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

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Criteria and Procedures for Assessment of Civil Penalties

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Comment from Troy Sing, NA

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General Comment

The phrase "Reckless Disregard" should be traded with a more palatable phrase. Not to undermine the severity of the most negligent category, but to avoid provoking resistance from the mine operator as the aforementioned title could be a mischaracterization of the facts. "Grossly Negligent" or some similar phrase may prove to fit better with the prior category titles of "Not Negligent" and "Negligent."

More importantly, I think that the 20% penalty reduction should only apply when the operator "promptly abates the violation and pays the penalty." MSHA should strike "not contesting violations" from their criteria for any "Good Faith" reductions. Discouraging the contesting of violations could have many negative effects, such as:

- allowing dubious, questionable and wrongful citations/violations to be accepted/paid which only further endorses poor inspections. Contesting violations is a way that the industry can self-police the regulator
- once this penalty reduction is wide-spread, operators will feel as though contesting any violation is opening up the potential for a 20% increase in the penalty fee.
- Making much of the contesting of violations shifts focus away from the more important abatement of actual hazards.

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Instead MSHA should seek to simplify its process of contesting violations or perhaps define criteria for problem mine operators who tend to contest very clear violations or contest all violations in an inspection.