

U.S. Department of Labor

Mine Safety and Health Administration
201 12th Street South
Arlington, Virginia 22202-5452



FEB - 8 2017

Mr. Brian Hendrix
Partner
Husch Backwell
750 17th Street NW, Suite 900
Washington, DC 20006-4675

Dear Mr. Hendrix:

Thank you for your January 24, 2017, letter on behalf of the Mining Coalition regarding the Mine Safety and Health Administration's (MSHA) "Examinations of Working Places in Metal and Nonmetal Mines" Final Rule, published January 23, 2017, (Exam Rule or Rule). I have been asked to reply on behalf of the Department. In the letter the Mining Coalition requests that the Department of Labor withdraw the Exam Rule citing the White House Chief of Staff Memorandum of January 20, 2017 (COS Memorandum), 82 Fed. Reg. 7689 (Jan. 23, 2017).

The COS Memorandum provided guidance to agencies on managing the regulatory process. The MSHA Exam Rule was on public display at the *Federal Register* (OFR) on January 17, 2017, with a scheduled publication date of January 23, 2017. Pursuant to the COS Memorandum, agencies were asked to withdraw regulations that had been submitted to OFR but not yet published, provided that such withdrawal was consistent with OFR procedures. Given that the Rule was on public display with a scheduled publication date of January 23, 2017, OFR procedures precluded its withdrawal.

While the Exam Rule was published on January 23, 2017, its effective date is May 23, 2017, beyond the 60-day extension period directed by the COS Memorandum. Therefore, MSHA has sufficient time to "review questions of fact, law and policy that may be raised by the rule," as contemplated by the COS Memorandum.

If you have additional questions, please feel free to contact me at 202-693-9414.

Sincerely,

A handwritten signature in cursive script that reads "Patricia W. Silvey".

Patricia W. Silvey
Deputy Assistant Secretary for
Mine Safety and Health Administration

cc: Henry Chajet
Robert Horn

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