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December 20, 2018

Ms. Sheila McConnell, Director
Office of Standards, Regulations, and Variances
U.S. Department of Labor
Mine Safety and Health Administration
201 12th Street South, Suite 401
Arlington, VA. 22202-5452

Re: Request to Revise 30 CFR 100 Safety and
Health Citation/Order Conferencing
Procedures

Sent via Regulatory Reform Portal

Dear Ms. McConnell;

The Indiana Coal Council (ICC) is the trade association for the coal industry in the state of Indiana. Members of the ICC include all currently producing companies, large reserve holding companies, and approximately 85 companies providing goods and services to the industry.

On February 24, 2017, President Donald Trump signed Executive Order 13777, Enforcing the Regulatory Reform Agenda. This order directs that agencies review existing regulations to assess compliance costs and reduce regulatory burden. Since that time, the Mine Safety and Health Administration (MSHA) requested stakeholder assistance in identifying those regulations that could be repealed, replaced, or modified without adversely affecting miner safety and health. Consistent with this request, the ICC requests MSHA revise the 30 CFR 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 (CLR) in each district work directly for the District Manager. However, their function is much different than the enforcement driven mandate of District Managers. A CLR should serve a more objective, fact driven role consistent with the intent of 30 CFR in providing operators an objective review of a citation prior to its assessment. Unfortunately, based upon feedback from member companies of the ICC, that is not the case.

Under the current management structure, the ability of the CLR 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 that may not have been properly considered during issuance of the citation or order. Most

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importantly, the process should provide an independent review of the issuing inspector's decision.

A CLR being directly supervised by the District Manger makes for a process that does not allow for a fair, balanced, and unbiased decision. It is our recommendation the effectiveness and objectivity of the conference process would be better served by the CLR 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 in different districts.

Thank you for the opportunity to comment on this important matter and we look forward to constructive dialogue with you and the agency to advance the industry's commitment to the safety and health of the nation's miners. Please feel free to contact me with any questions.

Respectfully,

A handwritten signature in cursive script that reads "Bruce A. Stevens".

Bruce A. Stevens
President