going to do is get this thing online too, we've got the contract out there where the reporting can be done online. I think that will help in a lot of cases to where, if you don't have access, most children, most of your children, I mean that is just the way the world is, you give it to them and they could enter this in a matter of a few minutes.

Audience: You mean email.

Mr. Conaway: Email or also where you just log in on our webpage and it goes right in, you punch your numbers in and you're done with it. I'm looking at within the next four or five months that should be in place. We have a couple of mining companies that already want to do that and they are going to work with us. Also my thought is when we get that system in place what we are going to do is, like I asked you earlier since you are already registered with us right now that if would please even though your man-hours don't count, send a zero in because I don't know whether you didn't submit a report or if you just chose not to. If you could do that, then we are going to flag those companies like yours that are registered simply because you have been told to and you don't have any man-hours with us that are countable. We are going to flag those, the same way we flag the two companies that we talked about here earlier. We got two underground mining permits, and only one of them of submitting the

man-hours and tonnage report, the other one we have flagged as doesn't need to because when our system goes and checks them all, it goes gosh this guy didn't submit one so its flagged so it knows only one of two need to submitting. We will do the same thing, so if you're flagged and so if someone needs us to run off a list of special people that are just registered because they are supposed to we can go down through there and run that list and I will come up with fifty names or companies that we flagged that don't need to submit reports after we get that in place. You won't even have to put a zero in. I'll be the first to stand up and say that I don't have all the answers. I've got a lot of questions too and I've got an idea and I know where I need to go and I know it is putting a hardship on a lot of people and I'm trying. Like I said at the meetings if there is anyway we can make it easier we are going to try to. The online stuff I think will be easier. We are going to change that form a little bit, just give me man-hours and permit numbers. We've had the permit numbers we've passed out. We've got those. If you need a list of all the permit numbers, with mining names and permit numbers. We passed out law books. The print is awful small on them, but I got a good deal on them though, fifty-eight cents apiece.

Audience: This gentleman spoke about the truck drivers, the delivery people exempt and the sales people exempt, we have people that go underground and check the performance of equipment we sell, is that come under that kind of situation, consulting.

Mr. Conaway: Yes, consulting. Yes, I am just asking you to be fair with me. The guy goes down there and he's looking at it and somebody has a question, and if that is all he is doing that is not hours that we are concerned about again. He is still consulting.

Audience: Now, a service call that would be work.

Mr. Conaway: Again, I'll be the first to tell you I can't sit here and divide everything perfectly. All we are trying to do is get a good picture of exposure hours. Who's working where? Just kind of keep that in mind and I'll assure you we are not going to be out there. I don't have the people nor the time and energy to chase everybody around.

Audience: Eugene done got us.

Mr. Conaway: I know, but I'm saying on this issue.

Audience: No, Eugene checked with our people, seen them on site, done the report on it, it went through the office. It was like chickens, they got

their cage kicked and they was all flopping around wanting to know what to do about it. I told file and go on.

Mr. Conaway: Well one of the things too, I've got four people that I put on right now. Those four people, not Eugene, are former safety directors in the mining industry and their role is to provide service to contractors. I understand that independent contractors for the most part are small companies, have limited resources, don't have people that are dedicated for the most part to health and safety matters and I am providing these people. Anybody that would ask to help them, I'm not saying you get them for a year. Somebody wants to develop safety programs for their people; they want some training programs. Our guys will do that; it's not going to hurt you. We are not going to write you violations for that. But they are going to be to simply help us. I mentioned the thing about the crane, two people in the last ten years on WV mining property killed dismantling a crane. Now you look at that and say, "gosh that ought to be simple". There had to be a proper procedure, if you pulled the wrong pin at the wrong time, gosh, it didn't look like it was going to go that way but it did. So, I just use that as one example. You say, well I don't have any cranes. But I am saying there are a lot of issues out there like cranes that if we don't have the proper training in place people can get hurt. And my guys can come out there and say look I don't how to do it, but we are going to find out and we will set the training program up for your people and we will show them. That's the kind of stuff that I think needs to be done too. And I think this opens up the lines of communication between us. There are some positives to it, but there will also be some negatives if people aren't doing what they are supposed to be doing. I offer that as well.

Audience: We've had people with a training background; we've had a safety director, now it's all about fell in my lap. Because I am the WV manager and WV is the toughest we got with exception to the training in Kentucky where we have to have 6 to 8 hours per... so we do comply with 16-hour rule because we have people in Kentucky and WV. That is why I was telling Eugene we I have been a federal instructor, a MSHA instructor and working toward my Kentucky state instructor, I need to be able to apply for my WV instructor also because lets face it, we as contractors can't afford to pay union scales for people to work. That means maybe we can't hire that certified coal miner that we need to be able to do the 40 and 80 hour training to where we can get their cards and that becomes a whole new ballgame. How do we get people's cards when they are working two hours in a coal mine.

Mr. Conaway: We have a lot of people doing that. If you have the 40 hour or 80 hour class, underground for example the 80 hour, and your guy all he has to do is documents. If it is 2 hours, he documents on October 1st 2 hours and when he gets his 108 shifts whatever that equals out to in the number of hours then he can test and we'll give him a card. We've done that. Now what he might have to do is come back and renew his apprenticeship card from time to time because he might not get within the year. Apprenticeship cards are only good for a year.

Audience: You base that on eight-hour days, 108 shifts, so you are looking at 864 hours or something. Right?

Mr. Conaway: Yes.

Audience: At two hours a day, you might have a beard before you get finished with it. But the problem is we can't work him by himself all that time. But of course the mine operators aren't supposed to let him work by himself anyhow.

Mr. Conaway: I know there are a lot of.

Audience: As a foreman, they're not supposed to let me work by myself.

Mr. Conaway: Right. I know how that goes. They don't want to sit there and look at you. They got other things to do.

Audience: Doug, this was brought up down there at that meeting also, but as far as availability this information we give to you, how available is it going to be to the outside public?

Mr. Conaway: It is going to open to the public.

Audience: See that is the problem we have with it, is that. Our competition, yes they may know are basic customers but if they can get on the internet and look and say, last month they had zero here at this permit number and now they have fifteen guys working there, I need to send a salesman down there. Evidently they ...

Mr. Conaway: You heard down there that MSHA is going to be moving toward the same thing anyway so I can assure that we have looked at that and we think that the safety considerations at what we are looking at overrides that issue. We are not asking for any trade secrets, we are not saying what are doing here, how do you do it this way. We are just saying we are your people at. My personal thoughts on that is, for whatever they are worth, if I am your competitor and I really

wanted to know what you were doing and I made that a priority, but I'm saying if that is really what I wanted to do I think I could find out where you are working.

Audience: Yes, but it does makes it a lot easier.

Mr. Conaway: Yes, but the problem I am dealing with too, is that the code specifically says that any information I have as an agency is open to the public. It clearly says that.

Audience: On the other hand too, we can get their information just as well.

Mr. Conaway: It cuts both ways. But you got to understand that how would you feel as a citizen of this country, if it says Miners Health, Safety and Training does not have to make any of its records public. I as a citizen of this country disagree with that. I head this agency up and when people say they want information, I say here, here is what we did, if they want to know why, I tell them what we did. I think it needs to be that way because people start getting...I get defensive when I ask for information and people say oh no we can't tell you that. You know where I am coming from on that issue. I realize we are talking about your competitor. But I am saying in general, in this country we expect people to give us information, we expect people to be accountable and know what is going on, and if I as an agency collect information that should become public. That's where we are at with it. It was never intended, I never even thought about that issue before it was brought up in Beckley.

Audience: Yes, but you are not running a business.

Mr. Conaway: I understand.

Audience: Another point is, I have a contractor's id. I am an operator and if I have a certain job to do and I want a reliable accident free contractor that information is available.

Mr. Conaway: That's right.

Audience: I can narrow down the list through that possibility.

Mr. Conaway: That's a good point.

Audience: That's a positive there for me.

Mr. Conaway: And I think that will become more and more a factor and it has. We started dealing with this contractor issue in the early 90's and it

became highlighted in WV as a result of Heston's explosion where four people were killed at Blacksville Number One. And it pretty much highlighted that issue and we have been looking at this thing ever since and you can just see that companies who really didn't pay a whole lot of attention in the early 80's as to who came on their mine property. But now they are very concerned. Generally, I say it is going to continue to increase, companies asking, "who are you and what kind of record do you have"?

Audience: That is kind of my point. Why put the onus on the small, struggling independent contractor, when you could put it on the mine? I mean why can't the mine tell you how many man-hours we are spending at their mines, because their guard shack has a record. Everybody that goes in a mine, they have to sign in and they have to sign out. Why can't you use that for man-hours. Do you understand what I am saying.

Mr. Conaway: I know exactly what you are saying. We went down that road. I've got a court case I can show you which says; we tried as an agency to enact rules that placed the responsibility on the operator for the independent contractor. Well, Kanawha County Circuit Court shoved that right back saying you do not have the ability to transfer your authority, the independent contractor is viewed as an operator the same as, that's WV state code, it very clearly says, that you as an independent contractor when you register you are an operator, it uses that word. Same as the mine operator is an operator. So, the code is saying that you are both equal. The court decision says, that me as an agency, does not have the right to impose one operator, to exercise authority, or to provide information or anything else over another operator.

Audience: I think you got a good argument. The precedence is set, you can't go underground and work without a miner's card, right. That is you guys. No one can technical go on the property without having the 8-hour class, so I don't know why you can't level that dictate on the mines to provide in a free manner, everybody that has been on the property. Do you see what I am saying?

Mr. Conaway: Yes, I see what you are saying but what I am saying is we've tried that route. Now you can say, "you need to try it again" or you "didn't try it right ". But I am saying it was tried and it was shoved right back to us and said no you can't do that.

Audience: Well, I appreciate that but the onus is being put on us.

Audience: But what you were saying, us guys here as independents, if things would have went the way he's saying, these companies that hire the independent contractors; they are going to look at our safety records. If we got something reported say 3 or 4 accidents or injuries or whatever, they are going to say we are not going to use them. Here is a company that got a zero, they got a real good safety record, and we will use them. This will get this company who has 3 or 4 accidents, get them on the ball on getting something done or took care of on their accident reports, because this company over here is not going to use them until they get their accidents and stuff shaped up. Which he is right, a lot of times will help eliminate a lot of these accidents by doing that.

Audience: Actually it would be the incidence rate. If I were looking at someone it would not be necessarily the amount of accidents that you have, but it boils back down to the number of hours a contractor is exposed and the number of injuries to get that.

Audience: Doug, on this form you are looking for aggregate totals, like through the whole month. We might do eight service calls in one month .

Mr. Conaway: No sir, you just give total hours and a permit number. That is what I am looking for. I hesitate to say it, but I'll say it, you're talking about the operator responsibility but it is the truth. If you guys haven't noticed, the operators are not trying to take responsibility for contractors.

Audience: They don't want that responsibility.

Mr. Conaway: You are exactly right.

Audience: I worked at a mines one time and every time they ran into bad top they jerked their men out and put their contractors in there because the contractor had to take care of the compensation, liabilities, and insurance. They kept their incidence rate low.

Mr. Conaway: You mean that goes on.

Audience: What's the next phase of this when you get this implemented are you going to have inspectors to come and inspect the sixteen hundred contractors.

Mr. Conaway: Yes. What we are doing right now is it's a hit and miss proposition. If we go to the mine site and there are contractors there, we inspect them. I know everybody saying this is what this is all about, but no. What it is all about is if you come on property in the State of West

Virginia you are subject to those mining regulations, you are deemed an operator, you are subject to inspections and everything else. What I want to use these records for is not to go to every single one of these people, but I want to allocate my resources properly. When I look at the man-hours, I look at the accidents, and I find out who has been naughty and who has been nice. Then that allows me to say I need to have people over here, the incidence rate is 3 times the national average at this mine location or this company. To say we are going to approach everybody, no. I have talked to my people and what we want to do is approach everybody and say look we have never even had contact with you before. We are having contact with you now, what we are going to say is, we would like to have some accident reporting, we would like to have this, do you have any questions. Kind of just an informative type meeting is what an initial contact would be. Then as far as a focused inspection would be upon those people to where we perceive a problem. That is not to say you will never ever see an inspector. Your evaluation will ask how many accidents and injuries did you have and you report zero, then I come over and I pull my Worker's Comp data up and which will only be injuries at mine locations then we are going to do a comparison. We had 241 accidents reported to us last year by sixteen hundred contractors and we audited ten companies and we had over 100 violations for accidents that should have been reported to us from those ten companies, that is ten per company that should have submitted to us. I am not saying that is an average I am just saying that that tells me that the other sixteen hundred companies out there have had a lot of accidents that have not been reported to us.

Audience: That is just in West Virginia.

Mr. Conaway: That is correct and that is just on mine property. And again to get those records is all part of how can I get a picture and allocate resources, develop programs, stop trends if I don't even know what kind of accidents we are having. So that part of what this is all about, it's not to be a bad person or to punish you but this are the requirements, for us to know what is going on I got to have man-hours and I got to have accident reports. Any other thoughts? I realize it puts a burden on you, I understand that.

Audience: If it does any good... I oppose it but.

Audience: I came up here to make a case but there is no point to. We did write a letter.

Mr. Conaway: Well this thing will go before the legislature this session, if you absolutely oppose it.

Audience: I think that it is necessary. Just like I mentioned I would like to see the onus on the people that have the rights to the land. The extraction of the coal is their business our business is servicing them.

Mr. Conaway: I understand, but what do you think they are going to say.

Audience: They don't want to pay for anything I know that.

Mr. Conaway: Well they are also going to say, send me over to Peabody, I'm Consol, sending me over to Peabody, what do you want me to tell them to do, do you see what I am saying. He's an operator just like me have him enforce the law; enforce law upon him as you enforce the law upon me. If you want me to enforce it upon your company then I need to go over here to Peabody's company and tell them how to run their operation too. That's what I have already heard and am going to hear. Ernie, wouldn't you say that as well. You as a mining company are going to say enforce the law on him. I'm subject to it; he is too. I am just giving you the other side of it.

Audience: I understand the other side of it and that's a viable point. The point is there is no fun way around regulations.

Mr. Conaway: No. This isn't about a good time for all I understand that.

Audience: I don't know anything about this but does MSHA have to go by the WV code because I know that the way that OSHA does it, is that if I am Union Carbide for instance, if hire twenty people from MANPOWER and they are under our supervision, they are included in all our man-hours and accidents like that. But if I have somebody come in to fix my air conditioner we don't have to report their accidents and things like that. I was just wondering if MSHA would have to go by that, maybe that is another route we can take whenever MSHA starts to do the same thing they would have it set up different and you guys could get your information from them and you wouldn't have to do this anymore.

Mr. Conaway: Again, we are just talking about WV. You have federal law and you have state law.

Audience: Separate identities, but you still have to report to both of them.

Mr. Conaway: Same thing with accident reporting. Accident reporting is identical, the requirements for accident reporting at MSHA and the state are virtually identical, 99% the same. You are required to submit a form to MSHA and to the state. There have been discussions about if we

could get online and set that system up so that when you put it in it will electronically go to two locations, we have talked about those kinds of things. I think this is going to be the same way you still going to have to submit those records.

Audience: Don't get me wrong Doug, my dad you might probably know him he teaches the MSHA certified battery safety class; we give that for free to any mine that calls us. Another thing I was wondering about why was it incumbent upon the state to come up with if there is a real need for accurate numbers regarding contractors in the mining industry, industry-wide. Why wouldn't MSHA do this themselves in so that it is involved in all mining. You said accident reporting was identical so why wouldn't something like this be ...

Mr. Conaway: Well, I did know there was a movement. Pat Brady, district manger mentioned at the Beckley meeting that MSHA was moving in this direction. I think they understand the need for it but you and I understand the reality of something moves on the MSHA end is years in the making. It may start today, but it will be 5 years before anything ever active. I think WV has the ability to move forward very quickly, saying we need to do it, let's do it. Now that can be good or bad depending on your perspective. From my end it is good that I can go ahead and move forward.

Audience: I know that is the case, we were involved in the positive lead and quick disconnect and the MSHA guy came up to us and said hey that is illegal in WV and we said we know we were behind that.

Mr. Conaway: What happens is when it takes so long people lose momentum. Politics come into play, a lot things come into play. Everybody sits there and says we ought look at it as just a safety issue but a lot of other things come into play when you look at it in the big picture.

Audience: This is the form.

Mr. Conaway: Yes, that's the one we sent out initially but we are going to change that days. If you can just give us man-hours and mine id. It also has reportable injuries. People say that is redundant but its one of those catch alls, I am trying to catch it on both ends. You are supposed to report those to me anyway.

Audience: Like I said, knock on wood. We have never had any injury.

Mr. Conaway: Which I hope you never have one. And that is what this is all about. Sometimes it takes a lot of effort to get programs in place. Any

other thoughts or ideas. I kind of get the impression you are opposed to this, is that the impression.

Audience: Yes, I'll vote to be opposed to it. I know where it is going to go.

Mr. Conaway: Duly noted.

PUBLIC HEARING ENDED AT 10:50 AM.



FLUID COMPONENT SERVICES, INC.

162 County Road 120 • South Point, OH 45680-8825

Phone #: (740) 894-3139 Fax #: (740) 894-3069

August 29, 2002

Board of Coal Mine
Health & Safety
1591 Washington St. East
Charleston, WV 25311

Subject: New Regulation, Title 56, Series 10 Filed 8/15/02
Effective 10/1/02



Dear Sirs:

Please be advised that this is a formal written comment in response to this new proposed regulation governing reporting requirements for Independent Contractors. Fluid Component Services, Inc., opposes this new regulation for the following reasons.

1. This requires Independent Contractors to monitor each individual employees specific mining company on site time which is providing an excessive administrative burden on small businesses.
2. Independent Contractors such as FCS (Fluid Component Services) provides only small specialty services to many different mining companies. We do not maintain any records with individual West Virginia Mine ID numbers. The mining companies maintain Vendor ID numbers as part of their approved vendor lists.
3. These recordkeeping requirements provides excessive burdens to Independent Contractors with excellent safety records. FCS has zero reported mine site injuries through the last ten years of operation.
4. This requirement of individual mine site hours recordkeeping is unrealistic for a company like Fluid Component Services that has specialty service and delivery people that might be on 3 to 4 different mine site properties daily. Then some days the employees will not be on mining property at all.
5. This requirement is an added operation expense to Independent Contractors that does not promote job site safety but only creates useless paperwork and additionally becomes an unnecessary processing burden and expense to the WV Office of Miners Health, Safety and Training.

Page 2
Proposed New Regulation

In conclusion, I would like to reiterate that Fluid Component Services is definitely against this proposed regulation as unnecessarily burdensome to small businesses operating as Independent Contractors on mine site properties as well as an unnecessary expense to the WV Office of Miners Health, Safety and Training.

Thank you in advance for your cooperation.

Sincerely,

A handwritten signature in cursive script that reads "Bill Jarvis".

Bill Jarvis
President

BJ:bh



MINE POWER / SYSTEMS INC.



MINE BATTERY / SERVICE INC.

558 Industrial Park Rd. • P. O. Box 578 • Beaver, WV 25813

(304) 252-2509

(304) 252-1168 FAX

August 27, 2002

Mr. Doug Conaway
Director
Office of Mines' Health, Safety & Training
1615 Washington Street, East
Charleston, WV 25311-2126



RE: Independent Contractor Monthly Report

Dear Sir:

In response to the notice we received concerning the proposed monthly reporting requirements for independent contractors, we feel this would be a very cumbersome task for our company.

We perform service calls on batteries both above and underground. These service calls range from just a few minutes up to several hours each, and are at a lot of different mine sites. We have six service technicians that cover West Virginia, Virginia, and Kentucky.

So far this year, we have performed 476 service calls, and as I'm sure you are aware, this has been a slow year for coal mining related businesses. Our company is small, with only two people in the front office to handle all our calls and paperwork. As you can imagine, there would be a great deal of time spent each month keeping up with this new regulation.

I assume that the main reason for this record-keeping is to track injuries at mine sites and evaluate the data by hours worked, location, etc. Our employees are well trained, and are not accident-prone. We have very few injuries, which are usually minor, with very little or no lost work time.



We will keep whatever records are required, but we would like to say that this is truly a burden to any company that does a large volume of short service calls at a widespread number of locations each month.

Thank you for giving us a chance to voice our opinion on a regulation before it actually goes into effect.

Sincerely,

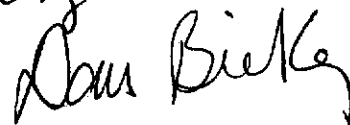


Dan Bickey
President

DB:ddb

P.S.

My suggestion is for companies to report any accidents or injuries as they occur. I can not afford to hire another person to fill paperwork out. Please consider that many many of ^{the} small companies like ours are barely making it in the mining industry.



*rec'd
9-30-02*
rm wilson co.

R. M. Wilson Co., Inc.
Box 6274 3434 Market Street
Wheeling, West Virginia 26003

Phone 304/232-5860
FAX 304/232-3642

September 27, 2002

Mr. Doug Conaway, Director
W.V. Office of Mines' Health, Safety and Training
Board of Coal Mine Health and Safety
1591 Washington Street, East
Charleston, West Virginia 25311

Dear Mr. Conaway:

The R. M. Wilson Co., Inc. is in receipt of your Notice to Independent Contractors dated August 19, 2002. We hereby submit our written comments with regard to this notice.

Our Company is a supplier to the coal industry (primarily underground mines) through out the State of West Virginia. In the normal course of our business, on a daily basis we make sales calls, deliveries, do training, and monitor the performance of the equipment we sell.

Our main thought/comment is, are all of these functions reportable under the new Title 56 Series 10 language changes ?? If they are, do you have any idea of the magnitude of the paperwork nightmare you are creating for your department. We cite in reference the attached memo from West Virginia-Indiana Coal Holding Company, Inc. of Cabin Creek, West Virginia.

Also, our Company has an exemption from the requirements of the Contractors Licensing Act, (copy attached), what effect if any will this new language have on this exemption.

We will attend the public hearing on October 1, 2002, so that we can become better informed regarding our status under the new language.

Best Regards,

David J. Coyne
David J. Coyne, President

West Virginia-Indiana Coal Holding Company, Inc.

P.O. Box 489
Cabin Creek, WV 25035-0489
(304) 595-9400
Fax (304) 595-9414

AUG 23 2002

August 13, 2002

Dear Sir or Madam:

Recently, the Federal Mine Safety and Health Review Commission made a ruling that becomes an interpretation of how MSHA enforces their law. The Commission ruled in a case, Northern Illinois Steel Supply Co., that a delivery person was an "independent contractor" while delivering supplies to a mine site. MSHA ruled that the work done by the delivery people fell within the meaning of "services" as used in 30CFR 45.2(c).

The company was required, at this point, to apply for and receive a three digit MSHA I.D. number. We were made aware of this decision and "put on notice" that MSHA would be requesting three digit I.D. numbers from people delivering mining supplies. We are required to keep certain information about your company and make it available to an inspector upon request.

In order for us to comply with MSHA's request, we ask that if you do not already have a three digit MSHA I.D. number, go to your local MSHA field office to get a number assigned to you.

We found out about this decision while conferencing a citation for not hazard training a delivery person that was delivering belt to our warehouse. We also want to take this opportunity to once again stress that whenever your employees or contractors come onto our property, these people **MUST** be hazard trained. This training has to be updated annually. Letting us make your people aware of a possible hazard that your workers may be exposed to just makes good business sense – for you and us.

Your help and cooperation in this matter are appreciated.

Sincerely



Frank Matras
President

/j

Ind. Contractor

cc: Jack Hatfield, Jr.
Tim Browning
Jon Adamson
Mike Propst
Mike Fugate
Tom Hart
Vince Scriptunas

WEST VIRGINIA DIVISION OF LABOR

749-B Building 6, Capitol Complex • Charleston, West Virginia 25305

Phone (304) 558-7890 • Fax (304) 558-3797

HTTP://WWW.STATE.WV.US/LABOR

BOB WISE
Governor



JAMES R. LEWIS
Commissioner

WEST VIRGINIA CONTRACTOR LICENSING BOARD

Building 6, Room B-749, Capitol Complex
Charleston, West Virginia 25305

February 5, 2002

EXEMPTION FROM THE REQUIREMENTS OF THE CONTRACTOR LICENSING ACT

The following company has demonstrated through a letter of explanation that due to the nature of business being conducted, the company is exempt from provisions of the West Virginia Contractor Licensing Law.

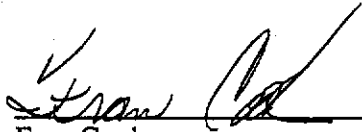
R.M. Wilson Company, Inc.
PO Box 6274
Wheeling, WV 26003

TYPE OF WORK PERFORMED....

"It is necessary for us to visit mine properties, go underground when required to demonstrate, test and evaluate our products. Our firm is not involved in any of the installation of the products."

This exemption does not apply to work, which is subject to State Building Codes and National Fire Protection Association codes.

This exemption expires: February 5, 2003


Fran Cook
Deputy Commissioner

FEB - 8 2002





September 27, 2002

R. M. Wilson Co., Inc.
Box 1046 110 Philpott Lane
Airport Industrial Park
Beckley, West Virginia 25802-1046

Phone 304/255-5160
FAX 304/255-4806

Doug Conaway, Director
WV Office of Miners' Health Safety & Training
1591 Washington Street East
Charleston, WV 25311

Re: Proposed Regulation / Title 56 Series 10 Rules Governing
Reporting Requirements for Independent Contractors

Mr. Conaway:

Thank you for allowing the opportunity to share our comments on the above matter.

The RM Wilson Company, Inc., WV Permit C00004014 and MSHA - YLM is a sales and distribution company serving the coal mining industry throughout the United States for over 30 years. RM Wilson Co. feels we should be exempt from the reporting requirements for independent contractors. Although it is necessary for us to visit mine properties, go underground when required to demonstrate, test, evaluate, and deliver our products, we are not involved in any of the actual installation that would be billed as contractor work.

At any given time, our company could have eight salesmen and five drivers visiting as many as ten mine sites per person, per day, equates to as many as one hundred thirty mine visits per day.

The reporting requirements for RM Wilson Company, Inc. would become an unnecessary labor burden and will cause a severe financial burden on us as well.

I'm sure that there are many companies like ours, even larger, that will feel the same as we do.

Thank you for allowing me to give you our comments and look forward to seeing you on October 1, 2002 at the Public Hearing.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Mercer", written over a horizontal line.

Steve Mercer
Vice President

SM/lh

Potesta & Associates, Inc.

Engineers and Environmental Consultants

2300 MacCorkle Avenue, S.E., Cox Hall, Charleston, West Virginia 25304-1099
Telephone: (304) 342-1400 Fax: (304) 343-9031 E-mail: potesta@potesta.com

September 30, 2002

Mr. Doug Conaway
Board of Coal Mine Health and Safety
Director West Virginia Office of Miners' Health Safety & Training
1591 Washington Street East
Charleston, West Virginia 25311

RE: Comments on Proposed Regulation, Title 56, Series 10, Rules Governing
Reporting Requirements for Independent Contractors

Dear Mr. Conaway:

Potesta & Associates, Inc. (POTESTA) is an engineering and environmental consulting company. About 20 percent of our business is with coal mining companies; it is primarily permitting work performed at our office and fieldwork such as benthic sampling and density testing performed on mine property.

POTESTA would like to provide the following comment regarding the proposed reporting requirements for independent contractors:

MSHA currently collects independent contractor data, and has done so for years on a quarterly basis. The data MSHA requires is very similar to what the West Virginia Office of Miners Health Safety & Training (WVOMHST) proposes to request. We feel that the WVOMHST will be unnecessarily duplicating information collection. We propose that WVOMHST work with MSHA to obtain this data from them. Burdening independent contractors with additional work when the information is already available should not occur.

Sincerely,

POTESTA & ASSOCIATES, INC.



Dana Burns
Vice President

DLB:BFD/tcf

rec'd 10-2-02
Maxxim Rebuild Company, Inc.

Maxxim Rebuild Company, Inc.

P.O. Box 4652
Lebanon, Virginia 24266
276-889-6000

*Via Facsimile (304/558-1282)
and U.S. Mail*

September 30, 2002

Doug Conaway, Director
West Virginia Office of Miners' Health
Safety and Training
1591 Washington Street East
Charleston, West Virginia 25311

Re: Comment to Proposed Regulation/Title 56 Series 10: Rules Governing
Reporting Requirements for Independent Contractors

Dear Mr. Conaway:

While we understand West Virginia's new focus on independent contractors, which includes an expectation of compliance with the same safety regulations as apply to traditional mine operators, we believe there should be an exception made to the record-keeping requirements for those contractors who do not perform as coal mine operators. Maxxim Rebuild Company, Inc. ("Maxxim") is a vendor of mining equipment repairs.

Because of the nature of the service we provide, Maxxim is subject to the jurisdiction of multiple regulatory agencies. While work is performed in our shop, we are regulated by the Occupational Safety and Health Act. While transporting equipment on the highways, we are regulated by the Department of Transportation. Upon entering a mine site to deliver or repair equipment, we are subject to the Mine Safety and Health Act and the regulations of the West Virginia Office of Miners' Health Safety and Training (WVOMHST).

West Virginia's focus on independent contractors appears to be needed; however, the focus is appropriately on mining contractors, who should be held to the same standard as traditional mine operators. Maxxim does not fall into this category, as it serves as a vendor to independent mining contractors and/or traditional mine operators. Based upon the number of regulatory agencies exerting jurisdiction over Maxxim, WVOMHST should evaluate the amount of reports and other paperwork required to comply with the regulations imposed. WVOMHST's reporting requirements should be considered with an eye toward encouraging interagency cooperation and discouraging multiple reporting requirements which overload entities such as Maxxim, which do not provide contract labor to mine coal and do not function as a traditional mine "operator."

Sincerely,

Maxxim Rebuild Company, Inc.


Suzan E. Moore
Counsel

SEM:wf

Board of Coal Mine Health and Safety
1591 Washington Street, East
Charleston, WV 25311

September 24, 2002

Dear Sir or Madam,

This letter is in response to the Notice to Independent Contractors dated August 19, 2002 that pertains to the Proposed Regulation / Title 56 Series 10 Rules Governing Reporting Requirements for Independent Contractors. Kanawha Scales & Systems employs some 46 technicians who perform work at various locations. It would be cumbersome and time consuming to track total days and hours worked for each location. We see the necessity to report accidents and occupational injuries and will gladly provide this information, but feel the task of tracking total hours worked by location would not be cost effective based on the information we have. Please be aware of the challenge for contractors that have numerous employees who perform work at nearly all mine sites when reviewing the proposed new regulation. Thank you for considering this issue.

Sincerely,



Carl Baldwin
Compliance Coordinator

Maxxim Rebuild Company, Inc.

Maxxim Rebuild Company, Inc.

P.O. Box 4652

Lebanon, Virginia 24266

276-889-6000

*Via Facsimile (304/558-1282)
and U.S. Mail*

September 30, 2002

Doug Conaway, Director
West Virginia Office of Miners' Health
Safety and Training
1591 Washington Street East
Charleston, West Virginia 25311

Re: Comment to Proposed Regulation/Title 56 Series 10: Rules Governing
Reporting Requirements for Independent Contractors

Dear Mr. Conaway:

While we understand West Virginia's new focus on independent contractors, which includes an expectation of compliance with the same safety regulations as apply to traditional mine operators, we believe there should be an exception made to the record-keeping requirements for those contractors who do not perform as coal mine operators. Maxxim Rebuild Company, Inc. ("Maxxim") is a vendor of mining equipment repairs.

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Sincerely,

Maxxim Rebuild Company, Inc.


Suzan E. Moore
Counsel

SEM:wf

recd
9-23



September 17, 2002

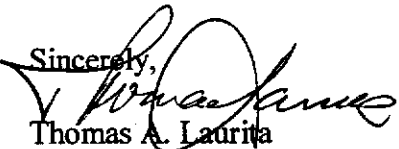
Board of Coal Mine Health & Safety
1591 Washington Street East
Charleston, WV 25311

RE: Proposed regulation/
Title 56 Series10
Rules Governing
Reporting Requirements
For Independent Contractors

To Whom It May Concern:

As President of Laurita Excavating, Inc. I am vehemently against this proposed regulation which will further burden this company with needless paperwork. Some years we are very busy around mine sites, while others little work is performed. Do not burden us with this regulation, please!

Sincerely,


Thomas A. Laurita
President

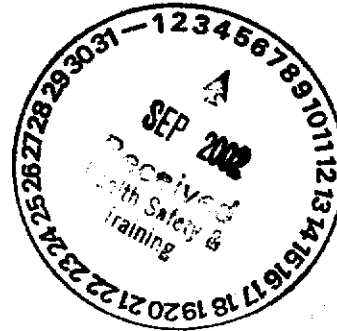
JERRY'S SALVAGE

P.O. Box 35, Horner, WV 26372

304-269-3594

September 3, 2002

Board of Coal Mine Health and Safety
1591 Washington Street East
Charleston, WV 25311
Attn: Doug Conaway



Re: Rules Governing Reporting Requirements
for Independent Contractors

To Whom It May Concern:

I am writing regarding the notice to Independent Contractors I received in the mail last week. The notice specified that all independent contractors must fill out a monthly report. We are not an independent contractor, where as this report does not pertain to our Company. We are a salvage yard that cleans up scrap material off of a jobsite. If there are any additional questions, please contact Amy @304-269-3594 for more information. Thank you for your time.

Sincerely,

A handwritten signature in cursive script that reads "Jerry Stout".

Jerry's Salvage
Jerry Stout- manager

LOGAN WATER CARE INC
P O Box 425
Stollings, WV 25646
(304) 752-8185



September 4, 2002

Board of Coal Mine Health & Safety
1591 Washington Street East
Charleston, West Virginia 25311

RE: Proposed Regulation / Title 56 Series 10
Rules Governing Reporting Requirements for
Independent Contractors

Dear Sir:

In response to the proposed regulations / Title 56 Series 10 rules governing reporting requirements for independent contractors; we are strongly against this monthly report. We are a small business and most of this information could be obtained off the quarterly Mine Employment and Coal Production Report. I suggest you combine the reports into one and due quarterly not monthly.

Sincerely,

Peggy Light
Peggy Light
Office Manager

pl



RICHWOOD Field Services

Oak Hill Facility: P. O. Box 1369, Oak Hill, WV 25901 Toll Free: 877-465-6155 Office: 304-465-6155 Fax: 304-465-1290
Huntington Office: P. O. Box 1298, Huntington, WV 25714 Toll Free: 800-237-6951 Office: 304-525-5436 Fax: 304-525-8018

August 30, 2002

Board of Coal Mine Health & Safety
1591 Washington Street East
Charleston, WV 25311



Dear Sirs:

We take exception to the proposed regulation/Title 56 Series 10. The volume of reporting for all branches of the government is all ready quite high. We see no necessary reason for the proposed change. Please allow for a little independence for independent contractors.

Sincerely,

Judd Roseberry
President/CEO



McGraw & Son Construction Co., Inc.

P.O. Box 238
Glen Daniel, WV 25844
(304) 934-5456
FAX (304) 934-5431

August 26, 2002

Mr. Doug Conaway, Director
WV Office of Miners' Health Safety &
Training



RE: Proposed Regulation/Title 56 Series 10
Rules Governing Reporting Requirements for
Independent Contractors

Dear Sir;

I am a Construction Company, and would like to comment on the proposed regulation. I report to the Federal department in Denver on a quarterly report. Why can't a quarterly reporting form do for WV and eliminate some paper work? Or carbon copies from that report do for reporting purposes?

The proposed form seems to me as being for an independent MINING Contractor. I am a construction company. Does it pertain to my company?

I appreciate the opportunity to express my views and hope they will be taken into consideration.

Regards,

Chris McGraw



Strata Mine Services, Inc.
P.O. Box 783 * Richlands, Virginia 24641
Phone: 276-991-1003 * Fax: 276-991-1025



To: Doug Conaway and Board of Coal Mine Health and Safety

From: Ed Barber - General Manager

Date: August 28, 2002

Subject: Questions, comments, and concerns pertaining to Proposed Regulation / Title 56 Series 10

Strata Mine Services, Inc. acts as an Independent Contractor furnishing labor to install the products we market and sell. We operate in all coal producing States on a monthly basis. We are proud of our ZERO ACCIDENT AND INJURY RECORD since starting our operation June 1, 1999.

After carefully reviewing the information sent to us pertaining to the Proposed Regulation / Title 56 Series 10. The following are a list of our major questions, comments, and concerns.

Concerns:

1. The wording concerning when the monthly forms will be submitted is unworkable as stated. It states that on or before the end of each calendar month the forms will be filed. Using the month of October as an example, The last day of the month falls on a Thursday. Our employees fill out time sheets each Monday for the previous week worked. This means that hours worked for the week of October 27 would not be reported to us until November 4.
2. Some of the information required on the proposed forms will be very time consuming for the Contractor. Information such as Mining Company name, West Virginia ID No. of mine, number of contractor employees, and days worked. It would seem that a simple total number of man-hours worked and injuries, if any in West Virginia would provide adequate information for record keeping and accident tracking. Listing days and hours is repetitious.
3. Information such as man-hours worked and injury claims are provided to the West Virginia Workman's Compensation Department. Duplication of filing of information to State agencies is very costly and time consuming for business.

Suggestions:

1. A form similar to the one required by MSHA be required by Contractors. This form is completed quarterly, and is due within 15 days after the end of a quarter. These forms can be faxed to MSHA. The only information that should be required is number of man-



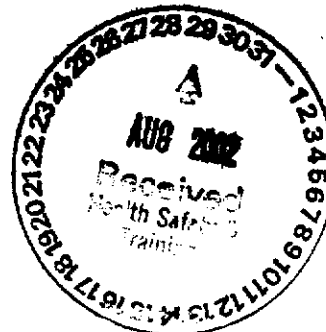
Specializing in:

Industrial Painting
Sandblasting
Lead Abatement Projects

W.R. Mollohan, Inc.

100 Harris Drive
Rock Branch Industrial Park
Poca, WV 25159

August 26, 2002



Charleston, WV

Office: (304) 755-9434
FAX: (304) 755-9438

Office of Miners' Health, Safety and Training
1615 Washington Street East
Charleston, WV 25311

Sutton, WV

Shop: (304) 765-5881

Contractor License
WV001096

RE: Reporting Requirements- Independent Contractors

Dear Sirs:

I have reviewed the proposed reporting requirements and
would like to post the following comments:

1. What is the benefit that you are trying to gain from this additional work?
2. What benefit is to be gained by the independent contractor?
3. How much is the additional cost of these reports compared to the benefits?
4. I would like to think that there has been some economic benefit analysis performed prior to adding additional paper work for no apparent reason.

Please review these comments. If you need to contact me,
please do so at your convenience.

Sincerely,

Joe Beam



PATRON MEMBER

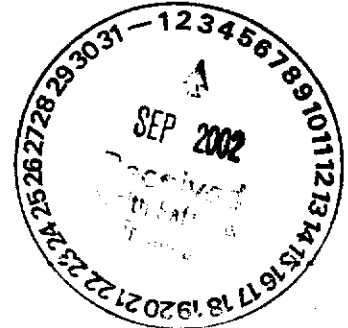
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9-3

Enviro Con Ltd.

P. O. Box 2156 • Fairmont, WV 26555-2156 • 304-363-2442 • Fax: 304-363-2442

August 30, 2002

Doug Conaway
Director
West Virginia Office of Miners' Health Safety & Training
1591 Washington Street East
Charleston, WV 25311



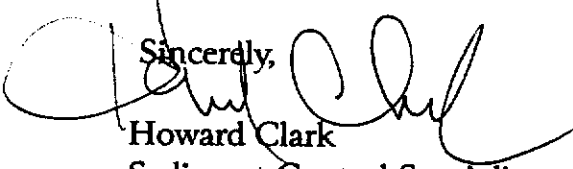
Dear Mr. Conaway:

This is a comment on the "2002 that refers to the proposed regulation/Title 56 Series 10, Rules Governing Reporting Requirements for Independent Contractors.

Our comment is that you are asking us to report information that is already being reported to you or other state agencies. We report number of employees, and hours worked to MHSA. We report number of employees and gross pay to WV Workers' Compensation and WV Unemployment. And If there is an accident, we report that event, location, and employee to Workers' Compensation and MHSA.

Our work schedule is varied daily we could be on several different mine sites. We propose that to report this only if an independent contractor has been on one mine site for more than 50 employee hours per month.

Sincerely,


Howard Clark
Sediment Control Specialist

rec'd 9-3
Vernon L. Withrow



President

7010 MacCorkle Avenue S.W.
St. Albans, W.Va. 25177
Phone: (304) 727-2271
Fax: (304) 727-2273



August 28, 2002

Board of Coal Mine Health and Safety
1591 Washington Street, East
Charleston, WV 25311

RE: Proposed regulation/ Title 56 Series 10 - Rules Governing Reporting Requirements
for Independent Contractors

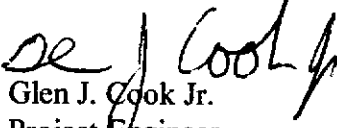
Dear Board Members:

I am writing to comment on the proposed rule for Independent Contractors referenced above. Our firm is a building and utility general contractor. We perform work on coal mine sites on a very limited basis. It has been our history to work on coal mine property for 2 or 3 months a year once every two or three years. The way the proposed regulation is written we would have to fill out the form every month even though we might go three years or longer without work on coal mine property. I am not opposed to filling out this form while we are working but it is overly burdensome to fill out this reporting form when we are not working on coal mine property.

I would like to propose that mandatory notification be made prior to beginning work on coal mine property, when you are awarded a contract, purchase order, etc. and then filing the monthly report during the period that you are working on coal mine property.

Please consider changing the proposed regulation so that it does not require extra reporting work for those of us not performing work on coal mine property on a regular/consistent basis. If you have any questions or would like to discuss this matter further, please feel free to contact me.

Sincerely,
Green Valley Bridge, Inc.


Glen J. Cook Jr.
Project Engineer



Powell Construction Company

August 30, 2002

Board of Coal Mine Health and Safety
1591 Washington Street East
Charleston, WV 25311



RE: Comments on Proposed Regulation Title 56 Series 10 Reporting Requirements

In response to the August 19 notice to independent contractors relative to proposed regulation Title 56, Series 10, I would like to make the following comments:

- I am not in overall opposition to a reporting requirement that will assist the WVMHS&T in tracking workplace accident and man hour figures among independent contractors working at or in West Virginia mining operations. However, I deal with the regulatory agencies of several states, of which only Virginia has a reporting requirement for contractor man hours by location (mine identification) where the work was conducted. In Virginia, such a report is required annually to be submitted by February 15 for the previous calendar year, and applies only to mineral mining operations. I feel that to require monthly reporting of these figures only adds to the paperwork burdens of many small contractors who are already understaffed in many cases to deal with additional "paperwork". I feel that either a quarterly or annual reporting requirement will serve the same purpose in this case.
- In 3.1 (1), a formula or guideline for determining the "total number of employees" should be provided. For example, though our company may keep a crew of 10 employees on a project (mine site) at any one time, the makeup of this crew may change constantly as employees are rotated to other sites, or with employee turnover. Though the overall crew size may never exceed 10 persons on any given day in the monthly reporting period, there may have been 20-30 different employees on that job during the course of a month. This not only makes it difficult to determine the number of employees on each identified mine site, but can also result in duplicate reporting on other sites (counting the same employees several times). By the time you have several contractors throughout the state employing "guesswork" in determining the total number of employees on each job each month, the result will be statistics that are totally inaccurate. MSHA has a formula to use in determining the number of employees their 7000-2 quarterly report, but its accuracy is going to be based on how companies are set up to track terminations, turnover and work location (not always available in many payroll tracking systems).

Another suggestion would be to remove the requirement for number of employees and include only man hours which would be all that is needed in determining injury incidence rates.

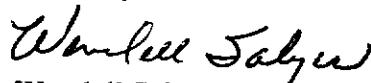
- In 3.1 (2), I would remove the total days requirement, which is not necessary for determining injury incidence information. However, if the Board has a specific reason for needing the "day" information, it needs to define what is meant by total days. For example, does 10 men working on a site in a single day constitute " one day" or "10 man days", and what happens on a day in which the work day is shortened (worked only 1 hour due to rain). Does this still constitute a day worked. These are all things that keep the person completing the report "guessing" as to what is expected, and if all independent contractors completing the report are not on the same wave length, the figures will be inaccurate.
- In 3.1 (3), this appears duplicative of information already provided on the Mine Accident and Injury Report form provided by MHS&T. Can this information not be pulled from existing files of injury reports submitted within 10 days of each occurrence and plugged in electronically by contractor?
- See comments on 3.1 (1) and (2) when attempting to identify days worked and number of employees by mine identification number. Tracking of man hours by mine identification number is more easily (and accurately) tracked since most contractors payroll systems are setup to track (and generate reports) by total man hours against a job (not total days or total numbers of employees).

In retrospect, there will be several problems on providing accurate information with the current reporting requirement as is. One option would be to require quarterly reporting since MSHA requires a quarterly report, and companies could research the information at one time each quarter. The independent contractor could break out the hours worked on a West Virginia mine site, and plug it in on the West Virginia form. The West Virginia form should ask for no more than already requested on MSHA Form 7000-2, and in my opinion, should delete the "total number of employees" which is difficult to determine accurately.

If a information on hours worked by mine identification number is absolutely necessary for WVMSH&T purposes, then the report should ask for no more than man hours, mine identification and accident figures.

If appreciate the opportunity to comment on this new proposed regulation. If you have any questions, I may be contacted at (304) 252-9947, extension 15.

Sincerely,



Wendell Salyer
Safety Director

cc: Jim Powell

ecda-19

To: Doug Conaway, Director
WV Office of Miner's Health Safety + Training

From: Carolyn Everidge, Sec.
Bobby + Carolyn Trk. Inc.
PO Box 645
Carrie KY 41725

Date: Sept. 16, 2002

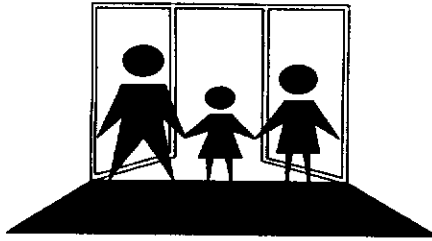
Subject: Reponse to Regulation / Title 56 Series 10

We only enter WV occasionally,
Sometimes months we don't. To cut
down on paper work (for negative reports),
Could this not be done quarterly at
the same time we file our Federal
MSHA Quarterly Reports.

RUGGED RENTALS

RUG DIVISION

P.O. BOX 6163
WHEELING, WEST VIRGINIA 26003



FOR OVER 20 YEARS!

Doorway Mat Rental Specialists
• Unique and Unusual Size Abilities
• Over 40 Colors to Choose From
• Dedicated Placements
• No Contract Obligations
Dust Mop Service
Specialty Matting Sales

GARY L. HAGERMAN
GENERAL MANAGER
(304) 232-4660
FAX (304) 233-4695

September 17, 2002

Board of Coal Mine Health & Safety
1591 Washington Street East
Charleston, WV 25311

Re: Proposed regulation/Title 56 Series 10

Dear Sir or Madam:

Although my companies perform simple services for various mines in the tri-state area and we are only in these mines for a few hours each week, I can appreciate your interest in this safety area. However, why create an administrative paperwork nightmare for yourselves and us with all this reporting, data and accounting when your main interest is reporting of injuries? We have not had an injury in 20 years of vendor business with the many mines we have serviced. I am sure a number of companies have had similar experiences.

There is nearly no risk in servicing entranceway mats, restroom products, etc. as we do or servicing copiers, vending machines or light delivery work as many other vendors provide nearly on a daily basis. If this program gets in place, you will soon need rooms of filing areas to keep all reports. Perhaps it would be better to simply require a report to be made by us immediately if even the slightest injury occurs with our workers when working at your facilities.

Anyway, I am not one that normally responds to things like this, but I hate unnecessary work and jobs. It is money that could serve a more meaningful purpose elsewhere.

I appreciate and admire your efforts in health, safety and training for miners.

Yours very truly,

Gary L. Hagerman
Gary L. Hagerman

GLH/slh

Recd
9-6-02

K & M Trucking Inc.
393 Monroe Street
Weston, WV 26452
(304) 269-5120

Doug Conaway, Director
Board of Coal Mine Health and Safety
1591 Washington Street
Charleston WV 25311-2126

I have received your notice of Independent Contractors and I feel that all of this extra paper work is not necessary. We are out in the field working and trying to make a living and not in the office behind a desk trying to create more paper work. So therefore if you do not have anything better to do than to sit there behind your desk and create more paperwork for us to do then I would suggest you go home. Things are complicated enough for the small business man to try to keep up with and then you people just keep creating more and more paperwork. Enough is enough!!!!!!

Sincerely,

Michael B Casto, President
K & M Trucking Inc.
393 Monroe Street
Weston, WV 26452



SUMMIT ENGINEERING INC.

September 9, 2002

Board of Coal Mine Health and Safety
1591 Washington Street East
Charleston, WV 25311



RE: Proposed Regulation / Title 56 series 10
Rules Governing Reporting Requirements for
Independent Contractors
Comments

Mr. Doug Conaway;

Summit Engineering, Inc., - Independent Contractor No. C00003292, is a consulting engineering firm for the coal industry in West Virginia. We have had offices in West Virginia since 1985 with no reportable accidents or occupational injuries. We employ sixteen (16) people at our offices in WV and send ten (10) others to WV from our offices in KY and VA at different times.

The proposed rule should not apply to companies such as ours since our employees do not work in harms way. We will go to a site and consult with the owners on mine permitting and designing issues. We do not work on or around any mining equipment.

Though this reporting procedure may make since for Contractors that will work at a given site for an extended period of time, it does not apply to our situation. We may be at one, two, three or more different mine sites in a given day. I personally have gone to as many as ten sites in one day just to look at the condition of sediment ponds.

Doug, I understand the need to report accidents and injuries, and will gladly do so if and when one were to occur, but the amount of data that is being requested will be very time consuming for a consulting firm such as ours to do on a monthly basis. I would suggest that consulting firms and others like us that do not work in close proximity to the actual coal extraction operations be allowed to report accidents and injuries as they occur.

With reference to the above, it is requested that you please
arrange to have the necessary information forwarded to the
interested parties for their consideration and convenience.

Sincerely,


David Resnick, Jr.
Vice President

The Little Sparrow - Fairbank

1882-1883
Fairbank, N.D.
1882-1883

The Little Sparrow - Fairbank
1882-1883
1882-1883

1882-1883

1882-1883

Long Songway
Way Office of Mineral Health
Safety and Training

PO BOX 43515
Sissonville WV 25860
WV 000703
Fax 8241571

98243246
SISSONVILLE WV

September 4, 2002



Board of Coal Mine Health and Safety
1091 Washington Street
Charleston, West Virginia

Re: Proposed Regulation 20.10.10.10.10
Rules Governing Reporting Requirements for
Independent Contractors

To Whom It May Concern:

I am writing to you to express my concern about the proposed regulation.

As you know, I am a small business owner. If passed, this would require more paperwork which is unnecessary and costly to my company.

Sincerely,

Jimmy L. Dunn, Sr. & Family

Jimmy L. Dunn
President

JAD/crc

SECRET

Abstract

September 9, 1992

Mr. Doug Conway
Director
WV Office of Mined Health Safety & Training
Board of Coal Mine Health & Safety
1815 Washington Street East
Charleston, WV 25303

**Re: Proposed Regulations for the States of Mines & Mined Coal
Requirements for Initial and Periodic Inspections**

Dear Mr. Conway:

After reading the proposed regulations for the States of Mines & Mined Coal, I am very impressed with the thoroughness of the work that has been done. The proposed regulations are very comprehensive and cover all areas of the mine. I am particularly impressed with the proposed regulations for the initial and periodic inspections. These regulations will provide a clear and concise guide for the inspectors. Although these regulations are very comprehensive, they represent the implementation of compliance on which the small company must expend precious resources.

In regard to the proposed regulations for the States of Mines & Mined Coal, I am very impressed with the thoroughness of the work that has been done. The proposed regulations are very comprehensive and cover all areas of the mine. I am particularly impressed with the proposed regulations for the initial and periodic inspections. These regulations will provide a clear and concise guide for the inspectors. Although these regulations are very comprehensive, they represent the implementation of compliance on which the small company must expend precious resources.

Thank you for your consideration in this matter. I would be happy to answer any questions you may have.

Regards,

John W. ...
West Virginia ...



RESPONSE TO WRITTEN AND ORAL COMMENTS TITLE 56 – SERIES 10

As an attempt to answer the numerous inquiries received by the agency concerning Title 56 Series 10 the Director choose to hold informational type meetings at four different locations to answer the specific questions of concerned independent contractors in addition to the public hearing.

A notice of the informational meetings was mailed to every independent contractor that had a 2002 extension (permit) with WV Office of Miners' Health, Safety and Training (see attached copy). The meetings were held at the following locations and dates.

**September 24, 2002
National Mine Academy
1301 Airport Road
Beckley, WV**

**September 26, 2002
Southern Community College
College – Logan Campus
Dempsey Branch Road
Mt. Gay, WV**

**September 30, 2002
Welch Armory
600 Stewart Street
Welch, WV**

**October 2, 2002
WV MHST – Region One Office
205 Marion Square
Fairmont, WV**

The intent of the meetings was to meet personally with the independent contractors to explain the need for the regulation and to answer any questions they had to assist them in meeting with any of the requirements of the regulation.

We provided each contractor with an informational packet that include a law book with regulations pertaining to independent contractors (excluding Series 10), a list of all active mining permits, and copies of the form to comply with the regulation.

**STATE OF WEST VIRGINIA
BOB WISE, GOVERNOR**

**OFFICE OF MINERS' HEALTH,
SAFETY AND TRAINING
Doug Conaway, Director**

**1615 Washington Street, East
Charleston, WV 25311-2126
(304) 558-1425
FAX (304) 558-1282**

Visit our website at:

www.state.wv.us/mhst

Regional Offices:

Region One

**209 Adams Street
Fairmont, WV 26554-2800
(304) 367-2706
(304) 367-2708/Fax**

Region One Satellite

**5 South Kanawha Street
Muckhannon, WV 26201-2625
(304) 473-4270
(304) 473-4272/Fax**

Region Two

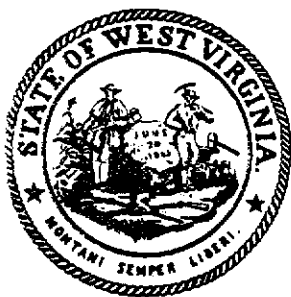
**91 Stewart Street
Welch, WV 24801-2311
(304) 436-8421
(304) 436-2100/Fax**

Region Three

**25 Lick Creek Road
Danville, WV 25053
(304) 369-7823
(304) 369-7826/Fax**

Region Four

**42 Industrial Drive
Oak Hill, WV 25901-9714
(304) 469-8100
(304) 469-4059/Fax**



MEMORANDUM

TO: Independent Contractors
FROM: Doug Conaway, Director 
DATE: September 11, 2002
RE: Informational Meetings

STATE OF WEST VIRGINIA
BOB WISE, GOVERNOR

OFFICE OF MINERS' HEALTH,
SAFETY AND TRAINING
Doug Conaway, Director

1615 Washington Street, East
Charleston, WV 25311-2126
(304) 558-1425
FAX (304) 558-1282

Visit our website at:
www.state.wv.us/mhst

Regional Offices:

Region One
109 Adams Street
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Region One Satellite
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Region Two
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Welch, WV 24801-2311
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Region Three
425 Lick Creek Road
Danville, WV 25053
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(304) 369-7826/Fax

Region Four
142 Industrial Drive
Oak Hill, WV 25901-9714
(304) 469-8100
(304) 469-4059/Fax

A series of informational meetings for independent contractors who perform services on coal mine property will be conducted on a regional basis by the WV Office of Miners' Health, Safety and Training.

These informational meetings will address recently promulgated rules and regulations pertaining to independent contractors along with other issues including reporting requirements; permitting; comprehensive safety programs; and general regulatory enforcement topics.

All independent contractors are encouraged to attend. The meetings are scheduled as follows:

MEETING DATES AND LOCATIONS:

Tuesday, September 24, 2002: 9:00 am - 11:00 am Auditorium	National Mine Academy 1301 Airport Road Beckley, WV
Thursday, September 26, 2002: 9:00 am - 11:00 am Auditorium	Southern Community & Technical College - Logan Campus Dempsey Branch Road Mount Gay, WV
Monday, September 30, 2002: 9:00 am - 11:00 am	Welch Armory 600 Stewart Street Welch, WV
Wednesday, October 2, 2002: 9:00 am - 11:00 am	WV Office of MHST Fairmont Regional Office 205 Marion Square Fairmont, WV



**AMENDMENTS TO PROPOSED REGULATION AS A RESULT OF
COMMENTS RECEIVED AND PUBLIC HEARING
TITLE 56 – SERIES 10**

**STATE OF WEST VIRGINIA
BOB WISE, GOVERNOR**

**OFFICE OF MINERS' HEALTH,
SAFETY AND TRAINING**
Doug Conaway, Director
1615 Washington Street, East
Charleston, WV 25311-2126
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www.state.wv.us/mhst

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It was determined from the written comments, the informational meetings, and the public hearing that it would be difficult for independent contractors to report the number of days worked on mine property because there is no precedence on what a work day is, some work 8-hour, some work 10-hour, and others work 12-hour days. So I agreed to remove that requirement from the regulation. I can determine accident/incident rates with the number of employee and the man-hours worked.

The regulation has been amended by striking through the language that requires that independent contractors to report the number of days worked on mine property.