

# PUBLIC SUBMISSION

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**Docket:** MSHA-2014-0030

Examinations of Working Places in Metal and Nonmetal Mines. 30 CFR Parts 56 and 57

**Comment On:** MSHA-2014-0030-0129

Examinations of Working Places in Metal and Nonmetal Mines

**Document:** MSHA-2014-0030-0157

Comment from Michael Wright, United Steelworkers International Union

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## Submitter Information

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## General Comment

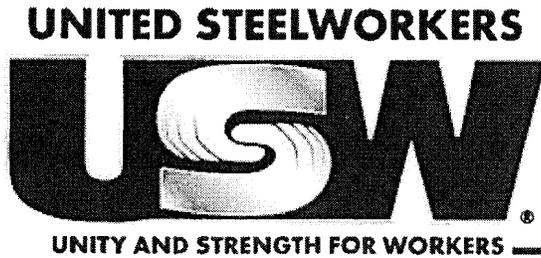
Attached are the Comments of the United Steelworkers on MSHA's proposed 60-day delay of the Metal and Nonmetal Workplace Examination rule

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## Attachments

USW-MSHAExamRuleDelayComments-4-26-17

AB87-COMM-111



**Comments of the  
United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and  
Service Workers International Union (USW)  
on Examinations of Working Places in Metal and Nonmetal Mines  
Proposed Delay of Effective Date  
Docket No. MSHA-2014-0030**

**April 26, 2017**

On March 27<sup>th</sup>, the U.S. Mine Safety and Health Administration proposed to delay by 60 days the effective date of the new rule on Examinations of Working Places in Metal and Nonmetal Mines. The new effective date would be July 24. The USW represents the majority of unionized metal and nonmetal miners in the United States. We oppose this delay as unnecessary and potentially harmful.

Rules for workplace examinations in mines have been on the books since 1969, first as Bureau of Mines advisory standards; then, in 1979, as MSHA mandatory standards.

The changes wrought by the revised MSHA regulation are few, simple, and easy to comply with – but they will save miners' lives. Examinations have to be conducted before a shift, instead of during the shift. Examinations have to document the hazards found, and the corrective actions taken. Miners have to be notified of hazardous conditions. And the records have to be made available to MSHA and to miners' representatives.

MSHA's justification for the proposed delay in the March 27 *Federal Register* notice seems confused. First, we are led to believe that it is in accord with the White House Chief of Staff's January 20 "Regulatory Freeze" memorandum. However, that memorandum only asks that agencies "consider" delays such as the one MSHA seeks to impose.

(2)

In the next paragraph, MSHA maintains that the delay is necessary to allow the Agency to “develop and distribute additional compliance assistance materials...” and that “mine operators may need time to adjust schedules, develop additional recordkeeping capacity, and in other ways modify the way they currently do business to comply with the rule.” Given the simplicity of the regulation, it is difficult to see how an additional 60 days are justified. How much “compliance assistance” do mine operators need to understand that they must inspect pre-shift, before miners are potentially put at risk? Do they really not understand how to document hazards and corrective actions? They’ve been required to identify and correct hazards uncovered in mine inspections for 38 years. And given that they already had five months; does it really take two more to revise schedules – a process that usually takes an hour or two – or to buy some filing cabinets or a larger computer database for additional records?

The final paragraph makes reference to “issues raised by stakeholders” and suggests that an even longer delay might be necessary “to determine if these issues can be reasonably addressed through compliance assistance and training.” No such issues were identified in the *Federal Register* notice, and it is hard to imagine any that were not raised and thoroughly examined during the rulemaking process.

Of course, some critics of the new regulation have warned of increased liability and have sought to overturn it in court. However, there is only one way in which the rule increases liability. Mine operators who ignore the long-standing requirement to find and fix the hazards that threaten miners’ lives, will now have a greater chance of getting caught. That is the chief virtue of MSHA’s Workplace Examination Rule, and the reason why it should go into effect without delay.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Michael J Wright", with a long horizontal flourish extending to the right.

Michael J Wright  
Director of Health, Safety and Environment