

July 31, 2025

James P. McHugh
Deputy Assistant Secretary for Policy,
Mine Safety and Health Administration
200 Constitution Ave. NW
Washington, DC 20210
Via regulations.gov

RE: Drilling, Docket No. MSHA-2025-0082

Dear Deputy Assistant Secretary McHugh:

The National Employment Law Project (NELP) and former OSHA Administrator Doug Parker submit these comments on the Mine Safety and Health Administration's Proposed Rule rescinding requirements to provide for safety and inspection of drill equipment and drilling areas. NELP has for more than 55 years led the fight for a good-jobs economy, and worksite health and safety is a key cornerstone of any good job. Mr. Parker has served as Assistant Secretary of Labor for the Occupational Safety and Health Administration, Chief of Cal/OSHA, and in several roles at MSHA, including Deputy Assistant Secretary for Policy.

When MSHA removes or amends an existing health or safety standard it may not do so in a way that reduces protections to miners afforded by standards currently in place. Section 101(9) of the Mine Act states plainly that "No mandatory health or safety standard promulgated under this title shall reduce the protection afforded miners by an existing mandatory health or safety standard." 30 U.S.C. Sec. 811(9). The changes MSHA proposes in this rulemaking, by their plain language, violate this legal requirement, reduce the safety factor for drilling operations by opening up the possibility of drilling equipment being permitted to operate with a safety defect, and reduce inspection requirements of drilling areas in dynamic mining conditions.

In this rulemaking effort, MSHA has proposed removal of 30 CFR 56.7002 and 30 CFR 56.7003. Section 56.7002 requires mine operators to correct any safety related equipment defects on drilling equipment before use. Section 56.7003 requires inspection of a drilling area before drilling occurs. These protections ensure miners and others in the area are not injured due to a safety defect on the drilling equipment or a condition in the drilling area that could lead to injury, for example a condition that would lead to ground failure.

MSHA asserts that these provisions are duplicative of the more general requirements of 30 CFR 56.14100 ("Safety defects; examination, correction and records") and 30 CFR 56.18002 ("Examination of Working Places"). With respect to Section 56.7002, a comparison of the language MSHA proposes to remove with the language it asserts is duplicative illustrates that MSHA is incorrect, and its proposal reduces miner safety.

Section 56.7002 states that with respect to drilling equipment, “[e]quipment defects affecting safety shall be corrected before the equipment is used.” It is a clear and unambiguous requirement to correct safety-related defects before they harm miners and requires application of a safety margin grounded in good safety and health practices.

In contrast, Section 56.14100(b) states in relevant part that “[d]efects on any equipment, machinery, and tools that affect safety shall be corrected in a timely manner to prevent the creation of a hazard to persons.”

The section goes on to state that:

When defects make continued operation hazardous to persons, the defective items including self-propelled mobile equipment shall be taken out of service and placed in a designated area posted for that purpose, or a tag or other effective method of marking the defective items shall be used to prohibit further use until the defects are corrected.

30 CFR Sec. 56.14100(c).

Unlike Section 14100, Section 7002 requires drilling equipment with a defect affecting safety to be taken out of use immediately. It is not dependent upon the mine operator determining there is a current hazard to prompt a mine operator to correct the defect - in effect a hazard or latent hazard not yet manifested into a harmful condition, but a hazard nonetheless - before further use, or scheduling “timely” maintenance while a drill with a safety defect remains in operation.

While responsible operators will likely take drills with safety related defects out of service, that is not a reason for MSHA to surrender authority to ensure it happens, needlessly reduce protections and create a potential legal loophole that would reduce the deterrent effect of the Mine Act against less responsible operators.

Section 7002 provides an additional safety margin to ensure a mine operator examines, maintains and corrects before use any defects affecting safety in drilling equipment that is not present in Section 14100. This increased precaution reduces the likelihood of human error in evaluating when a defect affecting safety can manifest into a hazardous condition, providing greater protections for miners than Section 56.14100.

MSHA’s mere assertion that the requirements of Section 56.7002 and 56.14100 are the same is plainly incorrect based on the language of the two standards. Nor is it entitled to meaningful deference under current jurisprudence. Moreover, MSHA’s proposed rule contains no data, studies or other information supporting its assertion that this change does not reduce miner safety. Nor does it explain why it has preliminarily determined the provisions at issue are redundant, raising significant notice issues under the APA.

For the reasons provided, MSHA should conclude that its proposal to eliminate 30 CFR 56.7002 diminishes safety and withdraw the proposal. Alternatively, if the agency proceeds with the elimination of 30 CFR 56.7002 it should amend Section 56.14.100(b) to clarify that in the case of drilling equipment, timely correction of a safety defect means correction prior to use.