

MSHA Proposes Rule On Workplace Examinations At U.S. Metal and Nonmetal Mines

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The Department of Labor's Mine Safety and Health Administration (MSHA) recently proposed a rule changing its standards for metal and nonmetal workplace examinations. Under the Federal Mine Safety and Health Act of 1977, mine operators must take actions to prevent conditions and practices that could cause injuries, illnesses, and death. Believing that the mining industry needs to improve mine site examinations to help identify and fix hazards, the proposed rule would require:

- a competent person to examine the working place before miners begin work in that location;
- mine operators to promptly notify miners of any conditions that may adversely affect their safety or health;
- a competent person to sign and date the examination record before the end of each shift, with the examination record including a description of locations examined, conditions found and corrective actions taken; and
- records to be made available for inspection by MSHA and miners' representatives, with operators required to provide a copy of the records upon request.

Seeking To Eliminate Preventable Deaths

According to MSHA, 122 miners died at metal and nonmetal mines from January 2010 through mid-December 2015. The majority of those deaths, some 60 percent, were linked to violations of "Rules to Live By" standards, which are known to most frequently cause mining deaths.

"We believe that many of these fatalities could have been prevented with better working place examinations," said Joseph A. Main, assistant secretary of labor for mine safety and health. See MSHA's full press release. "MSHA has proactively provided notices to the mining industry on the need to improve mine site examinations, but now the time has come to require better, more effective examinations."

Changes Would Enhance Existing Working Place Exams

MSHA has existing standards for working place examinations at 30 CFR 56.18002 and 30 CFR 57.18002, but MSHA believes that those standards require the enhancements articulated in the proposed rule to minimize the risk of preventable deaths. For example, under the current standards, a working place examination may be conducted at any time during the shift,

rather than before the shift begins. MSHA also believes that the existing standards do not require mine operators to promptly notify minors of adverse conditions, do not address what must be included in the records of workplace examinations, and do not require mine operators to make its examination records available to miners' representatives.

Next Steps

MSHA has scheduled four public hearings on its proposed rule: July 19 in Salt Lake City, Utah; July 21 in Pittsburgh, Pennsylvania; July 26 in Arlington, Virginia; and Aug. 4 in Birmingham, Alabama. Interested parties also may submit comments to MSHA by September 6, 2016. After the comment period closes, MSHA will review the public input and decide whether to make any changes prior to issuing its final rule in the months that follow.

If you have any questions about MSHA's proposed rule, please contact the Matt Linton at 303-295-8414 or mmlinton@hollandhart.com.

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