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**From:** Sweitzer David <David.Sweitzer@carmeusena.com>  
**Sent:** Tuesday, April 25, 2017 11:34 AM  
**To:** zzMSHA-Standards - Comments to Fed Reg Group  
**Cc:** Bittner Jeff  
**Subject:** RIN 1219 - AB87; Docket No. MSHA - 2014 - 0030  
**Attachments:** file.pdf

Please see the attached comment on behalf of Carmeuse Lime & Stone. The original is being sent today via U.S. Mail.

***Commitment to Zero Injuries***

Best Regards,

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**David E. Sweitzer**  
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April 25, 2017

Via Email ([zzMSHA-comments@dol.gov](mailto:zzMSHA-comments@dol.gov))  
and U.S. Mail

MSHA  
Office of Standards, Regulations, and Variances  
201 12<sup>th</sup> Street South  
Suite 4E401  
Arlington, VA 22202-5452

**RE: RIN 1219 – AB87  
Docket No. MSHA – 2014 – 0030  
Comment On Proposed Rule Pertaining to  
Examinations of Working Places in Metal and  
Nonmetal Mines – Delay of Effective Date**

Carmeuse Lime & Stone (“Carmeuse”) is a leading producer of high calcium and dolomitic lime, chemical grade limestone and crushed limestone aggregate products that are a vital part of important industries in steel manufacturing, energy, environmental services, and construction. Based in Pittsburgh, Pennsylvania, Carmeuse operates 28 production facilities across North America, including surface mines, underground mines and processing facilities. Carmeuse is an active participant on the safety committees of several national trade associations and has worked to establish a cooperative relationship with MSHA. Our employees are driven by a passion for success, quality, efficiency and respect for the environment. The fundamental underpinning of this passion is Carmeuse’s commitment to the safety of all employees.

MSHA has promulgated a new rule regarding workplace examinations. However, after the rule was published on January 23, 2017, MSHA announced to industry leaders that the rule would be “paused” so that it could be reviewed at a “policy level”. To our knowledge, no such review has been completed, and the chances for such a review appear to be remote as we still do not have a Secretary of Labor, or an Assistant Secretary for MSHA as of the date of this comment.

In addition to the uncertainty at the administration level, implementation of the new rule is highly questionable. In the preamble to MSHA’s publication of the rule on January 23, 2017, MSHA stated: “MSHA is unable to separate the benefits of the new requirements under the final rule from those benefits attributable to conducting a workplace examination under the existing standards.” Industries should not be subject to implementation of a rule where the proponent of the rule admits that it cannot articulate the benefit of the rule. Moreover, implementation of the new rule will result in very significant



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additional cost to industry, *e.g.* additional training, additional record-keeping maintenance, hiring of additional personnel. All of these additional costs will be increased for operators such as Carmeuse which maintain multiple sites with unique operational attributes.

Currently, the effective date for the rule is May 23, 2017. Not only has MSHA failed to review the rule, it has provided no assistance or guidance to determine what is meant by a number of unclear key terms, including:

- “Working Place”
- “A condition that may adversely affect safety and health”
- What is required to achieve prompt notification of miners under §56.18002(a)(1) of the Final Rule
- What is required to “promptly initiate [corrective] action” under §56.18002(a)(1) of the Final Rule

For these reasons, the effective date of the Final Rule should be postponed indefinitely until the status of the Rule is finalized.

Sincerely,

Jeff Bittner, Vice President Operations  
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