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**Subject:**

Exam Rule

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From: Terry Jones [<mailto:terryljones56@yahoo.com>]

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Sent: Saturday, June 25, 2016 1:40 PM

To: McConnell, Sheila A - MSHA

Subject: Agency/Docket Number:Docket No. MSHA-2014-0030RIN:1219-AB87Document Number:2016-15191

Please accept my comments, recommendations via this email correspondence to the proposed rule change referenced in the subject section.

I am a Certified Mine Safety Professional (CMSP) and a member in good standing with the International Society of Mine Safety Professionals (ISMSP) with 16 years of surface mining experience. I hold Bachelor of Arts Degree in Organizational Management and Psychology. That time span includes mobile equipment operations (Dozers, Haul Trucks, Excavators, and Front End Loaders) and project management. I have been employed by mine contractors as well as mine operators. Currently, I hold the position of EHS manager for a privately owned lime and minerals organization that has assets globally.

There is no argument for fatalities in the mining industry. Simply put, they should not occur. It is my opinion, based on my experience, definitive language regarding workplace examinations is not only necessary, it is overdue. The current standard, 30 CFR 56.180002, is vague and is not adequate to assure the health and safety of miners. It promotes 'pencil whipping' and shoddy examinations. Let me be clear. The standard as it is written now requires the date, name of person making the inspection, and area inspected, once per shift. And we keep the document for a year. It has language requiring a couple of other important items, yet, that portion is largely ignored.

My own organization knows the limitation of the current standard and although the bar is set low, is not interested in exceeding nor setting expectations above the minimum standard. That is to say, meeting the standard is acceptable and doing more is not welcomed if it means more headcount or more money spent. The Mine Act, in my opinion, has promoted this type of behavior and attitude due to the vague language within it.

I welcome Mine Safety & Health Administration's efforts to set definitive expectations in terms of federal standards that are clear, concise and enforceable. Let's be honest, mining is a lucrative business. Citation assessments, no matter the dollar amount have little effect on how business is done. I have spoken with many federal inspectors over the years and they agree the Mine Act does is approximate at best. Hell, I have asked one or two of them to write a citation on a particular item that my employer would not address, and their response was this; 'I cannot write that, it is not a violation as it relates to the standard.' It was clear the item was a safety hazard, that they did not disagree, yet could not help me help others.

The item I referenced above relates to safety belts. My organization allows customer truck drivers to use safety belts instead of forcing them use harness'. The argument is we may lose business or have to add headcount to assure the harness is inspected, donned and used correctly. I have fought this particular battle for years to no avail. A Carbis or similar fall protection unit would eliminate the belt, yet costs between \$100,000 - 250,000.00. Their premise is we need that money for other items that relate to production (i.e. Maintenance budgets, replacing old equipment, emergency repairs, etc.). And MSHA does not require it. The standard language specifically states, 'Safety belts'. Any ten cent lawyer would win that argument in a court of law.

Yet I digress from my intent to comment on this specific rule change. Please do it. And let us look further in the standard for opportunities to change language that is clear, concise and enforceable. My experience it this: hitting mine operators in the pocket book has little or no affect, however, making language changes that would hold the plant/mine/quarry managers personally liable and you will see a dramatic decrease in injuries and fatalities.

We get what we accept. Let's not accept less than the folks in field deserve. That is to say, the minimum standard will not save lives. Raise the ████████ bar! MSHA and mine operators talk it, now how about walking it? There is an old saying relating to diets and I think is analogous to my argument for change: if you always eat the same things, you will always weigh the same. We get what we accept.

Respectfully,

Terry L. Jones, CMSP  
Instructor MIIN # M20169455

"We are what we repeatedly do. Excellence, therefore, is not an act, but a habit." - Aristotle

#### References

30 CFR Part 56.18002  
30 CFR Part 56.15005

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