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Submitter Information

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General Comment

MSHA needs to do some serious "thinking" before moving forward with this proposed change to the penalty procedures.

By removing some of the "boxes" available to the inspector, they essentially push the inspector to right citations at a higher level of severity. It may not be MSHA's stated goal, but the result WILL BE an increase in S&S citations written across the industry, simply because of this subtle push and fewer choices for inspectors.

Because of the reduction in total points, ANY violation will become a much larger factor in the penalty assessment for that inspection, and for 15 months due to the increase weighting and penalty attached to the VPID.

My plant, which had a good inspection with 8 "average" citations in the last round (minor housekeeping, broken conduit, low voltage cord not bushed into a cabinet, damaged guard in a remote location, etc.) would be impacted tremendously. Eight citations, none of which were S&S, cost us about \$500 to \$1000 each, due to our size, VPID, RPID, Likelihood, Negligence, etc). For calculation purposes, we can average them to be \$800 each.

Under the new scheme proposed by MSHA, were I to get the EXACT SAME CITATIONS, but adjusted for the lack of options the inspectors have, my total would look VERY different.

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Every citation would be REASONABLY LIKELY, under the new scheme (there is no more "unlikely, for say the guard in a remote area, or the low voltage cable not bushed in a cabinet that no one ever works nearby). The injuries would be adjudicated as Lost Workday, the negligence as "negligent, and most likely, when MSHA got around to redefining an S&S, Reasonably Likely and Negligent would trigger S&S. Thus, ever one of my 8 'minor' citations would be an S&S.

In addition, under the proposed penalty calculations, the average price of that citation would go from \$800 to \$30,000.

Yes, \$30,000, because of the rise in points through the reduction of choices, and the MUCH GREATER IMPACT of VPID/RPID.

I understand MSHA's desire to hit "bad operators" in the pocket book, until it hurts. But the broad brush they propose to use also catches operators that try very hard, and tar them with the same brush. My company is huge... but at \$30,000 per citation, and ten citations per inspection, it will soon become a business decision to stop the bleeding by closing plants. \$600,000 per year, per plant, for a "good" plant quickly adds up, and becomes a financial burden. If our plants were running slipshod, and ignoring unsafe conditions that were endangering miners, I can understand MSHA's desire to see us run out of business. But our plant is pretty normal, pretty average. We spend a LOT of money on housekeeping... but sometimes, someone leaves a pallet where it isn't supposed to be. \$30,000. We hire professional electricians to wire our plant, but sometimes, a conduit cover vibrates off an elbow. \$30,000.

MSHA needs to hit rogue operators and bad managers hard. But they don't need to drop a nuclear bomb on a cockroach, and kill everything and everyone around. Please, don't take everyone else out in your desire to get the bad ones.