

MAR 18 2015

From: susankiner@twcny.rr.com
Sent: Wednesday, March 18, 2015 3:15 PM
To: zzMSHA-Standards - Comments to Fed Reg Group
Subject: RIN 1219-AB72
Attachments: MSHA comment.pdf

Sultana Sand & Stone, Inc. submits the attached comments regarding MSHA's proposed rule to amend 30 CFR Part 100.



Ms Sheila A. McConnell, Acting Director
Office of Standards, Regulations and Variances
Mine Safety and Health Administration, U.S. Department of Labor
1100 Wilson Boulevard, Room 2350
Arlington, VA 22209-3939

March 18, 2015

Re: RIN 1219-AB72---MSHA's Proposed Rule to Amend 30 CFR Part 100

Dear Director McConnell:

Sultana Sand & Stone, Inc. strongly opposes MSHA's proposed rule to amend 30 CFR Part 100.

Our experience over the past 20 years as a small mine in a economically depressed area of rural upstate New York has underscored the importance of an independent review process (including both administrative law judges and the Federal Mine Safety and Health Review Commission) through which mine operators can appeal erroneous citations.

Loath as they are to admit it, MSHA inspectors are sometimes mistaken is regard to alleged rule violations and proposed penalties. The watchmen do indeed bear watching, as they sometimes misinterpret what they see at a mine. It is essential that MSHA inspectors' citations remain as alleged rule violations and proposed civil penalties until the mine operator who exercises his or her right to contest them has had an impartial hearing before an independent review body. Such litigation, however cumbersome, leads to accuracy and fairness, which trump administrative convenience every time.

This due process guarantee for mine operators cited by MSHA inspectors for alleged rule violations must not be abrogated . Nor should mine operators be extorted into accepting erroneously-issued citations with the enticement of reduced penalties. The right of a mine operator to contest alleged violations and proposed penalties is essential to assuring that MSHA citations actually serve to improve mine safety, rather simply generating revenue for the MSHA bureaucracy. Congress plainly intended to protect the right of mine operators to independent review of their compliance with the standards of the Mine Act.

For these reasons, Sultana Sand & Stone, Inc. urges withdrawal of MSHA's proposed rule to amend 30 CFR Part 100.

Sincerely,

Kim K. Whetzel

Kim K. Whetzel, President, Sultana Sand & Stone, Inc.