

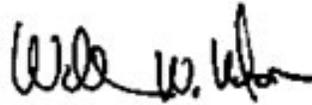
ISSUE DATE:

PROGRAM INFORMATION BULLETIN NO. P09-05

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for

SUBJECT: Part 100 Safety and Health Conference Procedures

**Scope**

This Program Information Bulletin (PIB) applies to mine operators; miners and miners' representatives; independent contractors; Mine Safety and Health Administration (MSHA) District Managers, Assistant District Managers, and Conference and Litigation Representatives (CLRs); and other interested parties.

**Purpose**

The purpose of this PIB is to inform mine operators and independent contractors of the discretion of District Managers and CLRs to defer safety and health conferences, under 30 C.F.R. § 100.6, until after civil penalties have been proposed and timely contested.

**Information**

Requests for safety and health conferences under 30 C.F.R. § 100.6 must be in writing and must include a brief statement of the reason why each citation or order should be conferenced. Failure to provide the brief written statement is a basis for denying a conference request.

A request for a safety and health conference will be granted at the discretion of the District Manager or his or her designee.

If granted, the conference will be scheduled in most cases after the civil penalties have been proposed and MSHA has received a timely notice of contest.

Thereafter, the CLR assigned to the matter will notify operators and miners' representatives, if applicable, of the date, time, and location of the conference to discuss all contested violations and their associated penalties. Failure to timely contest the proposed penalties generally will result in the conference being cancelled.

Operator participation in a conference does not waive any rights to a hearing before the Federal Mine Safety and Health Review Commission (Commission). However, deferred conferences will provide an opportunity to have more meaningful discussions and to resolve contested violations and their associated civil penalties at the same time.

In order to allow sufficient time for the conference process and to save operators the burden and expense of filing an answer, the CLR will file a letter with the Commission requesting a 90-day extension of time from the original due date for filing a petition for the assessment of the civil penalty in this case. If a settlement is reached as a result of this conference, the CLR will file a *Petition for Assessment of Civil Penalty* and a *Motion for Decision and Order Approving Settlement* with the Commission.

The benefit of this new conference procedure is a savings to operators and MSHA of time and expense without engaging in litigation. With this in mind, operators should carefully consider the violations to be discussed in order to narrow the scope of the conference and facilitate a more meaningful and efficient conference.

### **Background**

The contest rate has increased substantially since the implementation of the Mine Improvement and New Emergency Response Act of 2006 (MINER Act) and revisions to 30 CFR part 100. District Managers and their designees have authority to defer settlement conferences to more efficiently resolve as many issues and as many cases as possible without the need for a hearing before the Commission.

### **Authority**

The Federal Mine Safety and Health Act of 1977, as amended, 30 U.S.C. § 801 et seq.; and 30 CFR part 100.

### **Internet Availability**

This PIB may be viewed on the Internet by accessing MSHA's home page at [www.msha.gov](http://www.msha.gov) then choosing "Compliance Info" and then "Program Information Bulletins."

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**Distribution**

MSHA Program Policy Manual Holders  
Underground and Surface Mine Operators  
Independent Contractors