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MSHA/OSRV

Alabama Coal Association

October 23, 2006

Mine Safety and Health Administration
Office of Standards, Variance, and Regulations
1100 Wilson Boulevard
Room 2350
Arlington, VA 22209-3939

Re: RIN 1219-AB51
Criteria and Procedures for Proposed Assessment of Civil Penalties

Dear Sir or Madam:

The Alabama Coal Association (ACA) appreciates the opportunity to submit comments in response to the Notice of Proposed Rulemaking (NPR) issued by the Mine Safety and Health Administration (MSHA) on September 8, 2006 (71 FR 53054).

The ACA membership shares a common commitment to operate safe and healthy mines and facilities. Our workforce is our most valuable asset and we are well-served by assuring that every one of them returns home to their families at the end of each working day. If mines are not safe they cannot be productive. Safety is the one goal that the ACA members, the workforce, labor representatives, the State of Alabama Safety Inspectors, and MSHA have in common.

Keeping the workforce safe, not civil penalties, provide the inducement for operators being proactive and taking measures to prevent safety and health hazards. The mining industry's safety record bears this out. Between 1990 and 2005, both injuries and fatalities have steadily declined. This progress has all occurred under the existing civil penalty framework. MSHA offers no analysis that demonstrates that the proposed changes would result in fewer injuries or fatalities as compared to the existing framework. Rather, the proposed changes introduce more subjectivity into the process which, in turn, will lead to more inconsistency in the assessment of penalties. Such a result, we submit, does not serve our workforce well.

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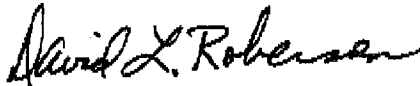
Mine Safety & Health Administration
October 23, 2006
Page 2

Congress recently addressed civil penalties when it amended the Mine Act through the Mine Improvement and New Emergency Response (MINER) Act of 2006. Pub. L. 109-236, 120 Stat. 493 (June 15, 2006). The MINER Act increased the minimum penalties for certain violations and added new penalties for flagrant violations. MINER Act § 8, 120 Stat. 500-501. Congress has spoken. We would all be well served if MSHA abided by Congress' directive. Toward that end, we request that MSHA abandon all aspects of this proposal that are not required by the MINER Act and proceed to implement the MINER Act civil penalty provisions as directed by Congress in a rulemaking that meets the December 30, 2006 deadline established in section 8(b) of the Act, 120 Stat. 501.

The ACA would like to go on record as being in support of the comments to be provided by the National Mining Association (NMA). NMA staff has spent considerable time developing comments for the industry, after working with their membership for input on the proposed rules.

Once again, we appreciate the opportunity given us to comment and we would encourage MSHA to reconsider the wholesale changes it proposes to the Civil Penalties rules.

Sincerely,



David L. Roberson
Executive Director

C: ACA Board of Directors
ACA Safety Committee
National Mining Association