
From: Gustaf Buttar <GButtar@bluegrassmaterials.com>
Sent: Tuesday, April 25, 2017 12:45 PM
To: zzMSHA-Standards - Comments to Fed Reg Group
Subject: MTBMA Comments Regarding Rule RIN 1219-AB87
Attachments: MTBMA - Comments Regarding RIN 1219-AB87 - 20170425.pdf

To whom it may concern,

Please find attached to this email a letter, written on the behalf of the Maryland Transportation Builders and Materials Association Safety Committee, regarding rule RIN 1219-AB87 (examination of working places).

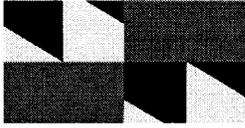
We are available and interested in discussing this further with MSHA. Thank you in advance for your time and consideration.

Sincerely,



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MTBMA
MARYLAND TRANSPORTATION BUILDERS
AND MATERIALS ASSOCIATION

MSHA Office of Standards and Regulations
201 12th South Street
Suite 4E401
Arlington, VA 22202-5452
Sent via email to: zzMSHA-comments@dol.gov

April 25, 2017

Re: MTBMA Comments regarding rule RIN 1219-AB87 (Examination of Working Places)

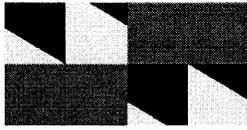
To whom it may concern,

I am writing this letter on behalf of the Maryland Transportation Builders and Materials Association (the "MTBMA"), its member companies, and the MTBMA Safety Committee. The MTBMA membership includes all of the major producers of construction stone, sand, & gravel in Maryland, all of which would be negatively impacted by rule RIN 1219-AB87 (the "rule"), regarding the examination of working places, 30 CFR §56/57.18002.

The MTBMA feels strongly that the rule should be delayed indefinitely until its status is finalized. Based on the information available to us, we find that the rule is still vague, especially concerning what constitutes a working place, and what conditions may be considered to adversely affect safety, prompting notification. Once the rule is in effect, operations affected by this rule would require significant Mine Safety & Health Administration ("MSHA") revision and clarity to understand the value and expectations of the new rule, as well as MSHA's guidance in the administration and implementation of such a vague new rule.

In addition, the status of the rule is not clear. MSHA previously indicated that there was a "pause" in the rule so that it could be reviewed at the policy level, although our understanding is that this review is not yet complete.

We feel that the current workplace exam rule works well, which is supported by the industry's historically low injury rates. No credible or empirical evidence has been provided that the current rule is not being complied with, or is insufficient. A trend we see amongst a majority of member companies is a strategy of empowering all employees to personally take responsibility for workplace safety, and granting more autonomy to hourly employees to manage for safety. The root cause of the grand majority of workplace injuries is behaviors and choices, not workplace conditions, which is why tactics which emphasize improving the behaviors of workers have been found to be so effective. The emphasis of the proposed rule is completely contrary to this, shifting more responsibility and burden onto select individuals chosen to complete formal workplace exams.



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The proposed rule would place unwarranted, excessive administrative burden on operators, while delivering no health and safety benefit to employees. The increased paperwork and time required to comply with this overly prescriptive rule would take away from more beneficial uses towards workplace safety, and ultimately contribute to higher costs of public works projects for taxpayers. The rule effectively hinders and limits operator's ability to improve safety in ways that make sense for their specific operations, which have been shown to be effective based on consistent improvements to injury rates. The MTBMA has worked with the National Sand, Stone, and Gravel Association (the "NSSGA") in evaluating this rule, and agrees with their conservative estimation of a \$25 million cost for small operators to comply with this rule.

The MTBMA urges MSHA to delay rule RIN 1219-AB87 indefinitely until its status is finalized, and to re-evaluate this rule based on the above comments. We are available and interested in discussing this further with MSHA. Thank you in advance for your time and consideration.

Sincerely,

Gustaf Buttar, MSP
MTBMA Safety Committee Chairman, Bluegrass Materials Co. EH&S Manager
On Behalf of the MTBMA Safety Committee
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