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November 13, 2017

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Sheila A. McConnell, Director
Office of Standards, Regulations, and Variances
U.S. Mine Safety and Health Administration (MSHA)
201 12th Street South, Suite 4E401
Arlington, Virginia 22202-5452

RE: RIN 1219-AB87 or Docket No. MSHA-2014-0030

Dear Director McConnell:

The Nevada Mining Association respectfully submits the following comments regarding the proposed changes to 30 CFR §56/57.18002, "Examination of Working Places." For over a century, the Nevada Mining Association (NvMA) has represented its members in federal, state, and local policy matters, public relations, workforce development, and community support. NvMA has a diverse, statewide membership of over 420 companies whose livelihood depends, all or in part, on a healthy mining industry in Nevada. The membership also includes the vast majority of mines currently in operation throughout the state. The health and safety of mining employees is the highest priority for NvMA member operators. Nevada's responsible mining operators are committed to continual improvement of health and safety controls and processes.

Following are NvMA's comments concerning the proposed amendments to 30 CFR §56/57.18002, "Examination of Working Places," as specified in 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):

A. Timing of Examinations

NvMA members agree that the workplace examination is an important tool in identifying and correcting hazards that may pose safety or health risk to our employees and in reducing accidents and injuries in the workplace. We also agree that the workplace examinations need to be performed in a meaningful manner to maximize their effect on workplace safety.

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NvMA members support the proposed change regarding the timing of the workplace examinations. The proposed change – “examination of the working place be conducted before work begins or as miners begin work in that place” – appears to provide operators with some flexibility. We are concerned, however, that it continues to unnecessarily constrain when operators can conduct their workplace examinations.

B. Documentation of Examinations

The proposed amendment to the Final Rule appears to offer operators some relief over the recordkeeping requirement contained in the initial version of the Final Rule. Many of the hazards found during a workplace examination can be immediately corrected while the examination is still underway. It is appropriate that these immediately corrected conditions should not be required to be included in the examination record.

NvMA suggests that any new recordkeeping provision should be addressed through a further amendment that specifies that conditions corrected during the shift in which the workplace examination occurred should not have to be recorded. The Final Rule requires that the examination record for a given shift must be made by the end of that shift. If conditions are corrected by the time the record is required, they should not have to be recorded. Such a change would align with the proposed amendment’s original intent, which is to encourage the timely correction of conditions.

NvMA further requests that, if any new recordkeeping provision is to take effect, operators should be afforded maximum flexibility in the recording of conditions and corrections, including the reuse of work orders and existing electronic databases for documentation. The degree to which any new rule would minimize burden and maximize benefit is largely dependent on the ability of operators to meet the new requirements with existing practices.

NvMA remains concerned, however, that any increased documentation requirement beyond what is currently required will lead to additional enforcement activity based solely on examination records. We request that MSHA ensures that additional enforcement will not result from any new Working Place Examinations standard and that examination records will not be used to assess personal penalties against individual miners under Section 110 of the Mine Act.

In conclusion, the proposed amendments to the Final Rule appear to provide a measure of appropriate relief from some of the challenges resulting from the initial version of the Final Rule. NvMA supports the proposed amendments to the Final Rule.

Thank you for the opportunity to provide comments on these proposed rule changes.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Dana R. Bennett', with a long horizontal flourish extending to the right.

Dana R. Bennett, Ph.D.
President
Nevada Mining Association

cc: Office of Information and Regulatory Affairs
Office of Management and Budget
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Washington, DC 20503
Attn: Desk Officer for MSHA
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