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To: zzMSHA-Standards - Comments to Fed Reg Group
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Subject: "RIN 1219-AB73"

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RIN 1219-AB73

THE COMMENTS ARE FROM THE POSTING IN THE FEDERAL REGISTER/
VOL. 76, NO. 22/WENESDAY 2, 2011/PROPOSED RULES:

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THIRD COLUMN, SECOND PARAGRAPH:

"The proposed rule would eliminate the existing requirement in 104.3(b) That only citations and orders that have become final are to used to Identify mines with a potential pattern of violations".

I oppose this concept. The citations or orders have not been ordered by the Courts and doing this would be putting the cart before the horse. You are assuming that the inspector is always right in the assignment of Gravity and Negligence. This is far from the truth. The inspection force is directed by the district in how the citations are to be written and how many are to be issued. In the year 2010 the inspection force was mandated to "write citations/orders on every inspection, or they would go back to the property with their supervisor until they wrote the required number of citations/orders". The requirement at that time was at least 2.8 citations per inspection. The employee appraisal is dependent upon this requirement as one of the elements for a successful rating. This idea of taking the citation or order prior to the CLR conference and court action is denying the mining companies their legal right to a fair ruling. This proposal would NOT greatly enhance safety and health of miners. This program would only enhance the general fund of the government and put a number of miners out of work.

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THIRD COLUMN/SECTION 104.4 Termination of Notice:

"If MSHA finds no S&S violations during an inspection of the entire mine-----".

Under the current mandate of all inspections will be made with citations/orders Issued, this idea of termination of notice will be nonexistent.

AB73-Comm-4

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SECOND COLUMN, FIRST PARAGRAPH:

“Based on the average supervisory wage rate for all mining in 2009 of \$65.05 per hour-----“.

I do not know where these hourly rates were found, the rate in this part of the mining area is closer to about half of the rate shown.

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THIRD COLUMN, FIRST PARAGRAPH:

“MSHA used the 2009 underground coal mine hourly wage rates of \$84.70 for a Supervisor and \$35.30 for a miner to estimate these costs.”

These rates are way out of mining rates for this part of the mining area. The supervisor rate will be less than half of the rate shown, and the miner rate will be less than half of the rate shown. The rates used in the rule making are not represented correctly for the entire country.

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FIRST COLUMN, SIXTH PARAGRAPH, V. FEASIBILITY, A. TECHNOLOGICAL FEASIBILITY

“MSHA concludes that this proposed rule is technologically feasible. The proposed rule is not technology-forcing.”

Correct, the proposal is not technology-forcing, it IS economically-forcing. The proposal will create an economical hardship on the mining companies in the payment of exorbitant fines that will take away from the wages to their workers.

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THIRD COLUMN, THIRD PARAGRAPH, C. THE TREASURY AND GENERAL GOVERNMENT

APPROPRIATIONS ACT OF 1999: ASSESSMENT OF FEDERAL REGULATIONS AND POLICIES ON FAMILIES.

“MSHA has determined that this proposed rule would have no effect on family stability or safety, marital commitment, Parental rights and authority, or income or poverty of families and children. This proposed rule impacts only the mining Industry. Accordingly, MSHA certifies that this proposed rule would not impact family well-being.”

The above statement is not correct. The statement of not impacting poverty of families and children is not correct. The

miners that work for the mining companies make up the families and families with children. The above proposal states that the impact will only effect the mining industry, who are the miners? If the mining companies are priced out of business due to MSHA fining the companies to the extent, that miners are terminated due to a lack of funds, does this not create a loss of income, and effecting the well-being of the famlies and children? The lack of a job creates a loss of income and poverty. This would most definitely would impact family well-being.

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02/04/2011