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

Comment On: MSHA-2014-0030-0178

Examinations of Working Places in Metal and Nonmetal Mines - Proposed rule; delay of effective date.

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Comment from Hunter Prillaman, National Lime Association

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General Comment

The comments of the National Lime Association are attached.

Attachments

NLA Comments on workplace exam effective date second NPRM final

AB87-COMM - 141

9/26/2017



September 26, 2017

Mine Safety and Health Administration
Office of Standards, Regulations, and Variances
201 12th Street South
Suite 4E401
Arlington, Virginia 22202-5452

(Submitted electronically at <http://www.regulations.gov>)

RE: Examinations of Working Places in Metal and Nonmetal Mines: Proposed Rule; delay of effective date (RIN 1219-AB87)

The National Lime Association (NLA) appreciates the opportunity to provide comments on MSHA's notice referenced above. The notice proposes an extension to the effective date of MSHA's January 23, 2017, final rule on examinations of working places in metal and nonmetal mines.

NLA is the trade association for manufacturers of high calcium quicklime, dolomitic quicklime, and hydrated lime, collectively referred to as "lime." Lime is a chemical without substitute, providing cost-effective solutions to many of society's environmental problems. Lime is produced by calcining limestone, and thus most lime manufacturers also quarry limestone, with mining operations under the jurisdiction of MSHA.

MSHA has proposed further extending the effective date of the January 23 final rule from October 2, 2017 to March 2, 2018. While NLA agrees that a delay of the effective date is essential, it does not believe that the proposed delay is sufficient. For the reasons detailed below, MSHA should suspend the rule's effective date until the accompanying proposed changes to the rule are finalized, at which time MSHA should create an effective date that would allow time for outreach and compliance.

The Rule Is No Longer Final, and the Effective Date Should Be Suspended

On the same day as the notice addressed herein, MSHA published another proposed rule (82 Fed. Reg. 42757), under which it proposed to make significant, substantive changes to the workplace examination rule. The comment period for that rule ends on November 13, 2017, and MSHA plans to hold four public hearings, the last of which is scheduled for November 2, 2017. Clearly, the rule's effective date should only occur after a final rule is promulgated on those proposed changes. It is difficult to see how a final rule could be promulgated in time to make a March 2, 2018 effective date feasible. When MSHA first promulgated the final workplace examination rule, it set an effective date four months after that date of publication, and many stakeholders

complained that significantly more time would be needed to make the kinds of changes mandated by the rule.

Moreover, MSHA has made it clear that it intends to engage in outreach to the regulated community and to provide guidance before the rule becomes effective. Clearly, this can only occur after the rule is finalized, and if it is to be done properly, will take several months at the minimum.

Finally, until MSHA promulgates a final rule, it is unknown just how significant the changes to the rule will be, and whether those changes would mandate more time for compliance.

Accordingly, the prudent course for MSHA would be to suspend the effective date of the workplace examination rule as it currently exists, and to establish a new effective date when the proposed changes are finalized. NLA plans to comment on the proposed changes, and we anticipate that we will provide comments on an appropriate effective date in those comments.

NLA appreciates the opportunity to comment on these important issues.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Hunter L. Prillaman', with a stylized, sweeping flourish at the end.

Hunter L. Prillaman
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