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Via [regulations.gov](https://www.regulations.gov)

RE: Aerial Tramways, Docket No. MSHA-2025-0081

The National Employment Law Project (NELP) and former OSHA Administrator and MSHA Deputy Administrator Douglas L. Parker submit these comments on the Mine Safety and Health Administration's (MSHA) Proposed Rule rescinding requirements to provide for safety inspections and repairs of safety defects on aerial tramway systems in Metal and Nonmetal mines. 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.

In this rulemaking effort, MSHA has proposed removal of 30 CFR 56.10002 and 30 CFR 56.10003. Section 56.10002 requires inspection and maintenance of aerial tramways by a competent person, including carriers, ropes, supports and brakes in accordance with manufacturer recommendations, while Section 56.10003 requires any hazardous defects be corrected before the equipment is used.

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"). Section 56.14100 requires inspection of self-propelled mobile equipment by the operator prior to being placed in operation. It does not contain inspection or examination requirements for other equipment, though it does require other types of equipment and tools be repaired in a timely manner if they have a defect affecting safety, and

removed from service if those defects are hazardous to persons. 30 CFR Sec. 14100(b), (c). Section 56.18002 requires a “competent person” to examine each “working place” in the mine at least once each shift before miners work in that place for adverse conditions that may affect safety or health.

It is unclear how or why MSHA thinks these provisions are duplicative, since the proposed rule contains no substantive discussion or analysis. It is left to the commenter to determine this, which raises significant issues under the notice requirements of the APA.

The lack of discussion and analysis makes it unclear if MSHA is asserting that an aerial tramway is “self-propelled mobile equipment” covered by the inspection requirements of 56.14100. Part 56 defines mobile equipment as “wheeled, skid-mounted, track mounted, or rail mounted equipment capable of moving or being moved.” 30 CFR Sec. 56.2. Cable-mounted or driven equipment is not listed. MSHA would have to establish before the courts that Section 56.14100 requirements for self-propelled mobile equipment apply to an aerial tramway, even when the motor is at the bottom of the tramway. Without establishing that aerial tramways are self-propelled mobile equipment, the inspection requirements of Section 56.14100 do not apply, the standard is not duplicative of 30 CFR 56.10002 and 30 CFR 56.10003, and the result is less protection for miners.

Even if Section 56.14100 did apply, it is not an adequate substitute for the requirements of Section 56.10002 because it does not ensure that the examination of the aerial tramway is conducted by someone who is qualified. An equipment operator is not required to be a “competent person” for purposes of an inspection or examination under Section 56.14100. Substituting that section for Section 56.10002 would eliminate the requirement that inspection of an aerial tramway be conducted by a competent person. This reduction in protections violates the Mine Act and is not permitted. 30 U.S.C. Sec. 811(9).

The proposal also reduces protections for miners because, unlike current requirements in Section 56.10003 that aerial tramways safety issues be corrected prior to use, Section 56.14100 only requires that safety defects be corrected in a timely way, allowing operators to interpret the standard to permit use despite a safety issue. Given the tragic consequences and loss of life associated with defective aerial tramways, removal of this important safety factor would clearly lower protections for miners.

With respect to MSHA’s assertion that Section 56.18002 is duplicative of Section 56.10002, there is again a threshold question of whether Section 56.18002 even applies to aerial tramways. Section 56.18002 applies to “working places.” It is unclear - and MSHA has not established or even discussed the issue - whether every tramway in service and its components are in a “working place” that would trigger an examination requirement of the tramway and all equipment, ropes etc.

More generally, and perhaps most importantly, elimination of Section 56.10002, which contemplates periodic in-depth inspections of the aerial tramway systems in accordance with

manufacturer recommendations, will not be duplicated in daily pre-shift examinations under Section 56.18002. It is not realistic to think that a mine operator is going to inspect ropes and cables, hydraulic systems, filters, wheels, lubrication, etc. on each shift. Some aspects of this type of inspection require the tramway to be taken out of service, something that is not reasonable to expect with such frequency. Requiring such inspections on each shift makes no sense and no mine operator would do it. Which raises the question, when would those needed in-depth inspections happen?

Unfortunately, the answer is that if Section 56.10002 is eliminated, it is unclear whether there would even be an MSHA requirement for periodic in-depth inspections of aerial tramways and their component parts in accordance with manufacturer recommendations. This is an unacceptable and dangerous result, and an example of how vague requirements can introduce a lack of accountability and complacency into a process, leading to a tragic outcome. For that reason and the other reasons provided, this rulemaking should be withdrawn. Alternatively, the complete requirements of Sections 56.10002 and 10003 should be incorporated into other sections of Part 56.