

# PUBLIC SUBMISSION

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Examinations of Working Places in Metal and Nonmetal Mines. 30 CFR Parts 56 and 57

**Comment On:** MSHA-2014-0030-0001

Examinations of Working Places in Metal and Nonmetal Mines

**Document:** MSHA-2014-0030-0032

Comment from anonymous concerned miner, NA

## Submitter Information

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**Organization:** NA

## General Comment

Comments and submissions towards MSHA's Proposed changes to Workplace Inspections IN 1219-AB87 or Docket No. MSHA-2014-0030

One big concern is the addition of undefined terms, and specific actions that are triggered by them.

How does MSHA define "adversely affect"? With this new program, all hazards that "adversely affect" a miner's safety needs to be communicated. Does an extension cord on the ground "adversely affect" the health and safety of miners that could come across it? Is a pile of material that could be walked around an adverse effect? If it covered an entire passageway, is it then? If an examiner comes across something that adversely affects safety, this regulation requires certain actions. In the interest of training our examiners, MSHA must better define this term, so that laymen can understand it. Otherwise, we are at the mercy of every inspector and the ever changing definitions of "adversely affects" that they bring with them each inspection (and the citations sure to follow).

Poor definitions are not a new issue with this proposal. This will magnify the existing problem. Program Policy Letter (P15-IV-01) issued last summer states: "This includes areas where work is performed on an infrequent basis, such as areas accessed primarily during periods of maintenance or clean-up. All such working places must be examined by a competent person at least once per shift." The problem with this statement is the combination of the two sentences:

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areas infrequently accessed must be examined every working shift. This would require someone to simply go to a location to examine it every shift, because somewhere in the future, people will/might be working there. Literally, for some plants/operations, this would require shutting down a mill, for instance, because every week we do internal work inside it (infrequent). In simpler analogies, this would require you to go out every day and examine your grandma's car, because she will use it to go to church once a week on Sunday. The intent would be to examine prior to the work, but that's not what the PPL states should be done. How will this new ruling impact the older PPM information, and incorporate it?

MSHA has also "defined" a working place by stating "As discussed in previous guidance, the "working place" would not include roads not directly involved in the mining process, administrative office buildings, parking lots, lunchrooms, toilet facilities, or inactive storage areas." However, some MSHA districts have stated that workplace exams must be performed for administrative offices, because there are safety hazards that do occur there, and because miners are exposed to those hazards (however rare). And while lunchrooms, break areas, are apparently exempted from inspection by this rule, MSHA inspectors do cite mines for safety hazards and violative conditions in said breakrooms and lunchrooms. If a safety hazard exists that is capable of being cited, how can MSHA fairly say that the area does not need an exam? Is it acceptable to MSHA to expose miners to safety hazards, as long as they are resting?

In other definition matters, MSHA has stated that typical passenger elevators are travelways, and not workplaces. However, MSHA requires elevators to be inspected as a workplace. Apparently, per some districts offices, it depends on if the miner traveling is carrying a tool or not. Does this rule apply to other areas (parking lots, roadways, etc., travelways between buildings)? If two people are walking in this travelway, and one carries a tool, is it a working place for him, but not the other miner?

How does an examiner combat expansion/area creep? For example, our district (when asked about workplace exams), provided guidance that a miner working on the fifth floor of a tower would need to only examine that floor (his working area), as well as the floor above and below where he was working (in order to ensure that nothing from above would 'adversely affect his health and safety" and that nothing he did (ie, dropped) would affect workers below. And so, as the worker moved up to the sixth floor, to examine that area, he would now be working there (because, work on the 7th floor could adversely affect him while he performs his exam). And so, he would need to examine the 7th floor as well. And so on, above and below the floor he intended to work, until he has essentially examined the entire tower. How much time will be spent by the examiner doing this? If a miner needs to restart a pump on level 3 of the tower, must an exam of the entire 9 floors of the tower be done first?

MSHA needs to more clearly define the words they use in the standard, or else this will simply become a tool that an exuberant inspector can use to meet his citation quota. Spend an hour reviewing the paperwork, and write ten citations.