

# PUBLIC SUBMISSION

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**Docket:** MSHA-2010-0008

Examinations of Work Areas in Underground Coal Mines for Violations of Mandatory Health or Safety Standards

**Comment On:** MSHA-2010-0008-0001

Examinations of Work Areas in Underground Coal Mines for Violations of Mandatory Health or Safety Standards

**Document:** MSHA-2010-0008-DRAFT-0043

Comment from Noble Linn, organization

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## Submitter Information

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## General Comment

See attached file(s)

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## Attachments

**MSHA-2010-0008-DRAFT-0043.1:** Comment from Noble Linn, organization

*AB75-COMM-21*

May 15, 2011

MSHA, Office of Standards,  
Regulations and Variances  
1100 Wilson Blvd., Room 2350  
Arlington, Virginia 22209-3939

2011 MAY 25 P 5: 15

RE; RIN 1219-AB75, Examinations of Work Areas in Underground Coal Mines  
for Violations of Mandatory Health or Safety Standards

Director Silvey,

My name is Noble Linn. I live in Jasper, AL. and I have worked in the coal mining industry since April 26, 1977. All of my time has been in underground coal mines.

First and foremost, I applaud MSHA's efforts to increase safety and reduce fatalities and injuries through this Proposed rule. America's coal miners appreciate and respect our federal mine inspectors. Being a safety committeeman, I have had the privilege to attend the Academy at Beckley on several different occasions for training on many different subjects. I have always enjoyed the opportunity to learn more about coal mining and to have fellowship with coal miners from across the country. I have always left Beckley with a better understanding and appreciation of our coal mining laws. Also, there is a constant turnover of federal mine inspectors who are either arriving or leaving. These inspectors are receiving either original training to become inspectors or additional training for those who are already Authorized Representatives. These inspectors fit my definition of "well-trained and qualified examiners".

On page 81167, middle column center, the Proposed Rule states, "The top 10 standards cited by MSHA inspectors are the types of violations that well-trained and qualified examiners can observe while conducting effective examinations.". As you are well aware Director Silvey, there are no requirements in the state of Alabama for a certified person to receive training to "identify and correct\*\*\*\*violations of mandatory health and safety standards". In the state of Alabama, all a person has to do to become a certified person is to have a minimum of 3 years mining experience and pass an examination of the state's coal mining laws. Any knowledge of federal regulations is learned and gained through time, experience and word of mouth. So, it is logical to assume that a certified person with 20 years experience is more "well-trained and qualified" than a certified person who has just received their state fireboss' card. There is no card available for a certified person to present as proof that they are "well-trained and qualified to identify and correct violations of mandatory health or safety standards" because there is no mandatory training required by MSHA to identify and correct violations of mandatory health or safety standards for a state certified person. This fact leaves a void which MSHA is too quick to fill with assumption. Instead, MSHA should fill this void with mandatory training for all

certified persons in regards to federal coal mining laws before the responsibility of enforcing federal law is added onto their job description.

The addition of a new provision or requirement under this proposal to require the mine operator to review with mine examiners and other certified persons on a quarterly basis, all citations and orders issued in areas where preshift, supplemental, on-shift and weekly examinations are required is not without merit but it is without muscle. Without the responsibility of record, there is no accountability for this provision. The introduction of a quarterly review process is simply the acknowledgement that a training problem exists yet lacks the conviction and resolve to truly address and solve this training problem. Each shift would require a quarterly review which would present itself with its' own unique set of problems regarding attendance because of contractual days and absenteeism. Again, this provision is not without merit but it should be in addition to an annual 8 hour training class for all examiners and certified persons. This provision, without record, cannot stand against the temptations of apathy and will be lost in the high weeds of neglect.

Although there is no reference in the Proposed Rule to it, one would assume that with the added responsibility would come added accountability. How could MSHA possibly hold a person accountable for failure to recognize violations of federal law without proper training? MSHA has had no input into their training, has no record of their experience or their knowledge of federal law. If this Proposed Rule becomes law, a fallacy will be created the first time an inspector writes a citation to an operator for not identifying and correcting a violation of a mandatory health or safety standard and asks that the fireboss be retrained and a 5000-23 form be filled out. Nobody trained the fireboss in the first place. How can you retrain someone who's never been trained? How could you possibly think it's fair, just and legal to hold that person accountable. Therein lies the fallacy, the flaw in the Proposed Rule which must be addressed in order for it to be successful.

Let's look further into this void that is like the gorilla in the room that no one sees and see if we can open our eyes to the real problem. Being an underground coal miner, I am required to go to an 8 hour annual refresher training class every year. I also hold underground/surface electrical cards so I am required to go to 8 hour electrical retraining class every year. Miners who hold diesel cards are required to go to 8 hour diesel retraining class every year. But yet our certified persons who are quite literally responsible for the lives of all the miners underground are never given any additional training. Each shift they work, each fireboss route they walk, the other firebosses they talk to is their training. That is how they learn, that is how the common coal miner gets his education, not from the company and not from MSHA. In my humble opinion, an 8 hour annual refresher training class for certified persons would be educational and mandatory in my definition of a "well-trained and qualified examiner". This class would obviously be directed to instructing certified persons to identify and correct hazardous conditions and violations of mandatory health or safety standards along with other related topics. Why has this void been allowed to exist for so many years? Do you see the gorilla in the room now? It has been difficult to

tolerate the apparent apathy that has been directed at and suffered by all certified persons who have the enormous responsibility to keep our mines safe. An annual retraining class to keep our certified persons informed about existing and new federal laws should be and must be mandatory to accompany this Proposed Rule. With the fruition of this annual retraining class would a certified person be able to present a card as proof that they are "well-trained and qualified."

On page 81167 III, B. and C. which refer to Supplemental and On-Shift Examinations, another golden opportunity for improvement has been missed. Under current law, there is no requirement for a record to be kept of either of these types of examinations unless a hazardous condition is found. Without the requirement of record keeping for these types of examinations, there will be no hazards found. On page 81166 under II. Background Information, and I quote "Underground coal mines are dynamic work environments where the working conditions change rapidly and without warning." end quote. With that in mind, wouldn't you think it amazing that almost all hazardous conditions are found on Pre-Shift or Weekly Examinations? A record of a Supplemental or On-Shift Examination showing a hazardous condition is practically non-existent because of the lack of availability of a proper record book for such examinations. Also, recording a Supplemental or On-Shift Examination is disruptive to the present system where only Pre-Shift and Weekly Examination record books are required and used. At best, records of all examinations should be required or at least a proper record book for Supplemental and On-Shift Examinations should be required of the mine operator.

I respectfully request your consideration of implementing a mandatory training class to accompany the Proposed Rule and the requirement of record for all examinations.

Thank you for your time and consideration. I appreciate the opportunity to express my opinions on this subject.

Noble Linn  
UMWA Local 2245, District 20  
Miner's Representative