



December 17, 2014

Granite Construction Company
715 Comstock Street
Santa Clara, CA 95054

Mine Safety & Health Administration
Office of Standards, Regulations, and Variances
1100 Wilson Blvd., Room 2350
Arlington, Virginia 22209-3939

Re: Docket No. MSHA-2014-0009

To Whom It May Concern:

We understand MSHA proposes changes to the Part 100 assessment criteria that are intended to improve mine safety. While the proposals appear to streamline and focus efforts, there are concerns and unknowns about the proposals that we provide comment on.

- Reducing negligence and likelihood criteria from 5 to 3 raises the concern that, with reduced options, inspectors will be likely to cite high levels of citations.
- There is no information on how removal of certain categories, such as "low" or "high" negligence, "no likelihood," and "highly unlikely," would fit into the remaining categories.
- The proposals remove the consideration of mitigating factors in making citations, which has been a useful tool to promote good safety practices.
- In the "likelihood" category, the proposed definition for the term "occurred" does not match a common understanding of the term.
- There is concern that with fewer options and those options weighted towards high level citations, that there will be more Significant and Substantial and Imminent Danger citations.
- While increased weighting and penalties are proposed for higher levels of citations, there does not appear to be a commensurate lowering of penalties for lower level citations.
- There is reasonable concern about the combined effect of more citations being higher severity, S&S, Imminent Danger, and "repeat" and that all this could end up being punitive for currently safe operators like Granite Construction.
- While the additional 20% good faith reduction may be beneficial, there is concern about the impact to informal conferences, which provide for conversation between operators and field and district offices, and help MSHA track and identify the sources of systemic consistency issues.
- The proposed changes to reduce the scope of the Mine Safety & Health Commission are a concern, since this agency was established to provide independent review authority and address lapses or excesses in enforcement.

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Finally, we ask that changes be considered to the 15 month assessment calculation period for surface mines, since this does not correspond to their 12-18 month inspection cycle. The 15 month calculation makes sense for underground mines, since that corresponds to their inspection cycle. However, surface mines often get inadvertently penalized when inspection cycles overlap at either the beginning or end of the 15 month assessment period, or if appeals are retroactively included in a preceding period.

We appreciate your consideration of our comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'P. Lee', written over the word 'Sincerely,'.

Philip Lee
Granite Construction Company