



Tri-State MSHA Meeting is a Success

Insights

8.25.13

After a more contentious meeting during the Congressional Field Hearing, MSHA agreed to meet with the mining industry in a less formal setting to discuss ideas to build a better partnership between the Agency and the industry. On Thursday, August 22, 2013, members of the North Carolina Aggregates Association (NCAA), Mining Association of South Carolina (MASC), and Virginia Transportation Construction Alliance (VTCA) met with Marvin Lichtenfels, Acting Administrator for Metal/Non-Metal, Sam Pierce, Acting District Manager for SE District (until September), and Doniece Schlick, Acting District Manager for SE District (beginning in September). There were many great ideas proposed at the meeting, some of which MSHA has agreed to consider and/or implement in the near future.

After a welcome from NCAA President Steve Bruce (Martin Marietta) setting the tone for a productive meeting, Roland Massey (Wake Stone Corp.) was the first industry representative to present. Roland crafted a great presentation regarding "Education Supporting Enforcement," where he discussed many of the positive improvements MSHA has made regarding training and education, including providing the industry with the same training provided to inspectors. Roland also discussed the importance of training to the mining community, noting that MSHA frequently cites lack of training as a primary cause of accidents, injuries, and fatalities. Roland's suggestions for improvement in this area included re-funding the state grants program, which provides essential training to small and medium operators and contractors throughout the SE District and around the country. Roland also discussed confusion related to recent MSHA policy initiatives, including how MSHA will enforce its recent [Program Policy Letter](#) regarding safety belts and lines--which appears to adopt the OSHA standard, but leaves room for MSHA to cite operators even under 6 feet (MSHA responded by stating that it would typically cite under 6 feet only where there is hazard below, for example something sharp that could cause serious cuts).

Bryan Moore (Vulcan Materials Company) discussed "Conferences, Contestments, & Simplified Proceedings" next, highlighting the benefits of the simplified proceedings procedures for operators contesting more routine citations. Bryan provided helpful tips to the industry, including making sure you are prepared to discuss citations at the close-out conference with the inspector. Bryan also noted some areas of potential improvement, including having inspectors provide citations shortly after they are written, rather than waiting until the close-out conference, so that operators can be prepared to discuss. Additionally, Bryan recommended that the SE District implement a more

objective system for conferencing and contestments, which may include a panel of MSHA, industry, and legal advisors.

Abel Parker's (Luck Stone) presentation discussed "Consistency and Interpretation in Enforcement." Abel noted that consistency in enforcement is not a new issue, pointing out that cases from 20 years ago discuss operator frustration with inconsistent enforcement. One of Abel's recommendations was that MSHA better communicate the reasons for modifications and vacations, so that industry will have more guidance regarding MSHA's enforcement position. MSHA responded by stating that in many cases it would be difficult to publicize this information because citations are vacated or modified for a variety of reasons and it may cause confusion regarding MSHA's enforcement position.

Finally, Ron Slaton (U.S. Silica) reviewed "The Effectiveness of Citations on Accident & Injury Prevention." Ron's presentation included many helpful statistics that highlight the fact that increased enforcement does not necessarily lead to decreased accidents and injuries. Ron used citation and accident/injury data provided by MSHA as part of its Open Government initiative. The data provided by MSHA, in many cases, demonstrates that certain hazards (e.g., electrical hazards), do not typically result in the serious injuries that MSHA often alleges in its citations. In many cases, the most common injury is no lost workdays, or restricted duty, but operators are often faced with citations alleging that injury in the event of an accident would be fatal.

After a lunch break, Marvin Lichtenfels and Sam Pierece opened their presentation by noting their appreciation for the level of involvement in the SE District (the room was full) and Marvin stated his belief that it is "discussion that prompts change." Marvin discussed the many areas where MSHA has improved over the past several years, including providing more updated training to inspectors, providing guidance to the mining community, and overall being more transparent. Marvin did admit that there were areas that MSHA could still improve, including better use of technology to communicate with the industry. Sam Pierce also responded to industry concern that inspectors were required to meet a quota, stating that inspectors are trained that they are expected to issue citations where they are observed, but are not required to "find citations" where none exist. He committed to reviewing this policy with field offices in Virginia, North Carolina, and South Carolina.

Mike Jones (Martin Marietta) asked what I believe was the best question of the day (substantially better than mine)--what can the industry do better? Mike pointed out that if the industry expects MSHA to be a better partner, the industry should also strive to do its part to build a better partnership. Marvin asked the industry to discuss concerns with inspectors during the inspection and the close-out conference, noting that in a majority of cases the inspector indicates in his notes that the operator made "no comments" during the close-out, or did not participate in the inspection. Marvin also stated that he would think about other suggestions for improvement and provide a written response at a later date.

Overall, I believe the meeting was a great success as it allowed the industry to discuss the highs and lows in the SE District, provided an opportunity for MSHA to respond, and hopefully moved everyone toward the common goal of miner safety. If nothing else, the number of people at the meeting should demonstrate that the industry is committed to miner safety.