



ARIZONA MINING ASSOCIATION
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September 26, 2017

Ms. Sheila McConnell
MSHA, Office of Standards Regulations and Variances
201 12th Street South, Suite 4E401
Arlington, VA 22202-5452

Re: RIN 1219-AB87
Docket No. MSHA-2014-0030
Examination of Working Places in Metal and Nonmetal Mines – delay of effective date

Dear Ms. McConnell:

On behalf of Arizona Mining Association (AMA), we are writing to share our comments regarding the *Proposed Delay of the Effective Date for MSHA's Rule on Examinations of Working Places in Metal and Nonmetal Mines* (the "Proposed Rule"). 82 Fed. Reg. 42765. The Proposed Rule contemplates a five-month delay to the current effective date to March 2, 2018.

AMA is a diversified mining association whose members are dedicated to responsible, sustainable and safe mining in Arizona. The AMA's mission is to be the primary advocate of the Arizona mining industry through promoting sound public policy at all levels of government, educating the public about the benefits of mining, and supporting the sustainability of a safe and responsible mining industry. AMA and its members are emblematic of the important role that hard rock mining plays in the Arizona economy, as well as the economy of the nation as a whole. We share with MSHA the goal of making mining workplaces safer for the benefit of all miners, and for that reason we are compelled to share our concerns with MSHA regarding the Proposed Amendment.

We respectfully urge MSHA to reconsider the proposed March 2, 2018 effective date, and instead provide an effective date that is not an arbitrary calendar date, but rather is a time period (e.g. six months) after the *Limited Reopening of the Rulemaking Record* ("Reopened Rulemaking"), 82 Fed. Reg. 42757, has been promulgated as a final rule.

We request this change because we are concerned that the proposed delay does not increase the likelihood that MSHA and the metal/nonmetal industry will be ready for the new effective date. Rather, it is more likely that MSHA and industry will be in the same time constraint we faced with the previous October 2, 2017 effective date.

Obviously, the October 2, 2017 date had to be extended due to the Reopened Rulemaking. However, according to the Proposed Rule, additional time is necessary because "MSHA intends

to collaborate with and seek input from stakeholders.” MSHA already committed to produce compliance assistance materials, hold outreach sessions and do compliance assistance inspections. We struggle to understand what “collaboration” MSHA envisions could occur in the next five months based on the other commitments MSHA has made for the same five months. Simply put, there is not enough time for MSHA to complete all of these tasks in the same five months.

As we understand it, the public hearings for the Reopened Rulemaking will not begin until October 24, 2017. Stakeholder comments for the limited reopening of the rulemaking record are due November 13, 2017. MSHA must then analyze the testimony and written comments, prepare a summary of the submissions and draft responses. MSHA must also decide whether any additional changes are necessary to its original proposal. All of this must be completed before submitting the comments to the Federal Register Office for publication. Like most businesses, we assume that MSHA personnel are likely to take vacation between Thanksgiving and the New Year. Thus, it is hard to imagine that MSHA will be able to publish a new final rule before mid-January.

If the revised final rule for Examinations of Working Places (“Revised Final Rule”) is published in mid-January, that leaves approximately 45 days to distribute training materials, hold outreach sessions and conduct compliance assistance visits for about 12,000 mines. This timetable is unrealistic, and is a repetition of the challenge we faced in August 2017 before the Proposed Rule was published.

In order to have meaningful outreach and compliance assistance, a better solution would be to choose an effective date that is six months after the date on which the Revised Final Rule is published in the Federal Register.

Thank you for the opportunity to present our views.

Sincerely,

A handwritten signature in cursive script, appearing to read "Suzanne Kinney".

Suzanne Kinney
Interim Manager