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Sent: Thursday, March 10, 2011 10:45 AM

To: zzMSHA-Standards - Comments to Fed Reg Group

Cc: Shackelford, Jim J.; Meece, David B.; Zik, Bob J.; Taylor, Clark

Subject: RIN 1219-AB75 Proposed Rule Examinations of the workplace

I would like to respectfully submit the attached comments.

Thank you,

John D. Blankenship

AB75-COMM-9

Department of Labor, Mine Safety and Health Administration
30 CFR Part 75
RIN 1219-AB75
Examinations of Work Areas in Underground Mines for Violations of Mandatory Health or Safety Standards

TO: Patricia W. Silvey
Director, Office of Standards,
Regulations, and Variances
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March 9, 2011

BY: John D. Blankenship
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RE: RIN 1219-AB75 Examinations of Work Areas in Underground Coal Mines for Violations of Mandatory Health or Safety Standards

I would like to submit the following comments on the proposed changes to 30 CFR Part 75 as proposed in the rulemaking contained within RIN 1219-AB75. This proposed regulation presents a detriment to the safety of the individual miners in the underground mine. A pre-shift examiner or sometimes referred to as a “fire boss” is there for a single purpose and that is to attempt to discover any hazards that may exist that would endanger the miners as they enter into the section or other work area for the first time on the shift.

Under current standards as provided in 30 CFR 75.360 a pre-shift examiner has the three hours immediately preceding any single eight hour shift period to perform a full pre-shift examination of the work area in which the miners will be working. Should the mine be working on an extended work schedule of greater than eight hours the certified person is essentially making an additional on-shift inspection as defined in current 30 CFR 75.362 which functions also as the 30 CFR Part 75.360 pre-shift examination even though the miners have not ceased work or left the work area to return. An examination

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which should be absorbed into the required “on-shift” examination required by 30 CFR 75.362 returning the “pre-shift” examination to be truly an examination performed prior to the beginning of the new shift.

Pre-shift examinations and on-shift examinations are very important to the safety of the miners working in the affected work areas. It is much too burdensome to place a duty upon an examiner to examine for, identify, record, and have corrected “any violations of mandatory health and safety standards”. A pre-shift examiner must travel through the work area and determine if mine conditions are safe for miners to enter. That examiner must not waste precious time in the dynamic mine environment determining if every single violation in the work area is located, noted, and eliminated. That examiner may spend time checking packing glands or water pressure on a continuous mining machine and waste precious minutes that may be better utilized examining the roof, floor, or rib conditions to determine any areas that may pose an imminent danger to the oncoming crew.

To task a certified person with the responsibility for performing the pre-shift examination and also to check for violations of mandatory health and safety standards is simply too large a burden to place on the examiner.

If the Secretary is concerned about violations associated with the workplace at the beginning of a shift, perhaps a proposed standard providing for miners to examine their individual work area and equipment prior to commencing work or operation of equipment in their work area would better serve the need of providing an additional layer.

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This would be in the manner of surface miners as they are required to do in 30 CFR Part 77.1606(a). This standard requires *“Mobile loading and haulage equipment must be inspected by a competent person before equipment is placed in operation...”*

This would provide an additional improvement to safety for all persons in the work area. This also provides additional time for the certified person to make adequate pre-shift and on-shift examinations.

In today’s mine environment scrutiny by regulatory agencies has increased to an all time high. This includes MSHA as well as state inspection agencies. For example in a mine I work in during 2010 there were two hundred and forty days of work available. One-third of this time is devoted to maintenance which leaves two-thirds of those hours as available production hours. This mine experienced three thousand three hundred and forty seven and one-half hours of MSHA inspections. MSHA was present fifty eight percent of the time the mine operated and eighty seven percent of the time the mine was producing coal.

An additional almost two thousand hours was spent at the mine by the state inspection agency. This correlates into a state inspector being on property for twenty four percent of every available hour the mine operated or forty-four percent of the available production hours. This sums to a total of five thousand forty three and one –half hours of regulatory inspections or an inspector in the mine eighty eight percent of the time the mine operated in 2010 for a single mine.

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With this amount of scrutiny mine examiners should not be burdened with inspecting for violations of health and safety standards they should only be tasked with checking the workplace for and determining the presence of any hazards which present undue dangers to workers as they enter the work area at the beginning of their shift as a pre-shift examination or whether it be an examination completed during the shift as an on-shift. The responsibility for examining for violations of standards during a pre-shift examination only slows the progress of the examiner in the effort to locate dangers and other obvious hazards to miners who may be entering the area(s) to begin their shift. Additionally, time spent by the mine examiner during on-shift examinations must focus on locating imminent dangers to the miner's well-being not to performing infinite checks on equipment for violations of mandatory safety standards.

Any changes from the current standard is non-productive and will result in a diminution of safety for the miners and increased stress on mine examiners which will inhibit their ability to perform adequate examinations of the work areas within the mine(s).