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FROM: KEVIN G. STRICKLIN 
Administrator for
Coal Mine Safety and Health

NEAL H. MERRIFIELD 
Acting Administrator for
Metal and Nonmetal Mine Safety and Health

JEFFREY A. DUNCAN 
Director of Educational Policy and Development

LINDA F. ZEILER 
Acting Director of Technical Support

SUBJECT: Use of Digital Cameras and the Storage and Preservation of Digital
Images

Scope

This Procedure Instruction Letter (PIL) is intended for Mine Safety and Health Administration (MSHA) personnel who conduct inspections or investigations and maintain inspection or investigation documentation.

Purpose

This PIL provides guidance and instructions to MSHA personnel who use digital cameras during their inspections or investigations and maintain digital images, including photographs and videos, taken during inspections or investigations as part of their documentation.

Procedure Instructions

Authorizing the Use of Digital Cameras -- In addition to other forms of documentation, digital images of violations and accident scenes are of great assistance in documenting violations or other conditions during an inspection or investigation.

Digital images and/or videos can significantly contribute to resolving differences of opinion between mine operators and MSHA personnel. The digital images and/or videos should accurately and effectively depict conditions or objects present during the investigation or inspection and subsequent abatement. This information can be invaluable during informal discussions and safety and health conferences. Such images may also expedite judicial proceedings by providing a pictorial illustration of a violation and its abatement/termination or an accident scene.

Accordingly, the use of digital cameras is encouraged, and cameras should be used whenever practical subject to the following restrictions:

1. Underground coal mines and gassy underground metal and nonmetal mines where permissible equipment is required. *Only cameras approved by MSHA's Approval and Certification Center (A&CC), when available, shall be used. Until then, the use of cameras inby the last open crosscut, in return entries, or in bleeder entries is prohibited unless approved by the District Manager.*
2. Gilsonite mines. *The use of cameras is prohibited.*
3. Explosives storage magazines, loaded explosives vehicles, and explosives loading areas. *The use of cameras is prohibited within 25 feet.*

Note – This prohibition does not include facilities, magazines, or vehicles storing Ammonium Nitrate Fuel Oil (ANFO).

4. Flammable material storage or use areas and areas of coal handling facilities which are Class I or Class II Hazardous Locations (explosive dusts or gasses) as outlined in the National Electrical Code. *The use of cameras is prohibited.*

Taking Digital Photographs and Images -- Digital photographs must clearly and accurately depict the nature of the violation or condition. Where appropriate, photographs of abatement or termination measures should also be taken. Before photographs are taken, ensure that the camera is set to the correct date and time. If the camera has audio capability, it should be turned off so that voices are not recorded, unless all persons are explicitly notified that their statements are being recorded.

To be most effective, a violation or condition should be captured with both an "up close" shot and a distance shot to provide perspective and points of view. The photograph should depict a miner's potential for exposure to the hazard or violation of the standard. When possible, an object with known dimensions should be included to provide scale. As a rule of thumb, no more than two or three good photographs are necessary to illustrate a violation and its resolution. Too many photographs can become an administrative burden.

When taking a video recording, begin at a distance and “zoom in” to provide greater detail of particular features. When panning an area, move the camera slowly enough to permit viewers to observe relevant details and attempt to minimize camera movement. Additional digital memory cards may be needed to assure sufficient storage capacity if both videos and photographs are taken.

If others in the inspection/investigation party are taking photographs, the identity of the individual and his/her affiliation should be recorded in the inspection/investigation notes.

At no time should MSHA personnel put themselves or others at risk or ask miners to re-enact practices in order to obtain photographs. MSHA personnel should not photograph conditions that pose an imminent danger before taking actions necessary to prevent miners from being exposed to the hazard.

Preserving Digital Photographs and Images -- Photographs that depict a violation or document another condition relevant to the inspection or investigation must be retained. If an image supports any aspect of an issuance, it must be retained, even if it does not independently document the condition or violation (e.g., an image that depicts conditions that affect the “gravity” associated with the issuance must be retained, even if the image does not itself depict the illegal condition upon which the issuance is based).

Digital images may be deleted if they do not document violations or conditions relevant to the inspection or investigation. Likewise, a poor quality digital image may be deleted after another photograph that better depicts the violation or condition is taken. Similarly, redundant digital images may be deleted as long as an image that fully and effectively documents a violation or condition has been maintained.

Digital images should be saved to a CD or DVD in the same file format (normally JPEG with moderate compression) and at the same resolution as they were originally captured by the camera. Once the digital images are effectively and reliably stored on a CD or DVD, the images may be deleted from the camera’s digital memory card. Original digital images should not be modified or edited. Even when photographs are produced, the digital images should be stored on a CD or DVD and the CD or DVD must be maintained in the mine inspection/ investigation file or as part of the inspection report.

Inspectors may be called to testify to the chain of custody when the pictures are introduced during a hearing. Therefore, for each digital image, the inspection/investigation notes or the Photo Mounting Worksheet (MSHA Form 4000-125) should document: (a) the person who took the photograph when more than one

inspector/investigator was involved in the inspection/investigation; (b) the date and time the photograph was taken; (c) the location of the condition or object; and (d) a brief description of image(s) captured. All enforcement actions, inspector notes, and digital images associated with an inspection or an investigation should be provided to the Office of the Solicitor or a Conference and Litigation Representative (CLR) once a matter has been referred to the Federal Mine Safety and Health Review Commission or any other judicial body.

Background

MSHA policies concerning the use of cameras traditionally have been developed by individual MSHA District Offices or incorporated into PILs that generally address the collection and preservation of information during an inspection or an investigation. However, as the cost of cameras has decreased and digital photography permits images to be more easily and effectively captured and stored, MSHA recognizes the importance of guidance and instruction specific to the use of digital cameras and to the storage/preservation of digital images.

Authority

Sections 103(a) and 110(h) of the Federal Mine Safety and Health Act of 1977, as amended, 30 U.S.C. § 876.

Filing Instructions

This instruction letter should be filed behind the tab marked "Procedure Instruction Letters" in the binder for Program Policy Handbooks and Procedure Instruction Letters.

Issuing Office and Contact Persons

Metal and Nonmetal Mine Safety and Health
Chief, Safety and Health Division
William W. Wilson, (202) 693-9643
E-mail address: Wilson.William@dol.gov

Coal Mine Safety and Health
Special Assistant to the Administrator
Melinda Pon, (202) 693-9500
E-mail address: Pon.Melinda@dol.gov

Directorate of Educational Policy and Development
Deputy Director
Thomas Kessler, (202) 693-9585
E-mail address: Kessler.Thomas@dol.gov

Directorate of Technical Support
Acting Director
Linda Zeiler, (202) 693-9478
E-mail address: Zeiler.Linda@dol.gov

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