



MSHA Office of Standards
201 12th Street, South, Suite 4E401
Arlington, VA 22202

September 22, 2016

Re: RIN 1219-AB87
Docket No. MSHA-2014-0030

To whom it may concern.

The following comments pertain to MSHA's proposed changes to Workplace Exams. As Director of the Colorado Stone, Sand & Gravel Association, representing the construction aggregate mines throughout Colorado, I submit the following comments regarding the proposed ruling.

The workplace exams proposal is unwarranted. Not only has the industry's injury rate continued to fall for 15 consecutive years, but the agency has failed to provide any information supporting the idea that the current conduct of workplace exams – in compliance with the current standard – is not satisfactory.

The proposal misses the mark on the biggest single cause of injuries, behavior. While the proposal is focused on workplace conditions, virtually all safety professionals agree that the overwhelming majority of accidents are functions of behavior.

The provision calling for exams to be conducted before the beginning of the shift is ill-advised. Operators know best when exams should be conducted. Further, this risks creating the misimpression that all hazards only are apparent before a shift begins.

The call to notify all employees of hazards found is poorly conceived. As a practical matter, all affected employees are already made aware.

The call to document hazards and fixes would lead to bureaucratization of the process of managing for safety. Documentation of hazards doesn't necessarily illustrate the precise cause of a hazard or volatile condition. Yet, an inspector – perhaps seeing evidence of a particular volatile condition that had occurred months earlier – might misunderstand the varying causes of the documented violation. More paperwork cannot help operators do a better job of managing for safety.

In response to the question of whether MSHA should require in the rule minimum experience, ability or knowledge level to be a competent person, the answer is no. The operator knows far better than MSHA who on company staff is competent.

In response to the question of the anticipated impact on small operators, small operators are the least likely to have the resources necessary for complying with this proposal.

Respectfully,

Todd R. Ohlheiser
CSSGA Executive Director