

MAR 31 2015

# PUBLIC SUBMISSION

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**Docket:** MSHA-2014-0009

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

**Comment On:** MSHA-2014-0009-0090

Criteria and Procedures for Assessment of Civil Penalties, Proposed rule; extension of comment period; close of record.

**Document:** MSHA-2014-0009-0116

Comment from James G, NA

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## Submitter Information

**Name:** James G

**Organization:** NA

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## General Comment

Please accept the attached comments regarding MSHA's proposal to revise 30 C.F.R. Part 100.

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## Attachments

Comments-Civil Penalties Rule 30 CFR Part 100-RIN 1219-AB72

AB72-Comm-73

# **Squaw Creek Materials, L.P.**

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March 31, 2015

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

**RE: Civil Penalties Rule, 30 CFR Part 100**  
**RIN: 1219-AB72**

To Whom It May Concern:

Squaw Creek Materials, L.P. is writing to raise major concerns over the Mine Safety and Health Administration's proposed Civil Penalties rule, 30 CFR Part 100, RIN: 1219-AB72.

Our experience over the past 15 years as a small mine indicates 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.

As reluctant as they are to admit it, MSHA inspectors are sometimes mistaken in regard to alleged rule violations and proposed penalties. 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 abolished. Nor should mine operators be coerced 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 than 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 Federal Mine Safety & Health Act of 1977.

We urge MSHA to withdraw this proposed rule, and work with our industry and other stakeholders to formulate a rule that is clear and that does not impede the operator's ability to manage for safety and compliance, impose an undue economic burden on our industry, raise the cost of aggregate products needed for the built environment, or limit the economic prosperity of the United States.

Sincerely,

James W. Gosdin  
Lindsey Upshaw  
Squaw Creek Materials, L.P.