

# 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-2014-0030-0179

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-2014-0030-0237

Comment from Josie Gaskey, PA Aggregates & Concrete Association (PACA)

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## Submitter Information

**Name:** Josie Gaskey

**Organization:** PA Aggregates & Concrete Association (PACA)

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## General Comment

Attached are comments from the PA Aggregates and Concrete Association.

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## Attachments

PACA cmts 11 13 17 workplace exam

AB87-COMM-174

11/13/2017

November 13, 2017

*Submitted via [www.regulations.gov](http://www.regulations.gov)*

Sheila A. McConnell, Director  
Office of Standards, Regulations, and Variances  
Mine Safety & Health Administration  
201 12<sup>th</sup> Street South, Suite 4E401  
Arlington, VA 22202-5452

**Re: Docket No. MSHA-2014-0030, RIN 1219-AB87  
Examinations of Working Places in Metal and Nonmetal Mines  
Request for Comments on Limited Changes**

Dear Ms. McConnell:

On behalf of its members, the Pennsylvania Aggregates and Concrete Association (PACA) submits these comments in response to the Mine Safety & Health Administration's (MSHA) request for comments on limited changes to the final rule published on January 23, 2017 (82 FR 7695), effective May 23, 2017, and delayed on May 22, 2017 (82 FR 23139), until October 2, 2017 (82 FR 23139).

PACA represents the broad interests of over 200 member aggregates, cement and concrete companies, and companies supporting these industries (equipment manufacturers, dealers, consultants, and service providers) in the Commonwealth of Pennsylvania. These members are, and will continue to be, dedicated to safe, responsible mining in Pennsylvania.

We acknowledge the effort put towards this issue by MSHA and believe MSHA has taken a step in the right direction in the revised workplace exams rule proposal from the earlier proposal. PACA appreciated the opportunity to provide public comment in Pittsburgh on November 2, 2017, and receive clarifying feedback that all trained competent persons are able to perform workplace exams.

We are still concerned, however, about the need for a new rule at a time in which our industry performance has achieved record levels of injury reductions using the current standard. Attached is a graph taken from MSHA's own website that depicts fatality and all-injury rates from the year 1977 through 2015. We have seen no findings of unsafe work practices under the existing workplace exam standard to justify a new rule.

Furthermore, we have concerns that this rule will incur substantial new enforcement liability via the issuance of multiple citations for a singular situation. By that we mean, one citation for the condition itself and one for the workplace examination. We request that MSHA

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ensure that no additional enforcement results from revisions to the workplace examination rule.

Concerns exist regarding vague and imprecise terms and we are requesting clear definitions/guidance for the following terms:

- The existing rule differentiates between “working place” and “travel-way.” In the proposed rule, it appears MSHA is considering areas that have been commonly thought of as travel-ways as a “working place.”
- The term “conditions that may adversely affect safety and health” is the foundation of MSHA rules and needs further clarification.
- We have concerns regarding enforcement interpretations of words such as “promptly” and “initiate appropriate action.” These need to be defined with sufficient specificity as to provide clear, consistent guidance for not only industry personnel, but also MSHA enforcement personnel.

PACA appreciates the opportunity to share our concerns with MSHA. We support the National Stone, Sand & Gravel Association’s comments. Should you have any questions, don’t hesitate to contact me at [josie@pacaweb.org](mailto:josie@pacaweb.org) or 771.234.2603.

Sincerely,

Josie Gaskey  
Director, Environmental, Safety & Health

CC: Peter Vlahos, President  
Joe Casper, NSSGA