



# The Fertilizer Institute

Nourish, Replenish, Grow

August 31, 2016

## **VIA WWW.REGULATIONS.GOV**

Mine Safety and Health Administration  
Office of Standards, Regulations, and Variances  
201 12<sup>th</sup> Street South, Suite 4E401  
Arlington, VA 22202  
<http://www.regulations.gov>

***RE: Comments on the Proposed “Examination of Working Places in Metal and Nonmetal Mines,” MSHA-2014-0030***

Dear Sir or Madam:

The Fertilizer Institute (TFI), on behalf of its member companies, submits these comments on the Mine Safety and Health Administration’s (MSHA or Administration) proposal “*Examination of Working Places in Metal and Nonmetal Mines*” (hereinafter “*2016 Mine Examination Revisions*”). The *2016 Mine Examination Revisions* were published in the *Federal Register* on June 8, 2016 and appear at 81 Fed. Reg. 36,818.

### **Statement of Interest**

TFI represents the nation’s fertilizer industry including producers, importers, retailers, wholesalers and companies that provide services to the fertilizer industry. TFI members provide nutrients that nourish the nation’s crops, helping to ensure a stable and reliable food supply. TFI’s full-time staff, based in Washington, D.C., serves its members through legislative, educational, technical, economic information and public communication programs.

All of TFI’s phosphate and potash mining members are subject to the *2016 Mine Examination Revisions* and will be subject to the rules requirements.

### **TFI Comments**

TFI offers the following comments on the *2016 Mine Examination Revisions*.

#### **I. TFI Requests Clarification in Final Rule Preamble Language Regarding the Requirements in 30 CFR 56.18002(a)**

The Administration has proposed requiring a competent person (designated by the mine operator) to examine working places before miners begin work for conditions affecting safety and health. TFI members are concerned that a pre-shift workplace exam would delay the start of the shift to provide time for the

exam to be completed and communicated, or would require personnel to arrive prior to the start of the shift to perform this exam. This would result in overtime pay and/or delay of work. TFI requests the Administration recognize in the *2016 Mine Examination* Final Rule Preamble Language that the following activities satisfy the requirement contained in 30 CFR 56.18002(a):

1. Outgoing shift personnel shall be authorized to prepare the pre-shift work place exam for the incoming crew;
2. Routine inspections and reporting of hazardous conditions are on-going activities part of standard operating procedures at phosphate and potash mines. This type of SOP would suffice as the inspection at shift changes; and
3. Some areas such as roads and remote inactive mining locations take an entire shift to complete an inspection (e.g. employees have found hazardous road conditions, reported them, marked them, and initiated a response during routine inspections.). For these types of conditions the Administration must recognize that site specific work conditions preclude personnel from doing inspections between shift changes.

## **II. TFI Requests Clarification in Final Rule Preamble Language Regarding the Requirements in 30 CFR 56.18002(a)(1)**

The Administration has proposed adding a requirement that if during an examination, adverse safety or health conditions are found then “prompt” action must be taken to notify miners and correct the hazardous conditions. TFI requests the Administration recognize in the *2016 Mine Examination* Final Rule Preamble Language that the following activities satisfy compliance with the “prompt” requirement contained in 30 CFR 56.18002(a)(1):

1. Recognize that physical warning communications (e.g., signage, barricades, etc.) put into place by or at the direction of the competent person will suffice as notification both to workers in the area as well as to those workers who may go outside of their assigned duty location. (e.g. this would be applicable when a road or berm is damaged/washed out and the equipment that must be scheduled to perform repairs is not immediately available, or to the tag out of equipment that cannot be operated until repairs are made);
2. Acknowledge that depending on the severity of the defect, notification of miners in affected areas could include many methods of verbal notification including radio broadcasts; and
3. The first step to prompt appropriate corrective action is the initiation of a work order. The competent person initiating the work order must have the flexibility to assess the degree of hazard, complexity, and the appropriate timing for corrective action.

### **III. TFI Requests Clarification in Final Rule Preamble Language Regarding the Requirements in 30 CFR 56.18002(b)(2)**

The Administration has proposed adding a provision that specifies the content of records required for each workplace examination. TFI requests the Administration recognize in the *2016 Mine Examination* Final Rule Preamble Language that the following activities satisfy the intent of the record contents requirement contained in 30 CFR 56.18002(b)(2):

1. Entry of a work order will satisfy the “description of the corrective action taken” required in 30 CFR 56.18002(b)(2)(i);
2. Electronic work orders will suffice as documentation of workplace examinations provided they contain all the required information such as the date corrective actions are completed, name of person completing the corrective action, and/or electronic signatures.

#### **Conclusion**

TFI appreciates MSHA’s consideration of these comments on the *2016 Mine Examination Revisions*. Please contact me by telephone at (202) 515-2714 or via e-mail at [ethomas@tfi.org](mailto:ethomas@tfi.org) if you would like to further discuss our comments.

Sincerely,



Ed Thomas  
Director, Regulatory Affairs