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August 29, 2016

MSHA

Office of Standards, Regulations, and Variances

201 12th Street South, Suite 4E401

Arlington, Virginia 22202-5452

RE: RIN 1219-AB87 or Docket No. MSHA-2014-0030

The Oregon Independent Aggregate Association (OIAA) is comprised of independent aggregate quarry owners and operators and other interested parties dedicated to promoting the aggregate industry by clarifying and simplifying regulatory restrictions, providing educational and training opportunities to assist with MSHA and state agency compliance, and furthering the ability of the aggregate industry to operate in a free enterprise environment.

On behalf of miners in Oregon and the Pacific Northwest, OIAA is submitting this letter to voice concerns regarding the recently introduced MSHA initiative for workplace examinations, documentation, and related actions. The proposed rules will dictate a schedule for examinations rather than allow the currently adaptable workplace examination policy to continue, require significant and expanded documentation efforts that could potentially serve as an archive for inspectors to collect documented safety violations, and create unnecessary conflicts between miners and inspectors regarding different interpretations of adequate safety documentation.

The proposed rule presents operators with an unnecessary burden of examinations mandated to occur at the beginning of every shift with significantly expanded reporting. There is already a policy in effect for workplace examinations and documentation that satisfies current mining regulations. The current policy allows miners to conduct workplace examinations within their shift as needed to foster a vigilant attitude regarding safety, rather than a checkbox to be completed at the beginning of each shift and potentially leading to less awareness of unsafe conditions.

The mining regulations introduced by the Mining Act of 1977, which also created MSHA, have resulted in progressively fewer workplace injuries and deaths for miners. MSHA provides annual data for fatalities in metal and non-metal mining on their website, which is the basis for the attached chart. Both annual fatalities and fatalities per 100,000 miners are shown from 1931 to 2015 (source: MSHA website, accessed August 21, 2016 at <http://arlweb.msha.gov/stats/centurystats/mnmstats.asp>).

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The trend is obvious – fewer fatalities in metal and non-metal mines. This can be readily explained by increased emphasis on workplace safety and changes in safety management. While there are variances from year to year, the overall trend is very encouraging without any signs of significant reversal.

In fact, Assistant Labor Secretary Joe Main stated at the annual convention of the National Stone, Sand, and Gravel Association (NSSGA) on March 22, 2016 that “mining deaths were at record lows” overall and metal/non-metal deaths were “near record lows” in 2015. **It is curious why MSHA would pursue changing its policy for workplace examinations in light of the success of the current mining regulations, the falling trends in mine-related fatalities, and the comments by Joe Main.**

While any workplace fatality is a serious event and could understandably be the catalyst for a change in focus on the part of MSHA, it is not clear why MSHA plans to ratchet down specifically on workplace examinations. Workplace examinations already exist and are abundantly implemented in the mining industry. The new rule would not target a new sector of mine safety management, but instead would be a different way to implement an existing requirement. The gains from such an adjustment should be anticipated to be low. In fact, MSHA admits in its statement of the proposed rule that there is no data available to indicate this changed rule would result in a benefit to miner safety. In the absence of analysis, MSHA assumes that this more restrictive proposed rule would result in increased safety. However, the agency's reliance on an assumption of safety improvement cannot support a proposed rule to change what otherwise has been proven to be an effective current rule.

We strongly urge MSHA to reconsider its position on the proposed workplace examination rule. Mines are safer now than they ever have been. The proposed rule introduces burdensome requirements to mine operators and competent workers who are already implementing similar policies that have a demonstrated history in keeping miners safe.

Sincerely,

A handwritten signature in blue ink, appearing to read "Erick J. Staley". The signature is fluid and cursive, written over a light blue horizontal line.

Erick J. Staley, Chairman
Oregon Independent Aggregate Association (OIAA)

Attachment: Metal/Nonmetal Fatalities: 1931 through 2015 (chart)

Metal/Nonmetal Fatalities: 1931 through 2015

— Annual Fatalities

— Annual Fatalities per 100,000 Miners

Data Source: MSHA website at <http://arlweb.msha.gov/stats/centurystats/mnmstats.asp>

