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To: [zzMSHA-Standards - Comments to Fed Reg Group](#)
Subject: Docket No. MSHA-2014-0030 (Comments Proposed Rule - Examination of Workplaces in Metal and Nonmetal Mines)/RIN 1219-AB87
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Attachments: [Graniterock Examination of Working Places Comment Letter 20171113.pdf](#)

Please find attached letter with comments for Docket No. MSHA-2014-0030 (Proposed Rule - Examination of Workplaces in Metal and Nonmetal Mines)/RIN 1219-AB87.

Best regards,

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(Submitted electronically to zzMSHA-Comments@dol.gov)

Re: Examination of Working Places in Metal and Nonmetal Mines – Proposed Rule
(Docket No. MSHA-2014-0030)

Graniterock appreciates the opportunity to provide comments again on the MSHA's proposed rule "Examinations of Working Places in Metal and Nonmetal Mines". We still agree that workplace examinations play an important role in maintaining a safe and healthy work environment for our workers, contractors, customers and vendors. We still believe that the original standard provided an effective means to achieve that objective. We still contend that the proposed rule will not change the effectiveness of our workplace examinations. We still believe that the proposed rule will add to the administrative and paperwork workload with no added benefit toward improving the safety and health conditions at our mines. To this point, we make the following comments:

Requirement to Conduct the Workplace Examination Prior to Beginning Work

This proposed rule continues to force workplace examination practices from underground coal regulations onto the Metal/Nonmetal surface mines. The preamble of the final rule published on 1/23/2017 noted that MSHA recognized these differences. However, the allowance of not requiring the examination until before miners begin work still does not consider the geographic differences between surface and underground mines and how surface mine supervision is different between the two types of mining. In many cases, due to the geographic locations of crews starting at a surface mine, a competent person would not be able to examine all the areas of the mine where several crews of miners would be starting work at the same time. The change in the proposed rule to allow for workers to enter an area at the same time as the competent person will not remedy this issue.

The difference between surface and underground is recognized on the coal side of the standards. The MSHA surface coal standard for conducting workplace examinations (77.1713a) recognizes this difference and states that "At least once during each working shift, or more often if necessary for safety, each active working area and each active surface installation shall be examined...". Does MSHA also believe that the surface coal daily workplace examinations are ineffective? If so, is MSHA moving to change the daily workplace examination requirement in Part 77 too?

Furthermore, MSHA has grossly exaggerated the number of fatalities that could have been avoided if a workplace examination had been before work started for the day. This is the basis of the requirement in this rule. The only accident in 2017 that could have potentially been prevented by a workplace examination at the beginning of the day

was Metal/Nonmetal Fatality #4, where the haul truck backed within two feet of the stockpile edge causing the ground to fail under the truck. A workplace examination at the beginning of the day may have observed that there was no berm at the edge of the stockpile dump area. All the other fatalities in 2017 would not have benefited from a workplace examination at the beginning of the day. A further review of the fatalities and the practical result of a workplace examination of a work area before miners begin work would show that doing the workplace examination before miners begin work would not have prevented almost all the accidents.

Requirement to Promptly Notify Miners in Any Affected Areas

Graniterock supports the change that does not require the notification of miners of an adverse condition that is corrected before the miners enter the work area. The change of removing the requirement to document adverse conditions that are corrected would reduce the paperwork requirement for the competent persons who are documenting the workplace examinations.

Although MSHA noted in the final rule published on 1/23/2017 that the notification of miners of adverse conditions "could take any form that is effective" to include verbal notification, it is my experience that if you did not document it, it did not get done. The additional notification documentation that will be required to prove the notifications were made will be overly burdensome for the mine operator.

MSHA should reconsider the requirement to notify all affected miners of adverse conditions prior to entry into the area. To be effective, the only time notifications need to be required is when miners will be exposed to an imminent danger. Otherwise, miners will be overloaded with notifications and potentially tune out the notifications of the most serious hazard, an imminent danger.

Graniterock believes that the standard prior to the final rule that was published on January 23, 2017 was effective when a mine operator complied with the standard. The additional requirements of the final rule published on 1/23/17 and modified in this proposed rule will only add to the administrative burden of the mine operator. It will not make our mines any safer or healthier.

Sincerely,

GRANITE ROCK COMPANY



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