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

Comment On: MSHA-2014-0030-0179

Examinations of Working Places in Metal and Nonmetal Mines - Proposed rule, limited reopening of the rulemaking record; notice of public hearings; close of comment period.

Document: MSHA-2014-0030-0224

Comment from Garry Clark, International Brotherhood of Boilermakers, et. al.

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General Comment

With the proposal involving individual miners, individual rights become issue, and this significant concern is magnified by the reality the the United States Department of Labor Mine Safety and Health Administration Academy does not provide enforcement officers training with respect to the United State Constitution and the United States Bill of Rights.

All enforcement agencies across our land focusing activities toward individuals provide Criminal Law training covering the Constitution, Bill of Rights, and landmark judicial decisions such as Mapp, Terry, Miranda, and many other judicial decisions.

With inclusion of individuals not salaried involving corporations, Mine Inspectors must have training guarding individual Rights assuming the goal of the proposal is not circumventing Constitutional protections while using employers in surrogacy. Yet, the proposal is more flawed.

With the proposal, miners are expected to report safety and health concerns. If a safety and

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health concern is not a violation of title 30 Code of Federal Regulations or the Mine Act, what purpose would the reporting hold? As an example, a miner might report that another miner was in an area while not wearing safety glass proving a violation of regulation. However, the area may be humid resulting in fogging of glasses with the glasses removed until exiting the area while realizing ability to see was more important than wearing safety glasses. Yet, this matter is significantly more complex.

Recently, the United States Department of Labor Mine Safety and Health Administration issued citation numbered: 8954124-04 regarding workplace examination pursuant to 30 CFR 56.18002. The area of issue involved conditions existing for at least five years or ten count 'em ten semi-annual inspections by MSHA. When MSHA allowed a condition to exist with one inspector making issue after ten inspections, is the hazard truly a hazard, or is the issue a mine inspector seeking to meet an enforcement quota, goal, or expectation? Ten inspectors made no issue of the condition, with one inspector making issue of the condition having existed at least five years.

When mine inspectors have not made issue of event or condition, should miners risk employment retaliation revealing any supposed hazard, event, or condition? Is the true hazard malfunctioning mine inspectors who have inferior training presenting an inability to perform their jobs while creating hazards in the mining industry through confusion?

Given abuses having occurred involving 4th Amendment Rights of miners, 30 CFR 56.18002 and 30 CFR 57.18002 should be repealed.