

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-2014-0030-0149

Comment from susan flanagan, ime

Submitter Information

Name: susan flanagan

Organization: ime

General Comment

See attached file(s)

Attachments

(FINAL) MSHA Workplace Exam Rule Extension 21APR17

AB87-COMM-95

4/24/2017

IME

institute of makers of explosives

The safety and security institute of the commercial explosives industry since 1913

April 21, 2017

Re: Comments of the Institute of Makers of Explosives; Proposed Rule, Delay of Effective Date, RIN 1219-AB87, Docket No. MSHA-2014-0030.

The Institute of Makers of Explosives (IME) appreciates the opportunity to submit comments on the above-captioned proposed rule delaying the effective date of the agency's final rule, "*Examinations of Working Places in Metal and Nonmetal Mines.*"

IME is a nonprofit association founded in 1913 to provide accurate information and comprehensive recommendations concerning the safety and security of commercial explosive materials. Our mission is to promote safety and the protection of employees, users, the public and the environment; and to encourage the adoption of uniform rules and regulations in the manufacture, transportation, storage, handling, use and disposal of explosive materials used in blasting and other essential operations.

IME represents U.S. manufacturers and distributors of commercial explosive materials and oxidizers as well as other companies that provide related services. Millions of metric tons of high explosives, blasting agents, and oxidizers are consumed annually in the U.S. Of this, IME member companies produce over 98 percent of the high explosives and a great majority of the blasting agents and oxidizers. These products are used in every state and are distributed worldwide.

Comments:

MSHA is soliciting comments on the limited issue of whether to extend the effective date of the final workplace examination rule to July 24, 2017, and whether this extension offers an appropriate length of time for MSHA to provide stakeholders training and compliance assistance. In keeping with MSHA's standard implementation practices, MSHA states that it is planning to develop and distribute additional compliance assistance materials that will be made available on the agency's website.

IME supports the suggested compliance date extension. The commercial explosives industry does not anticipate any difficulty in implementing the requirements in the final rule. That said, we are aware that other operators in the metal/non-metal sector are concerned that the rule will cause considerable disruption to their operations. Given these concerns, we believe it would be prudent for MSHA to grant the proposed delayed effective date. While we do not know whether the proposed extension will be adequate for MSHA to provide those stakeholders with the

training and compliance assistance they feel they need, we believe that any extra preparation time will be beneficial.

In addition to the above, IME has some observations regarding the final rule that could be addressed in MSHA compliance assistance materials:

- There may be a minor issue regarding timing. A competent person is required to examine the working place at least once per shift and to communicate any adverse conditions to miners before they enter the working area. Yet, the competent person is not required to record the examination until the end of the shift. Operators will have to decide how/when to make this communication if the competent person has not yet recorded the examination. Any ideas/guidance that MSHA may have in avoiding confusion and/or missed communication occasioned by this situation would likely be appreciated by mining stakeholders.
- MSHA notes in the preamble that examinations must be conducted sufficiently close in time to the start of work that the operator, “would not reasonably expect conditions to have changed.” MSHA also notes that the final rule “does not limit operators to a single examination or prevent ongoing examinations throughout the shift.” Read together, IME interprets this as requiring a blaster to perform ongoing examinations every time a shot is fired or something new is done to the site. This practice dovetails with IME’s existing best practices, but it would have to be recorded and the report would have to include all the other requirements in the rule. We are not necessarily concerned about the additional administrative requirements, but we would appreciate guidance on the issue to ensure that our interpretation is accurate.
- There is some concern among other mine operators that MSHA could use workplace examination records to cite operators after the fact. MSHA has stated that this is not its intent and that inspectors will not be trained to do this, but we are nevertheless aware that there is some anxiety on this score in the mining industry. To the extent that MSHA can address these concerns in compliance assistance, training, and/or enforcement guidance documents, this would be useful.

Thank you for considering our comments. If you have any questions, please do not hesitate to contact us. We look forward to continuing to work with MSHA toward our shared goal of worker safety.

Respectfully submitted,

Susan JP Flanagan

Susan JP Flanagan
Counsel for Legislative & Regulatory Affairs
Institute of Makers of Explosives
202.674.7123
www.ime.org