
From: Michael Herges <mherges@Graniterock.com>
Sent: Friday, September 30, 2016 6:51 PM
To: zzMSHA-Standards - Comments to Fed Reg Group
Subject: Docket No. MSHA-2014-0030 (Comments Proposed Rule - Examination of Workplaces in Metal and Nonmetal Mines)
Attachments: Graniterock Workplace Exam Proposed Rule Comments 093016.docx

Please find attached letter with comments for Docket No. MSHA-2014-0030 (Proposed Rule - Examination of Workplaces in Metal and Nonmetal Mines)

Best regards,

Michael Herges, CSP, MPH
Granite Rock Company
Director of Safety & Health Services

Office: 831.768.2076
Mobile: 831.750.0333

Mine Safety & Health Administration
Office of Standards, Regulations, and Variances
201 12th Street South, Suite 4E401
Arlington, Virginia 22202-5452

(Submitted electronically to zzMSHA-Comments@dol.gov)

Re: Examination of Working Places in Metal and Nonmetal Mines – Proposed Rule
(Docket No. MSHA-2014-0030)

Graniterock appreciates the opportunity to provide comments on the MSHA's proposed rule "Examinations of Working Places in Metal and Nonmetal Mines". We agree that workplace examinations play an important role in maintaining a safe and healthy work environment for our workers, contractors, customers and vendors. We believe that the current standard provides an effective means to achieve that objective. We are concerned that the proposed rule will not change the effectiveness of our workplace examinations. Graniterock believes that the proposed rule will add to the administrative and paperwork workload with no added benefit toward improving the safety and health conditions at our mines. To this point, we make the following comments:

Requirement to Conduct the Workplace Examination Prior to Beginning Work

It appears that the proposed rule is attempting to enforce workplace examination practices from underground coal regulations onto the Metal/Nonmetal mines without due consideration of the inherent differences between surface and underground mining operations. Due to the physical and operational differences between underground and surface mining, conducting a workplace examination before work begins in a surface mine is more burdensome and far less practical than in an underground mine. In fact, the MSHA surface coal standard for conducting workplace examinations (77.1713a) recognizes this difference and states that "At least once during each working shift, or more often if necessary for safety, each active working area and each active surface installation shall be examined..."

Requirement to Promptly Notify Miners in Any Affected Areas

Although MSHA noted in the Federal Register on August 25, 2016 that the notification of miners of adverse conditions "could take any form that is effective" to include verbal notification, it is my experience that if you did not document it, it did not get done. Graniterock is not asking to amend the rule to require the mine operator to validate that the notification was done by documenting the method of notification and who was notified, as this will create an additional record keeping burden on the mine operator. However, we are questioning how effective this provision in the rule will be in practice if the notification is not documented.

To be effective, the only time notifications need to be required is when miners will be exposed to an imminent danger. Otherwise, miners will be overloaded with notifications and potentially tune out the notifications of the most serious hazard, an imminent danger.

Requirement for Increased Recordkeeping.

The proposed rule is not clear on the recording of corrective actions. We understand that the mine operator is required to record the immediate corrective action taken. However, it is unclear as to whether or not the mine operator must provide a written record of the corrective actions taken until the adverse condition is completely eliminated. If the latter is the case, this tracking of corrective actions will create a greater record keeping burden on the mine operator.

In addition, if mine operators are required to document the corrective actions taken to fully eliminate the an adverse condition identified in the workplace examination record, mine operators should be provided the flexibility to show details of the corrective actions taken through work orders, notes or similar means, separate from the workplace examination records.

Definition of Competent Person

There is already a definition for competent person. Currently, there is a good understanding of what is required to be a competent person. There is no need to change the definition and potentially create confusion with a new definition.

Requirement for Competent Person Signature - MSHA noted in the Federal Register on August 25, 2016 that "...some commenters were concerned that the signature requirement would discourage miners from conducting workplace examinations and would have a negative impact on the quality of the examination". Graniterock agrees that the alternative approach of requiring the name of the competent person, rather than the signature, be included in the record is an acceptable alternative approach.

Once again, Graniterock believes that the existing standard is effective when the miner operator complies with the standard. The additional requirements of the proposed rule will only add to the administrative burden of the mine operator and will not make our mines any safer or healthier. MSHA should strongly consider withdrawing the proposed rule.

Sincerely,

Michael Herges
Director of Safety and Health Services

Granite Rock Company
350 Technology Drive
Watsonville, CA 95076