

# PUBLIC SUBMISSION

<b>As of:</b> 1/29/15 10:07 AM <b>Received:</b> January 26, 2015 <b>Status:</b> Posted <b>Posted:</b> January 29, 2015 <b>Tracking No.</b> 1jz-8gul-eu91 <b>Comments Due:</b> March 12, 2015 <b>Submission Type:</b> Web
--

**Docket:** MSHA-2014-0009

Criteria and Procedures for Assessment of Civil Penalties, 30 CFR Part 100

**Comment On:** MSHA-2014-0009-0082

Criteria and Procedures for Assessment of Civil Penalties

**Document:** MSHA-2014-0009-0089

Comment from brian bigley, Lehigh SW Cement

---

## Submitter Information

**Name:** brian bigley

**Organization:** Lehigh SW Cement

---

## General Comment

MSHA has asked industry to provide real data examples of citation costs under the current Part 100 std, and projections of costs under the proposed penalty structure.

Many of us have designed a very simple Excel spreadsheet to do just that. I will attempt share that spreadsheet here, by uploading, so that MSHA and others could use it.

In the meantime, I can provide actual data from my most recent inspection in text.

For this comparison, I used the data provided to me by MSHA in their Proposed Assessment Case Number, inputting the points per the current part 100 system exactly as they have. This particular assessment covers SIX citations issued in August of 2014, 4 of which were deemed Non S&S, and 2 which were deemed S&S. Total penalty assessment under the current Part 100 system for those six citations, with the 10% GFE reduction, was \$22,489. To be fair, one citation in that group of six was worthy of \$19,793 all on its own.

Those same citations, projected under the new proposal, would cost my company \$90,000 (that's with the 10% GFE), and before subtraction of the 20% "no contest" reduction. So, if we didn't contest, our costs would be \$72,000 for the same six citations.

Also of HIGH interest; all six of the citations would be rated as S&S, which would also go towards my PPOV/POV rating, and impact it greatly.

*HB72 - Comm - 46*

1/29/2015

If the single large value citation were removed from BOTH calculations, the values for the actual inspection lower to ~\$2700, while the comparable penalty under the proposed system would lower to ~\$27000 (minus 20% if not contested, for a total of \$21,600). and, I would have 5 S&S citations heading for my POV.

Should this proposal be made into policy, the cost of mining in the United States will increase significantly. MSHA can argue that this is the cost of mining "unsafe", but when the incorrect use of bold font, when a missing label on an oil can, or when a fluorescent light bulb isn't "protected from contact by guarding" can cost a mine tens of thousands of dollars every couple of months, it isn't "unsafe" mines who pay, it's every single mine, and miner, in the country.

---

## **Attachments**

Part 100 example