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AB75-COMM-1

In Response to RIN 1219-AB75

MSHA's review of records and data over a 5 year period showed that the same types of violation of Health and Safety are found by MSHA inspectors every year. Why is this? MSHA should be spending efforts on research of occurrence prevention instead of focusing on the aftermath. The preshift was enacted to identify hazards that exist. These hazards are to be approached with corrective measures and sharing the acknowledgements of such to ensure the safety of those men entering that zone.

As stated by MSHA, the typical coal mine is an ever changing environment; there is no possible human means to find every violation of safety and health that occur at the time of occurrence. There may not be humane presents in the area when a brattice crushes or that rib breaks from the weight of the overburden. How is MSHA to define when the violation was created? Was it before, during or after a mine exam took place? How can it be determined that an examiner did an improper exam, when in fact the condition did not exist during his exam? Of the accidents that MSHA determined could have been prevented by the examiner identifying violations and correcting them, how many of the violations could have been created after the exam was completed? The study does not say how they determined the violations were present during the exam.

Health standards were set forth to cover those long time effects of exposure. Some health standards are not composed of conditions that are recognizable within a 3 hour preshift exam, especially when those exams are conducted in non production shifts and areas. Safety standards like the 80% rock dust standards require lab analysis to determine the concentration. Therefore these can not be part of a preshift.

Quarterly Meeting to review with mine examiners on a quarterly basic is not needed as per the Mine Act section 109 (a) .all citations are required to be post in a conspicuous area. Citations are public record and can be viewed by anyone via the internet on www.msha.gov. Also, MSHA holds close outs with mine management and anyone of interest at the end of the inspection quarter

Section 75.360

(1) Adding the requirements of examination for Health standards which I believe includes the language of standards set forth in part 70 of the CFR. For an examiner to be qualified to do this kind of examination would require him to be certified in many different fields. The time allotted for the preshift exam being 3 hours before the start of the shift would not allow for such examinations for compliance of health standards set forth in part 70. These exams and guide lines in Part 70 are conducted in 8 hours intervals and some must be concluded by lab analysis. How could a preshifter with only 3 hours to do an exam that have requirements set at 8 hour test periods? Impossible!!!

75.403 could not be part of a pre-shift as lab analysis is required to determine the percentage of non combustible materials (rock dust).

75.1725 (a) could not be part of a pre-shift as each piece of equipment would have to be tested for brakes, lights, and control functions, etc. The preshifter would not have time in his 3 hours examination time or he may not have the experience or qualifications to test all types of equipment.

(2) There are already laws for the requirements of the areas that must be preshifted. The District manager does not need the burden of managing every mine in his district. This is mine management responsibilities to preshift their mine to meet current regulations and ensure the safety of his workers.

(3) Where do we separate Hazardous conditions from Violations? They both have the same connotations. Could we agree that the Hazardous term was instated to mean "of immediate danger" on the other hand a Violation could, when noted, exist for days with out presenting a hazard to workers during their next few work shifts (i.e. Operator must purchase a piece of equipment to correct the Violation.) If you agree, then how can a complete examination for all violations of Safety and Health be noted within the time allotted to do the pre-shift exam? If I am correct it takes MSHA one quarter to complete these exams. I believe by focus of the preshift being on Hazards, the existing laws are more effective for the immediate protection of workers entering and area.

(A) Pumpers. These people sometimes walk or crawl to isolated pumps. For them to correct all violations of health and safety during their pre-shift would be impossible. Example; the pumper finds that draw rock fell and loosened the roof bolt plates from the top in his road way. There is no way that he could carry the supplies needed to correct Violations of roof control of this type. The pumper being the only person in the area, would mark the hazard, use and alternate roadway, then discuss with mine management corrective actions.

75.364 Weekly examinations The part A above would apply.

In conclusion.

In regards to this proposal and quoted from the proposal; *"The number of fatalities and injuries that may be prevented by this proposed rule may be understated or overstated."* With this said "all data shown has no factual purpose rendering it null. The present laws governing coal mine safety and health are sufficient to provide protection to workers. It is not the number of laws enacted but the enforcement of present law that will protect our workers. It is not the additional requirements to record all violations of health and safety, but an examination of the area for immediate hazards to allow for the safe entry for specialists to correct and maintain a safe work environment for worker engaged in their daily activities.