



December 3, 2018

Sheila A. McConnell
Director, Office of Standards, Regulations, and Variances
Mine Safety and Health Administration
201 12th Street South, Suite 401
Arlington, Virginia 22202-5452

RE: Request to Revise the 30 CFR Part 100 Safety and Health Citation / Order Conferencing Procedures

Filed via Email: zzMSHA-OSRVRegulatoryReform@dol.gov

Dear Ms. McConnell:

The Commonwealth of Kentucky is one of the leading coal-producing states in the nation, and the Kentucky Coal Association (“KCA”) has a strong interest in addressing the complex issues that face the nation’s coal industry. Please allow this letter to serve as a pragmatic exchange of ideas and concerns held by our stakeholders.

On February 24, 2017, President Donald Trump signed Executive Order 13777, entitled “Enforcing the Regulatory Reform Agenda”, directing each agency to review existing regulations to assess compliance costs and reduce regulatory burden. Since that time, the Mine Safety and Health Administration (“MSHA”) requested stakeholders’ assistance in identifying those regulations that could be repealed, replaced, or modified without adversely affecting miners’ safety and health. Pursuant to the Executive Order and MSHA’s request, the KCA respectfully recommends MSHA revise the 30 Code of Federal Regulations (“CFR”), Part 100, Safety and Health Citation / Order Conferencing Procedures to remove the District Manager as the final decision maker.

The District Manager has ultimate responsibility for enforcing the provisions of the Mine Act in his or her district. As currently structured, the Conference Litigation Representatives (“CLRs”) in each district work directly for the District Manager. However, their function is much different than the enforcement-driven mandate of the District Managers. CLRs should serve a more objective, fact-driven role consistent with the intent of the 30 CFR in providing operators an

objective review of a citation prior to its assessment. Unfortunately, based upon feedback from the member Companies of the KCA, that is not the case.

Under the current management structure, the CLR's ability to exercise their independent judgment is hindered. The safety and health conferencing process should be transparent and provide the mine operator the opportunity to provide additional information which may not have been properly considered during the issuance of the citation or order. Most importantly, the process should provide an independent review of the issuing inspector's decision.

With the CLR's being directly supervised by the District Manager, the current process does not allow for a fair, balanced, and unbiased decision. It is our recommendation that the effectiveness and objectivity of the conference process would be better served by CLR's reporting to a program area outside the district office, such as the Office of Accountability or the Solicitor's Office. Not only would this create more faith among operators in the conferencing process, but it would also provide better communication and improved consistency of enforcement between CLR's in different districts.

We welcome the opportunity to hold a constructive dialogue with you and the agency to advance the industry's commitment to the safety and health of the nation's miners. Please do not hesitate to contact me with any questions or concerns you may have.

Sincerely,



J. Tyler White
President, Kentucky Coal Association