

Received 10/04/06
MSHA/OSRV

From: Mark Koone [markk@tcontractors.com]
Sent: Wednesday, October 04, 2006 3:50 PM
To: zzMSHA-Standards - Comments to Fed Reg Group
Subject: Proposed Assessment of Civil Penalties



Proposed Fine
Increases.pdf (3...

Wednesday October 3, 2006

Comments: Proposed Assessment Penalties - MSHA
Mark Koone Compliance Manager - Thompson Contractors, Inc. Rutherfordton, NC

- The increases in penalties are punitive without justification. I ran the very first S&S citation and the last S&S Citation we received and based on the proposed rule and the results would be an increase of over 1,200% (See attached - print landscape legal paper)
- Do not agree with dropping the Single Assessment Penalty. There needs to be some type of mechanism in place to differentiate between paper work and minor infractions and infractions that really effect safety and health of miners.
- Changing the conferenceing days from 10 to 5 can be lived with, however what is the justification. It just makes us (our industry) act with more haste in contesting a citation.
- The five minute rule concerning the agency needs to also be addressed. In the event of an accident the first priority should be given to the injured. I think 5 minutes is to short of a time frame. Sometime within the first 30 minutes should be acceptable. How would notifying MSHA in five minutes vs 30 minutes have any bearing on the agency and their investigations. MSHA is a regulatory agency not a first responder agency.
- These new civil penalties will also highlight the problem with consistence in inspections. Over the past couple of years we have had new inspectors cite or try to cite situations in the quarry that have been in compliance for years. As a industry we cannot have such varied opinions of different inspectors dictating what is and what is not in compliance. There is no way we can stay in compliance this way. What is a good guard or conveyor etc to one inspector is not to another and a citation is issued. However, to John Q Public looking at a set of numbers we have just become a hazardous work environment.
- Based on my understanding of the proposed assessments it seems as if the agency is not taking into any consideration the strides we have made over the past twenty years in reducing accidents and fatalities. If under the current laws and regulations there are rogue mines operating I do not understand how these changes will effect these bad actors. All this is going to do is increase the tensions between the industry and MSHA which will have a negative impact on the health and safety of the miners. This seems to punish the majority of mine operators because of a few who do not operate in a safe and legal manner. The only way to improve the safety and health of the miners is facilitate a safe working environment at the workplace. This cannot be done by a federal agency which shows up twice a year (Metal-Non Metal Mine) for two days with the attitude that they know everything concerning the operation of a particular mine. This has to be a common effort between the agency and the operator, however we seem to moving further and future away from this reality.

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Best regards,
Mark Koone

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AB51-COMM-4

Received 10/04/06
MSHA/OSRV

Thompson Contractors, Inc.

10/03/2006

| Number | S&S | Date | Type of Action | Standard Violated | Size of Operator | | History of Previous Violations | | | | Negligence Pts. | Gravity | | | | Total Points | Penalty Dollars | Reduction Good Faith 30% | Penalty Dollars | TOTAL INSPECTION PENALTY DOLLARS |
|----------|----------|------------|----------------|-------------------|------------------|--------------|--------------------------------|------------------|-----------------------|---------------|-----------------|----------------------|--------------------------|------------------------|--------------------|-------------------|-----------------|--------------------------|-----------------|----------------------------------|
| | | | | | Mine Pts. | Control Pts. | Total # Violations | Assed Violations | Total # Inspect. Days | Inspect. Days | | Likelihood Occurence | Severity Injury Expected | Number Person Effected | Lack of Good Faith | | | | | |
| | | | | | | | Passed | Points | Days | Points | | Points | Points | Points | Points | | | | | |
| | | | | | | | 24/mos. | | 24/mos. | | | | | | | | | | | |
| 3880394 | Y | 11/04/1993 | 104A C | 56.14107A | 3 | 0 | 17 | | 33 | 4 | 15 | 5 | 10 | 1 | | 38 | \$240.00 | Y | \$168.00 | \$168.00 |
| | | | | | | | | | | | | | | | | | | | 10% | Increase |
| 6 | 0 | 17 | | 33 | 22 | 20 | 30 | 20 | 1 | | 99 | \$2,536.00 | Y | \$253.60 | \$2,282.40 | \$2,114.40 | 1258.57% | | | |
| 7769160 | Y | 01/29/2002 | 104A C | 56.3200 | 3 | 0 | 12 | | 19 | 4 | 15 | 5 | 10 | 1 | | 38 | \$264.00 | Y | \$168.00 | \$168.00 |
| | | | | | | | | | | | | | | | | | | | 10% | |
| 6 | 0 | 17 | | 33 | 22 | 20 | 30 | 20 | 1 | | 99 | \$2,536.00 | Y | \$253.60 | \$2,282.40 | \$2,114.40 | 1258.57% | | | |

Note: Bold indicates new penalty numbers and assessments
Print in landscape and legal paper.

AB51-COMM-4-A1