

### **30 CFR Part 75 RIN 1219-AB75 "Examinations of Work Areas in Underground Coal Mines for Violations of Mandatory Health and Safety Standards"**

Comments given on June 2, 2011 at the Denver, CO hearing by:

Gary W. Leaming

Safety Manager

Canyon Fuel Company, Sufco Mine

Hello, my name is Gary Leaming and I have worked in the underground coal mining industry for nearly 37 years. My responsibilities have ranged from equipment operator to manager of safety. Between those duties I have been a fireboss, section foreman and supervisor of training, but most recently for 16 years, manager of safety. I appreciate the opportunity to speak with you today.

I want to tell you why I feel the proposed rule for Examinations of Workplaces for Violations of Mandatory Health and Safety Standards is unrealistic, why it will create anxiety and performance problems for examiners and that safety is an attitude that each miner must embrace and it can not be mandated or forced upon anyone.

I have seen the safety of miners steadily improve at the operation where I work, most significantly in the past five years. As a safety professional, I had a minimal role in this improvement. The reason we have been much more successful at our operation in this time span is because the management group is working hard to develop an atmosphere where EACH person of the 375 employee workforce actively cares about their own safety and the safety of their co-workers.

Safety standards range in wide varieties of categories. There is much to look for. Adherence to these standards does help with the safety of miners; however, these standards are only a portion of the equation to keep our miners returning home safely each day. The hazards that a mine examiner can locate during their inspection contribute more to getting our miners home safely and we need to assure that hazards are what they continue to focus on. Expecting an examiner to locate the hazards that may be present and then knowing, understanding, and finding the violations of the mandatory health and safety standards, is not realistic and demonstrates a move to transfer responsibility away from the government agency that has been given this very responsibility. An examiner simply can't inspect the various aspects of their area of responsibility for violations of standards and locate the potential hazards to miners as well. The time frame given does not allow for this large task to occur effectively. It would be additionally irresponsible to expect the most proficient MSHA inspector that has years of training to locate all the violations and hazards in the three hours given. It is also not prudent to expand the examination time frame to more than three hours because of the changing conditions in the areas to be examined.

Even thoroughly trained MSHA inspectors with years of training and experience can miss a violation or hazard that may cause an injury. Holding examiners to more stringent inspection guidelines and to also locate violations of safety standards will create additional stress and confusion for these persons, which in turn, will undoubtedly create missed hazards. Examiners can have more on their mind than is appropriate for good safety inspections if they are pre-

occupied with making certain they don't miss anything MSHA may come back and cite them for. Their focus will be on looking for and wondering what they may have missed all the while overlooking issues that would pose hazards for incoming miners.

It is good to locate violations of safety standards and correct them as soon as possible, but the fact is many of those safety standards don't pose a safety hazard threat to the miner. The difference between 75% incombustible content and 80 % incombustible content of rock dust in an entry is difficult to accurately detect. Furthermore, it has very little impact on the safety of miners in their everyday duties. Another example would be the worry of making sure all equipment was maintained in a permissible condition or that each fire extinguisher had the proper date of examination. A mine examiner with the primary focus of what will hurt me and others who work and travel in this area is the most reliable source of health and safety for our miners. We will bog them down with too much to see and cover.

If we as a nation determine to work together as though we are all pulling for the same cause, our results with the safety of our workers and the efficiency of our natural resources will be greatly improved.

We should, as an industry which includes MSHA, spend much more time working to help miners understand that actively caring for themselves and others is the most positive way to obtain that zero-injury objective we all want to achieve.

In conclusion, safety is held by each individual in their own way and belief. We all want each person associated with the coal industry to go home safely every day and subconsciously they do as well. But it takes more. We can not mandate an individual, a crew or an entire coal company to be safe by mandating this legislation. The individual, crew, or company has to believe that safety is good for and will benefit them in a way they want to be affected. It is possible to affect behavior while you are watching if you hold some type of authority or influence over the person exhibiting the behavior. However, when the authority is not present, which is most of the time, the individual's belief will become the primary mode of function or behavior. It ought to be our primary focus as leaders in this industry, including the agency, to work more at influencing individual behavior and helping workers gain an Actively Caring attitude toward their own safety and the safety of their co-workers. I know when that occurs in the work place, miners accomplish more in a more cost-effective way with fewer injuries and close calls.

It is unrealistic to expect mine examiners to find the safety hazards and the safety violations in the allotted time. It would be just as unrealistic to expect MSHA inspectors to accomplish what is proposed in the time given. We will create anxiety and performance problems for these dedicated miners who are trying to assure the areas they travel are free from hazards that will affect their fellow miners. And finally, we must begin to focus on safety as an attitude, a behavior that can be influenced by demonstrating a caring attitude toward the very miners we serve. Safety is not one man's job to keep everyone safe. It's my job to keep me safe and when we can motivate everyone to embody that mindset; we will identify hazards and prevent injuries. Thank you.