

# 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-2014-0030-0146

Comment from Steve Arnhold, NA

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## Submitter Information

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## General Comment

See attached file(s)

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## Attachments

Examinations of Working place Ruling - Comments

AB87-COMM-90

4/17/2017

- We recommend requesting that the effective date be postponed indefinitely until the status of the rule is finalized or, alternatively, that the effective date be no earlier than January 23, 2018.
- The status of the Final Rule is not clear.
- As noted in MSHA's March 27, 2017 publication, the White House issued a memorandum calling for a freeze on all regulations not published as of January 20, 2017. The effect of that memorandum on the Final Rule is unclear.
- After its publication on January 23, 2017, MSHA indicated to the industry that the rule as "paused" so it could be reviewed at a "policy level." That review is not yet complete.
- Officials from the current Administration have not had a chance to evaluate the rule, particularly as a new Assistant Secretary has not yet been named.
- Once the status of the Final Rule is determined, if it is to proceed, compliance assistance from MSHA will be necessary 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.
- Following compliance assistance from MSHA, operators will be required to engage in significant planning to develop appropriate systems including:
  - Scheduling of personnel so that areas are examined in the timeframe set forth by the new rule.
  - Training to ensure that those conducting examinations are "competent persons."
  - Recordkeeping maintenance to comply with the requirements of the rule.
- The challenge of planning will be compounded for operators with multiple sites, particularly those whose sites are dissimilar, as each site may be required to plan differently based on the particularities of that site.
- Compliance with the Final Rule may require additional staffing, which will require budgeting and hiring. This could pose significant financial challenges, particularly for smaller operators.
- It is hoped that MSHA would take sufficient time to train its inspectors on the requirements of the Final Rule so that, should it go into effect, it is enforced appropriately and consistently.