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**From:** Lynn Mayer Shults <lmshults@LGEVERIST.com>  
**Sent:** Friday, September 30, 2016 7:10 PM  
**To:** zzMSHA-Standards - Comments to Fed Reg Group  
**Subject:** RIN 1219-AB87, or Docket No. MSHA-2014-0030 opposition letter  
**Attachments:** MSHA-WorkplaceExams-ObjectionLetter-093016.pdf

TO: MSHA Office of Standards  
201 12th Street, South, Suite 4E401  
Arlington, VA 22202-5452

Submitted via email: [zzMSHA-comments@dol.gov](mailto:zzMSHA-comments@dol.gov)

**RE: RIN 1219-AB87, or Docket No. MSHA-2014-0030  
Opposition to MSHA's Workplace Exams Proposal**

Attached please find a letter of opposition to the Workplace Exams Proposal.

Sincerely,



**LYNN MAYER SHULTS**, L.G. Everist, Inc.  
7321 East 88th Ave, Suite 200, Henderson, CO 80640  
303-286-2247 || [lmshults@lgeverist.com](mailto:lmshults@lgeverist.com) || [www.lgeverist.com](http://www.lgeverist.com)  
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# L.G. EVERIST, INC.



CORPORATE OFFICE  
300 S. PHILLIPS AVE. • SUITE 200  
P.O. BOX 5829  
SIOUX FALLS, SD 57117-5829  
PHONE 605-334-5000  
FAX 605-334-3656

MOUNTAIN DIVISION  
7321 E. 88TH AVENUE • SUITE 200  
HENDERSON, COLORADO 80640  
303-287-9606  
FAX 303-289-1348

September 29, 2016

MSHA Office of Standards  
201 12th Street, South, Suite 4E401  
Arlington, VA 22202-5452

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**RE: RIN 1219-AB87, or Docket No. MSHA-2014-0030  
Opposition to MSHA's Workplace Exams Proposal**

Along with NSSGA and many other companies in the Sand and Gravel mining industry, L.G. Everist, Inc. opposes MSHA's workplace exams proposal, and is submitting comments in opposition to it. Our industry continues its safety improvements (historic low injury rate of just 2.0), and does not see a value in the proposed rule.

First, economically, our industry still suffers from lower sales since the Great Recession. Our company is suffering from the decrease in oil prices - oil production is down - and our company supplies natural sand and gravel aggregates for oil/gas well pads. NSSGA has noted in their opposition comments that MSHA concedes it is unable to empirically demonstrate the benefits of this proposal.

The workplace exams proposal is unwarranted. Not only has the industry's injury rate continued to fall for 15 consecutive years, but the agency has failed to provide any information supporting the idea that the current conduct of workplace exams - in compliance with the current standard - is not satisfactory.

The provision calling for exams to be conducted before the beginning of the shift is ill-advised. Operators know best when exams should be conducted. Further, this risks creating the misimpression that all hazards only are apparent before a shift begins.

The call to notify all employees of hazards found is also poorly conceived. As a practical matter, all affected employees are already made aware.

The call to document hazards and fixes would lead to bureaucratization of the process of managing for safety. Documentation of hazards doesn't necessarily illustrate the precise cause of a hazard or violative condition. Yet, an inspector - perhaps seeing evidence of a particular violative condition that had occurred months earlier - might misunderstand the varying causes of the documented violation. For instance, there could be multiple causes for spillage off of a conveyor. Spillage has many possible causes, for example, it could be the result of parts wearing out. Put another way: virtually anyone performing an exam already has a high level of responsibility/accountability. More paperwork cannot help operators do a better job of managing for safety.

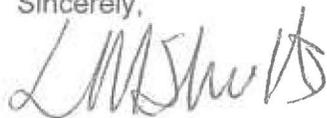
**RE: RIN 1219-AB87, or Docket No. MSHA-2014-0030  
Opposition to MSHA's Workplace Exams Proposal**

In response to the question of whether MSHA should require in the rule minimum experience, ability or knowledge level to be a competent person, the answer is no. The operator knows far better than MSHA who on company staff is competent. And of course, all personnel in our company who conduct workplace exams can only do so after receiving task training and adequate practice with other experienced employees.

This proposal will have a negative and costly impact on small operators, and small operators are the least likely to have the resources necessary for complying with this proposal.

L.G. Everist opposes the proposed rule, and feels that the current standards address workplace safety adequately and comprehensively. The proposed rule would not be a benefit, but rather a detriment to mine safety. Please withdraw the proposal and resources going into it, and instead put more resources into Mine Safety Training to help our industry.

Sincerely,



Lynn Mayer Shults  
Regulatory Manager  
L.G. Everist, Inc.  
7321 E 88<sup>th</sup> Avenue, Suite 200  
Henderson, CO 80640  
Office - 303-286-2247