MSHA Handbook Series

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Citation and Order Writing Handbook

PREFACE

This handbook sets forth the procedures for inspection personnel to follow when writing and issuing citations and orders for health, safety, training, and documentation violations at coal, metal, and nonmetal mines. It supersedes all previously issued instructions related to this subject except compliance-related instructions in the Mine Safety and Health Administration (MSHA) "Program Policy Manual." The Administrator for Mine Safety and Health Enforcement must authorize changes to this handbook.

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DISCLAIMER

The citation and order examples included in this handbook might not exactly duplicate the actual forms. Citations and orders issued for violations of the Federal Mine Safety and Health Act of 1977, 30 United States Code (U.S.C.) §§ 801-966, as amended by the Mine Improvement and New Emergency Response Act of 2006, or other standards or regulations must depict gravity and negligence determinations reflective of circumstances present at the time of issuance.

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INTRODUCTION

I. Authority

The Federal Mine Safety and Health Act of 1977 (Mine Act or the Act), 30 U.S.C. §§ 801-966, as amended by the Mine Improvement and New Emergency Response Act of 2006 (MINER Act), directs an Authorized Representative (AR) of the Secretary of Labor (Secretary) to issue citations and orders when the AR believes that a mine operator violated the Mine Act or any mandatory health or safety standard, rule, order, or regulation promulgated pursuant to the Mine Act. The Mine Act also authorizes an AR to issue an order of withdrawal when an imminent danger condition exists. Sections 103, 104, and 107 of the Mine Act describe in detail the authority for issuing these citations and orders.

II. Purpose

This handbook provides guidance for all enforcement personnel in:

- Issuing, extending, modifying, vacating, and terminating citations and orders of withdrawal;
- Describing the conditions or practices constituting a violation or imminent danger;
- Writing a clear justification for extensions and modifications of citations and orders of withdrawal;
- Describing adequately the area or equipment affected by the citations or orders of withdrawal; and
- Evaluating adequately the degree of gravity and negligence of the violation.

All enforcement personnel should use the procedures, scenarios, and examples in this handbook, except for safeguards, which the AR can only issue at underground coal mines.

III. Responsibility

If, upon inspection or investigation, an AR believes that a mine operator has violated the Mine Act or any mandatory health or safety standard, rule, order, or regulation promulgated pursuant to the Mine Act, the AR must issue a citation or order of withdrawal to that mine operator. Each citation or order of withdrawal must be in writing and shall specifically describe the nature of the violation, including a reference to the provision of the Mine Act, standard, rule, regulation, or order the AR alleges the mine operator violated. In addition, each citation must set a reasonable time for abating the violation.

CHAPTER 1 – GUIDANCE FOR COMPLETING THE MINE CITATION AND ORDER OF WITHDRAWAL (ORDER) FORM

If an AR believes that a mine operator subject to the Mine Act has violated the Act, or any mandatory health or safety standard, rule, order, or regulation promulgated in accordance with the Act, the AR must promptly issue a citation or order of withdrawal to the operator.

This chapter provides guidance for completing MSHA Forms 7000-3, Mine Citation/Order, and 7000-3a, Mine Citation/Order Continuation.

Form 7000-3 Section I - Violation Data Blocks

This section describes the Mine Citation/Order Form 7000-3's violation data blocks in the Inspection Application System (IAS). If an AR issues a citation through IAS, it will use the data to generate the citation. IAS will populate some of the mine-specific blocks based on the mine profile selected.

CAUTION

Unless issuing one of the four enforcement action types that requires including a full name(s) in the citation or order (§ 107(a) Imminent Danger Order, § 104(g) Training Order of Withdrawal, § 104(a) Denial of Entry series, and § 110(g) Notice for Smoking), do not use names in the narrative portion of the citation or order; use nouns of direct address (e.g., Mine Foreman, Section Foreman, Truck Driver).

- 1. Issue Date. Enter the date using numbers to indicate <month/day/year>.
- **2. Issue Time.** Enter the time using a 24-hour clock format.
- 3. Citation/Order Number. IAS will provide the number.
- **4. Served To.** Enter the full name and job title of the person receiving the form.
- **5. Operator.** Enter the name of the mine's operator.
- **6. Mine Name.** Enter the name of the specific mine.
- **7. Mine ID (Contractor).** Enter the MSHA mine identification (ID) number and provide the contractor's MSHA ID number, if applicable.
- **8. Condition or Practice.** Describe in detail the condition(s) or practice(s) that supports the cited violation or imminent danger. Use the Standard, Hazard, Exposure, Injury, and Negligence (SHEIN) acronym as detailed below, to help organize the narrative and prompt inclusion of the necessary information. If the

space allowed is insufficient, check the "Continuation" block in the lower right-hand corner of Item 8, and then use a Mine Citation/Order Continuation Form 7000-3a in IAS.

SHEIN

When describing situations, violative conditions, workplaces, and other issues, it can be useful and helpful to apply a uniform, structured method of composing a narrative. SHEIN provides that method.

Document information and write narratives using the SHEIN acronym. Using the acronym will help both to organize the narrative and ensure the inclusion of necessary content. Additionally, it will help address each of the five elements necessary to support a violation of a mandatory health and safety standard. To properly document the condition or practice in the body of the citation, provide the following:

- **Standard.** Describe the condition or practice that violated a mandatory health and safety standard. Include where the violation occurred, or any equipment involved.
- Hazard. Describe the hazard that reasonably caused or contributed to a miner's injury or illness.
- **Exposure.** Describe the miners' exposure to a hazard, the number exposed, and the time span of the exposure.
- **Injury.** Explain the type and severity of injury that could reasonably be expected from the hazard.
- **Negligence.** Define the extensive or obvious nature of the violation and how long it existed. Determine through observation and records who was, or should have been aware, and the degree of risk to miners.

First, incorporate some of the language directly from the violated standard or section of the Mine Act into the beginning of the narrative. For example, when citing 30 Code of Federal Regulations (C.F.R.) § 56.14112(b), begin the initial description of the "condition or practice" the operator violated with:

"The tail pulley guard was not kept securely in place."

Then add the location of the violative condition or practice and describe the equipment or area. For example, enhance the initial description from above with the specific improperly guarded machine and its location so that it states the following:

"The tail pulley guard on the number two conveyor located in the loadout area was not kept securely in place."

If and where applicable, incorporate measurements, observations, or the size of an area to which the condition or practice applies or covers in the body of the citation. Describe how the condition or practice could result in an injury or illness.

For example:

"The tail pulley guard on the number two conveyor located in the loadout area was not kept securely in place. The guard is missing three of the five mounting nuts, which allows it to gap open five inches, thereby exposing miners to entanglement-type injuries. An area maintenance miner greases the tail pulley weekly."

8a. Written Notice (Section 103(g) of the Mine Act). (Coal Mines Only) Check this block if issuing an enforcement action under an E03 Hazardous Complaint event. Issue enforcement actions for other violations that do not address the allegations under a different event, such as E01 or E16.

9. Violation.

9A. Health/Safety/Other. (Coal Mines Only) If Health and Safety both apply, click the "Both" block in IAS. If Health and Safety do not both apply, only click one block: Health, Safety, or Other.

Note: The Enforcement area is prohibited for §§ 103(j), 103(k), 104(e)(1), 104(e)(2), and 107(a) in IAS.

- **9B.** Section of Act. If applicable, enter the violated section of the Act.
- **9C.** Part/Section of Title 30 CFR. If applicable, enter the violated part or section of Title 30 C.F.R.

Form 7000-3 Section II - Inspector's Evaluation

10. Gravity. Gravity is an evaluation of the seriousness of the violation using the three criteria listed in 30 C.F.R. § 100.3(e): likelihood, severity, and persons potentially affected.

When evaluating gravity, first decide what injury or illness the standard tries to prevent: fall, crushing, struck-by, caught-by, electrocution, amputation, respiratory damage, etc. Based on facts, consider that same injury or illness when evaluating each of the gravity factors listed. The discussion below provides examples to help select the relevant option in IAS.

10A. Injury or Illness (has) (is). Check the appropriate block to indicate the likelihood (No Likelihood, Unlikely, Reasonably Likely, Highly Likely, or Occurred) of an injury or illness occurring. Factors affecting the likelihood of an injury or illness include the duration and frequency of the exposure under continued normal mining practices, the number of miners exposed to the condition or practice, the location and extensiveness of the condition or practice, and the length of time the condition or practice has existed.

No Likelihood. Select this box for violations of laws or regulations that have no effect on injury or illness.

Note: Always select "No Likelihood" when citing a violation of a law or regulation that is not a mandatory health or safety standard, such as 30 C.F.R. § 50.20 for failing to submit accident reports.

Unlikely. Select this box for violations of mandatory standards when an injury or illness is not reasonably likely to occur. "Unlikely" would include violations where normal mining operations probably would not create the circumstances that would lead to an injury or illness-causing event.

Example: A mine operator failed to provide electrically nonconductive material at a switchgear on the surface. If the switchgear is in good condition, it is "unlikely" that the miner using it would encounter energized power.

Reasonably Likely. Select this box for violations of mandatory standards when an injury or illness is reasonably likely to occur. "Reasonably Likely" would include violations where normal mining operations would be expected to create the circumstances leading to an injury or illness-causing event.

Example: A regularly handled power cable in an active work area has an inadequately insulated splice with bare conductors, exposing miners to electrical hazards. Electrocution is "reasonably likely."

Highly Likely. Select this box for violations of mandatory standards when the injury or illness is highly likely to occur, such as when the circumstances likely to cause an injury or illness-causing event already exist.

Example: A miner who is not properly tied off with a safety belt or line is working on an inclined and slick elevated surface. In this circumstance, the miner is "highly likely" to slip and receive fall-related injuries.

Occurred. Select this box only when an injury or illness has happened.

No Occurrence but Circumstances Exist

Example: A recent roof fall occurred along a travel way. It is clear the roof was not adequately supported or scaled. Based on the traffic along the travel way and other factors, the inspector could evaluate the likelihood of injury as "Highly Likely," "Reasonably Likely," or "Unlikely." The inspector should not evaluate the likelihood as "Occurred" because the roof fall injured no one.

Injury Less Severe Than Expected

Example: A miner became trapped in a bin while trying to unplug it, an incident that usually ends in a fatality. However, after an hourlong rescue, the miner emerged with only minor injuries. Evaluate this type of incident based on the expected (fatality) rather than the actual (minor injuries) results. Accordingly, if there was a violation that directly related to the entrapment, evaluate the violation as at least "Reasonably Likely" and "Fatal" rather than "Occurred" and "No Lost Workdays."

Injury as Severe as Expected

Example: A miner was not using fall protection and fell from an elevated platform, suffering a fractured tibia and fibula, sprained wrist, and multiple contusions. The injuries align with expectations. Since the injury or illness happened and the severity was equal to or more than expected, the severity of the injury or illness selected on Item 10B in IAS should match the injury or illness that occurred.

Injury More Severe Than Expected

Example: A small rock struck a miner on the head. The miner later died from the injury. Evaluate this type of violation based on the actual (fatal) rather than the expected (minor injury) result. If there was a violation that directly related to the miner's injury, evaluate that violation as "Occurred" and "Fatal."

10B. Injury or Illness could reasonably be expected to be. Evaluate the expected severity of the injury or illness and check the appropriate box (No Lost Workdays, Lost Workdays or Restricted Duty, Permanently Disabling, or Fatal) based on the facts available. The inspector should document the facts and the reasoning used to determine the type of injury or illness that resulted or that would reasonably be expected to result.

Note: This determination is independent of the likelihood assessment.

No Lost Workdays. Select this box when the expected injury or illness would not cause the affected miner(s) to miss one or more scheduled workday(s) or to be placed on restricted duty, excluding the day of injury or onset of illness.

Note: Always select this box when citing a violation of a law or regulation that is not a mandatory health or safety standard.

Example: The operator failed to notify MSHA of a change to the operator on the legal identity. Because this violation would not result in an injury and does not violate a mandatory health or safety standard, select "No Lost Workdays" in IAS.

Lost Workdays or Restricted Duty. Select this box when the expected injury or illness would cause the injured or ill miner to lose one full day of work or more after the day of the injury or illness, or would cause one full day or more of restricted duty.

Example: The operator failed to maintain a walkway free from debris or other tripping hazards. The walkway is not elevated, and there are no other hazards present that could contribute to an injury more severe than strains, sprains, or abrasions. The inspector would select "Lost Workdays or Restricted Duty" because, after the day of the injury, a strain or sprain would probably require at least restricted duty for several days.

Permanently Disabling. Select this box when the expected injury or illness would result in the total or partial loss of the use of any member or function of the body.

Example: A silica overexposure causes silicosis. Silicosis is "permanently disabling."

Fatal. Select this box when the expected injury or illness has caused death, would result in death, or has a reasonable potential to cause death.

Example: A miner is working under a large, raised component without it being blocked or mechanically secured. If this component fell while the miner was underneath, it would result in "fatal" crushing injuries.

Example: A haul road located at the top edge of a 300-foot tall highwall does not have a berm or guardrail. The haul road is accessible but is rarely used; there are no visible tire tracks. There is no operational or maintenance need to travel the haul road. Falling

from the haul road would almost certainly result in "fatal" injuries.

10C. Significant and Substantial (S&S). Select "Yes" or "No" based on whether the particular facts surrounding the violation indicate that there is a reasonable likelihood the violation contributed to a hazard that will result in a reasonably serious injury or illness.

Inspectors should remember that only a violation of a "mandatory health or safety standard" can be designated "S&S." The mandatory standards include 30 C.F.R. § 50.10 and Parts 46, 47, 48, 49, 56, 57, 58, 62, 70, 71, 72, 75, 77, and 90.

Note: Citations designated as S&S require substantially more details in the description, particularly regarding the expected injury. Use SHEIN to ensure a thorough Item 8 narrative that addresses all four Mathies Test factors (see below).

Mathies Test

In 1984, the Federal Mine Safety and Health Review Commission defined a four-part test for S&S. It is the inspector's responsibility to provide facts to support each of these factors. Under the "Mathies test," the Secretary must prove:

- 1. The underlying violation of a mandatory standard;
- 2. A discrete safety hazard i.e., a measure of danger to safety contributed to by the violation;
- 3. A reasonable likelihood that the hazard contributed to will result in an injury; and
- 4. A reasonable likelihood that the injury in question will be of a reasonably serious nature.

When evaluating the cited conditions or practices and determining the reasonable likelihood of injury, a key consideration is the relevant time frame. Include both the time before citing the violation and the time that the violation would have existed if normal mining operations continued.

If no miners were exposed to the hazard at the time of the violation, an inspector may still evaluate the violation as "reasonably likely." If a miner was exposed to the hazard before issuing the citation or if it is reasonably likely that a miner would be exposed to the hazard if normal mining operations were allowed to continue, then a designation of "reasonably likely" is appropriate, and the inspector can allege a finding of S&S. When evaluating "reasonably likely":

• The occurrence of an injury or illness does not have to be more

probable than not for the likelihood to be designated as reasonably likely.

- Consider mine-specific conditions as well as the history of injury and illness related to this hazard throughout the industry.
- Do not consider redundant features that provide an added measure of safety. These redundant measures cannot be used in lieu of or replacement for the condition or practice cited.

S&S Exclusions

Violations of requirements in 30 C.F.R. Parts 40, 41, 43, 44, 45, or 50 (except 30 C.F.R. § 50.10) cannot be designated as "S&S" because they are regulations, not mandatory health and safety standards. For these violations, select the following:

Item 10A: "No Likelihood."

• Item 10B: "No Lost Workdays."

Item 10C: "No."Item 10D: "000."

Other than Titles II and III, violations of Mine Act sections without an accompanying mandatory health or safety standard cannot be S&S. For these violations, enter the following into Item 8's narrative:

"The condition has been designated as "non-significant and substantial" because the conduct violated a provision of the Mine Act other than a mandatory safety or health standard."

Correct S&S Evaluations

Example: Violation of 30 C.F.R. §§ 56/57.14107 (Moving Machine Parts) or § 77.400 (Mechanical Equipment Guards). Miners working next to the stacking conveyor while it was running were reasonably likely to become caught on the #2 self-cleaning tail pulley's unguarded moving machine parts and exposed to potential injury.

Evaluation: Reasonably Likely; Permanently Disabling; "S&S" - Yes

Example: Violation of 30 C.F.R. §§ 56/57.14107 (Moving Machine Parts) or § 77.400 (Mechanical Equipment Guards). The mine operator failed to provide a guard on the stacking conveyor's #2 self-cleaning tail pulley. However, miners did not work in or travel through the area on any shift while the machinery was running. The conveyor was turned off and locked out during maintenance activities.

Evaluation: Unlikely; Permanently Disabling; "S&S" - No

Example: Violation of 30 C.F.R. §§ 56/57.14107 (Moving Machine Parts) or § 77.400 (Mechanical Equipment Guards). The mine operator failed to provide a guard on the #4 self-cleaning tail pulley next to the walkway. No one was in the area, and the tail pulley was not running during the inspection. On the previous shift, miners had been in the area while the unguarded equipment was operating. The tail pulley was scheduled to operate as part of night shift operations later today. Miners travel the walkway next to the energized tail pulley during the night shift.

Evaluation: Reasonably Likely; Permanently Disabling; "S&S" - Yes

10D. Number of Persons Affected. Enter the number of persons affected if the injury or illness occurred or were to occur.

Affected Versus Exposed

Affected: Influenced in a harmful way; impaired, harmed. (Actually hurt, injured, or ill.)

Exposed: Vulnerable; open to danger. (Could have been hurt, injured, or ill, but was not.)

It is important to distinguish between the "Number of Persons Affected" by a cited condition or practice and the number of persons "exposed" to the condition or practice. The number "affected" is how many people would be harmed should the expected injury or illness occurs. While the number "exposed" does not appear on the Mine/Citation Order Form 7000-3, the inspector can use it to help determine the likelihood that an event will cause an injury or illness.

Considerations:

- How many people could the observed condition harm?
- Based on the evaluation made on the gravity section and the associated hazard, what type of injury or illness could result from the observed condition?
- What is the likelihood that the observed condition could affect at least one person (or more)? While in most cases, this is an easy decision, some situations will need careful evaluation to determine the correct number of people affected. The inspector will require knowledge of the mine and its general history, and the ability to use

sound reasoning to connect several different factors.

 If the condition occurred, how many people would sustain damage or injury?

Example: An inspector finds that the hoist elevator could fail because the mine operator failed to maintain one of the safety devices. The hoist normally holds five miners when it is being lowered into the mine. Although it would be reasonable to evaluate the number exposed as either five miners or the total number of miners who travel in the hoist, per shift, each day, a hoist failure would affect only the five miners inside at the time of the incident.

Solution: The "number of persons affected" would be five.

11. Negligence. When determining negligence, consider all types of mitigation and use judgment. Document in detail in the inspection notes all reasoning for deciding on a specific degree of negligence.

The Mine Act holds a mine operator to a high standard of care. A mine operator must be alert for conditions and practices in the mine that affect miners' safety or health and take steps necessary to correct or prevent hazardous conditions or practices. An operator's failure to exercise a high standard of care constitutes negligence.

Negligence is conduct, either by commission (a command or instruction) or omission (failure to address), that falls below a standard of care established by the Mine Act to protect miners against the risks of harm.

Title 30 C.F.R. § 100.3(d) defines the degrees of negligence as follows:

No Negligence (None). The operator exercised diligence and could not have known of the violative condition or practice.

Low Negligence. The operator knew or should have known of the violative condition or practice, but there are considerable mitigating circumstances, such as reasonable efforts to prevent or correct hazardous conditions or practices before the inspector observed the conditions or practices.

Note: Post-citation actions taken by the operator, such as withdrawing equipment and personnel and/or immediately correcting the violation, should not alter the negligence evaluation.

Mitigating circumstances can include:

Minimizing or eliminating access

- Ordering parts (confirm delivery)
- Adding temporary controls (e.g., posting "out of service" signs)
- Adding barricades or other protective measures
- Having no notice or violation history
- Providing or maintaining engineering control systems
- Providing appropriate personal protective equipment (PPE)
- Providing specific training

Moderate Negligence. The operator knew or should have known of the violative condition or practice, but there are mitigating circumstances such as:

- Reason to know
- Having some notice or violation history
- Noted or reported
- Providing or maintaining engineering control systems
- Providing appropriate PPE
- Providing specific training

High Negligence. The operator knew or should have known of the violative condition or practice, and there are no mitigating circumstances.

Considerations:

- Operator knowledge who and how did the operator know (documented in notes)
- Condition is obvious and extensive
- Extensive notice or violation history
- Failure to take safety precautions
- Indifference to a known violation
- Who and how did they know (documented in field notes)

Reckless Disregard. The operator displayed conduct which demonstrated the complete absence of care. Consider whether the operator was fully aware of the violative condition and made **NO** effort to protect miners from unsafe conditions.

Unwarrantable failure involves aggravated conduct that constitutes more than ordinary negligence.

When citing a violation with "high" negligence, an inspector must evaluate whether aggravated conduct exists to determine if the violation is also an "unwarrantable failure" to comply.

Prior to issuance, an inspector should evaluate citations or orders with possible "high" or "reckless disregard" negligence for aggravated conduct. Factors that may indicate aggravated conduct include, but are not limited to:

- The violative condition or practice posed a high degree of danger to miners, warranting the operator's increased attention to prevent or correct the hazards.
- The violative condition or practice was obvious or extensive.
- The violative condition or practice had existed for a period of time.
- The mine or contractor received repeated similar violations in the recent past.
- The operator's agent or contractor's agent had conducted an examination, been in the area, or was aware of the existence of the condition.
- The operator knew or had reason to know the action(s) violated a mandatory standard.
- The violative condition or practice had been reported to the operator or contractor who failed to correct or adequately address the problem and then allowed it to exist for an extended period of time.
- The violative condition was a result of the operator's deliberate activity.
- The individual who committed the violative condition or practice or allowed it to exist was a supervisor or an agent of the operator, or an agent of a contractor.
- The mine operator or contractor failed to make reasonable efforts to correct the violative condition or practice and knew or had reason to know the action(s) violated a mandatory standard.
- Other factors resulted in a negligence evaluation of "high" or "reckless disregard."

Any one of the circumstances above **may** constitute sufficient grounds for an unwarrantable failure citation or order. When issuing a § 104(d) citation or order, an inspector must include detailed factors in Item 8's narrative and explain how the mine operator engaged in aggravated conduct. Identify the mine operator's agent by position, not name.

- **12. Type of Action.** Select the relevant enforcement action type taken (e.g., "104(a)," "104(b)" of the Mine Act).
- **13. Type of Issuance.** Select the appropriate issuance: Citation, Order, Safeguard, or Written Notice. Remember that "Safeguard" is only for underground coal mines.
- **14. Initial Action.** Select the type of citation or order number, and IAS will self-populate. Remember that "Safeguard" is only for underground coal mines.
 - 14A. Citation
 - **14B.** Order
 - **14C.** Safeguard
 - **14D.** Written Notice
 - **14E.** Citation/Order Number
 - **14F.** Date

15. Area or Equipment. Describe the area or equipment, or in case of a § 104(g)(1) order, provide the untrained miner's name.

Note: This selection pertains only to an order of withdrawal, which falls under §§ 104(b), 104(d)(1), 104(d)(2), 104(e), 104(g)(1), 107(a), 103(j), and 103(k) of the Mine Act.

- Indicate the area or equipment, or in case of a § 104(g)(1) order, the person. "Area" should be the area from which the mine operator shall withdraw employees until the dangerous conditions and causes of those conditions have been corrected.
- Identify the equipment by manufacturer, model, serial number (if known), color, company number, name, etc. Also, note here if the order includes removing the equipment from service.
- For a technical order of withdrawal, which is an order without an underlying physical hazard, such as a § 104(b) order for failure to complete the Part 50 employment or injury reporting reports, use the phrase: "No Area Affected."
- **16. Termination Due.** Set the abatement time and provide the date by which the operator must correct the condition or practice. Leave the termination due date blank if issuing an order.

16A. Date **16B.** Time

Form 7000-3 Section III - Termination Action

- **17.Action to Terminate.** Describe in detail the specific action(s) taken to correct the cited condition(s) or practice(s) that justifies termination. Do not use short phrases like: "It's been corrected." "It's been fixed."
- **18. Terminated.** Enter the date and time of termination.

18A. Date **18B.** Time

Form 7000-3 Section IV - Automated System Data

- **19.Type of Inspection (Activity Code).** IAS will autofill this information. For a list of enforcement activity codes, see Appendix A Enforcement Activity Codes.
- 20. Event Number. IAS will autofill this information.
- **21. Primary or Mill. (Metal and Nonmetal (MNM) mines only).** Use "P" if the violation occurred in the production or primary mining phase of the operation.

Generally, "P" includes activities and/or equipment from the mining site up to, but not always including, milling processes.

Note: Enter "P" when citing violations at free standing mills with a separate Mine ID number.

- 22. AR Name. IAS will autofill this information.
- 23. AR Number. IAS will autofill this information.

CHAPTER 2 – GUIDANCE FOR CITING VIOLATIONS OF SELECTED MINE ACT PROVISIONS

This chapter describes procedures for citing specific violations and includes form completion guidance for the necessary forms for selected and commonly used Mine Act provisions. As part of this guidance, the chapter includes examples of completed forms for the named provisions. However, as noted in the Disclaimer, the examples might not exactly duplicate the actual forms.

Section 104(a) Citation: Advance Notice of Inspection

Section 103(a) of the Mine Act expressly forbids providing advance notice of inspections outside of specific circumstances.

Note: The AR should promptly notify their supervisor and the Office of the Solicitor's Division of Mine Safety and Health (SOL-MSH) before issuing this citation.

Form 7000-3 Guidance: Section 104(a) Citation – Advance Notice of Inspection

Item 8. Check that IAS has automatically inserted, "This condition has not been designated as "Significant and Substantial" because the condition violated is a provision of the Mine Act rather than a mandatory safety and health standard."

Item 9B. Select "103(a)."

Item 10.

10A. No Likelihood.

10B. No Lost Workdays.

10C. No.

10D. 0 Persons Affected.

Item 12. Select "104(a)."

Item 16. Abatement time should be short.

Sample Section 104(a) Citation – Advance Notice of Inspection

| 1. Date | tion Data Mo Da Yr | 2. Time (24 Hr. Cle | ock) | | | 3. Citation/ | | |
|--|--|--|--|---|---|---|--|--|
| | 5/1/2023 | | 0745 | | | Order Number | 76 | 554377 |
| 4. Served To | Nancy Doe, | Mine Managen | S. | 5. Operator | Acad | demy Mining C | ompany | |
| 3. Mine | olus Holmon | Sand and Grav | zal Mira | 7. Mine ID | 5-54312 | | | (Contractor) |
| 3. Condition o | | salid alid Grav | ver wille | | 5-54312 | | 8a. Written | Notice (103g) |
| purpose purpose over th the min Mine Ac providi Unannou conditi the min over th This con | of conduct of the vise mine-wide radiet requires ng advance nced inspectons in mine effice of radio. | ing a Regular it to the Sca radio, "Can o can be hear that no advar notice to min tions are a ks. The Scale fsite and Man not been des | line Office at Safety and He Safety and He Safety and He someone get Ja d by miners the contice be gers the mine of MSH shouse Operator lagement was notignated as 'Si | alth Inspector. The Solve Superviroughout the iven to any perator has A's effort who called tin the Officiant a | ction arcalehous isor), N he mine y persor s interf to ider d out or ffice at | nd identified se operator p MSHA is here. Sectin when MSHA is fered with that if y unsafe at the radio not the time the stantial' bec | himself romptly Trans on 103(a s on sit e inspea ormally e call w | f and the called out smission of the a) of the te. By ction. ealthy worked at was made e condition |
| violate | d is a prov | ision of the | Mine Act rathe | r than a ma | andatory | y safety and | health s | standard. |
|). Violation | A Health 🗖 | B. Section | Lei | Part/Section of | | See Continuation | n Form (MSHA | Form 7000-3a) |
| . Violation | A. Health Safety | of Act | | itle 30 CFR | | | | |
| ection IIInspe | Other ector's Evaluation | | 103 (a) | | | | | |
| | r illness could rea- be expected to be | | ays 🛭 Lost Workd | lays Or Restricted | d Duty 🗌 | Highly Likely L | abling 🔲 | Fatal 🗌 |
| B. Injury o sonably C. Signific 1. Negligeno | ant and Substantia | : No Lost Workda | No 🗸 | oderate | D. High | Permanently Disa D. Number of Perso E. Reckl | ons Affected: less Disrega | 000 |
| B. Injury o sonably C. Signific 1. Negligenc 2. Type of A 4. Initial Acti | r be expected to be ant and Substantia ce (check one) action | al: Yes A. None | No B. Low C. M 13. Type of Issuance | oderate | D. High | Permanently Disa D. Number of Perso E. Reckl Order Safe | ons Affected: less Disregal | 000 |
| B. Injury o sonably C. Signific 1. Negligenc 2. Type of A 4. Initial Acti A. Citation 5. Area or E 6. Terminati | / be expected to be eart and Substantia ce (check one) action ion B. Order | A. None 104 (a) C. Safeguard Mo Da Vr | No B. Low C. M 13. Type of Issuance | oderate check one) E. Citation/ | D. High | Permanently Disa D. Number of Perso E. Reckl Order Safe | ons Affected: less Disregal | 000 rd Written Notice |
| B. Injury o sonably C. Signific 1. Negligenc 2. Type of A 4. Initial Acti A. Citation 5. Area or E 6. Terminati 7. Action to The Sca | r be expected to be ant and Substantia ce (check one) action B. Order quipment A. Data mination Action Terminate lehouse Ope cally regar | A. None A. None 104(a) C. Safeguard Mo Da Yr 5/1/2023 rator has recding the prob | No B. Low C. M 13. Type of Issuance D. Written Notice | oderate c (check one) E. Citation/ Order Number | D. High Citation 🗸 | Permanently Disa D. Number of Perso E. Reckl Order Safe | ons Affected: less Disregal guard F. Dated | 000 rd |
| B. Injury o sonably C. Signific 1. Negligeno 2. Type of A 4. Initial Acti A. Citation 5. Area or E 6. Terminati Fection III-Term 7. Action to The Sca specifi 8. Terminate | on Due A. Date mination Action Terminate le house Ope cally regard A. Date Mo 5/: | A. None A. None 104(a) C. Safeguard Mo Da Yr 5/1/2023 rator has recding the prob | No B. Low C. M 13. Type of Issuance D. Written Notice B. Time (24 Hr. Clock) Serived addition in the control of adv (24 Hr. Clock) | oderate c (check one) E. Citation/ Order Number | D. High Citation 🗸 | Permanently Disa D. Number of Perso E. Reckl Order Safe | ons Affected: less Disregal guard F. Dated | 000 rd |
| B. Injury o sonably C. Signific 1. Negligenc 2. Type of A 4. Initial Act A. Citation 5. Area or E 6. Terminati Section III-Term 7. Action to The Sca specifi 8. Terminate Section IV-Aut 9. Type of Ir | on Due A. Date mination Action Terminate le house Ope cally regarded A. Date Mo 5/3 cmated System Data hspection | A. None A. None 104 (a) C. Safeguard Mo Da Yr 5/1/2023 rator has recding the probact of | No B. Low C. M 13. Type of Issuance D. Written Notice B. Time (24 Hr. Clock) Serived addition of adv (24 Hr. Clock) | oderate c (check one) E. Citation/ Order Number 0845 all training ance notice | D. High Citation g in the | Permanently Disa D. Number of Perso E. Reckl Order Safe | ons Affected: less Disregal guard F. Dated | 000 rd |
| B. Injury o sonably C. Signific 1. Negligeno 2. Type of A 4. Initial Acti A. Citation 5. Area or E 6. Terminati Fection III-Term 7. Action to The Sca specifi 8. Terminate | on Due A. Date initiation Action Terminate lehouse Ope cally regarded A. Date 5/5/cmated System Data inspection ode) E01 | A. None A. None 104 (a) C. Safeguard 7 5/1/2023 Tator has recding the proh | No B. Low C. M 13. Type of Issuance D. Written Notice B. Time (24 Hr. Clock) Serived addition in the control of adv (24 Hr. Clock) | oderate c (check one) E. Citation/ Order Number 0845 all training ance notice | D. High Citation | Permanently Disa D. Number of Perso E. Reckl Order Safe | ons Affected: less Disregal guard F. Dated s of the | 000 rd Written Notice Mo Da Yr |

Section 103(a): Denial of Right of Entry

Established MSHA Mine ID Number

When a mine operator or its agent directly refuses to allow entry to an active mining operation that has an MSHA mine ID number, the inspector must immediately contact their supervisor. The supervisor shall immediately attempt to contact the mine operator and try to resolve the denial and promptly contact the District Office. If a citation is issued, the inspector must either hand deliver it to the mine operator or send it certified mail, return receipt requested.

CAUTION

These violations are rare and frequently result in litigation. Supervisors should consult with the District Office and/or Regional Solicitor prior to issuing to assure understanding and concurrence with the actions being taken.

No Established MSHA Mine ID Number

When a mine operator or its agent directly refuses to allow entry to an active mining operation that does not have an MSHA mine ID number, the inspector must immediately contact their supervisor to determine whether the mining operation falls under the jurisdiction of the Mine Act. If the supervisor determines that the Mine Act applies, obtain a mine ID number based on the information acquired.

After obtaining the mine ID number, the inspector and Field Office Supervisor should return to the mine or make arrangements to meet with the mine operator and request access under the provisions of the Mine Act.

Other Denials of Entry

Denial of right of entry procedures also apply when the operator has granted entry but does not allow the AR to inspect or to continue an inspection or investigation due to any type of interference, such as delay, harassment, or personal assault.

Except in cases of personal threats or assault, the inspector should try to communicate with the mine operator and explain MSHA's entry and inspection rights under § 103(a) of the Mine Act.

MSHA policy requires an inspector to leave the scene when violence seems imminent. If circumstances allow, inform the person(s) involved that attacking an MSHA inspector is a federal crime under 18 U.S.C. § 111, and anyone involved may be subject to arrest and prosecution.

CAUTION

If you think you could be physically harmed or assaulted, immediately leave the property and promptly notify your supervisor.

Note: The District should contact the Regional Solicitor's Office (RSOL) regarding these issuances.

Form 7000-3 Guidance: Section 104(a) Citation - Denial of Right of Entry

Item 8. When entering narrative details, provide the full name of the operator's agent who denied entry; the name of a rank-and-file miner is insufficient. Also, check that IAS has automatically inserted, "This condition has not been designated as "Significant and Substantial" because the condition violated is a provision of the Mine Act rather than a mandatory safety and health standard."

Item 9B. Select "103(a)."

Note: Similar violations of the Mine Act, such as § 103(f), § 103(h), and § 109(a) may be issued in a similar manner as this example.

Item 10.

10A. No Likelihood.

10B. No Lost Workdays.

10C. No.

10D. 0 Persons Affected.

Item 12. Select "104(a)."

Item 16. Abatement time should be short.

Sample Section 104(a) Citation – Denial of Right of Entry

| Mine Citation/Order | U.S. Department of Labor Mine Safety and Health Administration |
|---|---|
| Section I-Violation Data | <u> </u> |
| 1. Date Mo Da Yr 3/13/2023 2. Time (24 Hr. Clock) 1042 | 3. Citation/ Order Number 7654321 |
| 4. Served To John Doe, Owner | 5. Operator Academy Mining Company |
| 6. Mine | 7. Mine ID (Contractor) |
| Blue Falcon Sand and Gravel Mine 8. Condition or Practice | 76-54312 8a. Written Notice (103g) |
| to enter the Blue Falcon Sand and Gravel Mir Inspector of MSHA to enter his property with search warrant was not necessary and refusal 103(a) of the Mine Act. | out a search warrant. Mr. Doe was advised that a to allow the inspection was in violation of gnificant and substantial because the violation |
| 9. Violation A. Health B. Section | See Continuation Form (MSHA Form 7000-3a) |
| Safety of Act Other 103 (a) | Title 30 CFR |
| Section II-Inspector's Evaluation | |
| 10. Gravity: A. Injury or Illness (has) (is): No Likelihood ✓ Unlikely □ | Reasonably Likely Highly Likely Occurred |
| B. Injury or illness could reasonably be expected to be: No Lost Workdays Lost Wo | rkdays Or Restricted Duty Permanently Disabling Fatal |
| C. Significant and Substantial: Yes ☐ No 🗹 | D. Number of Persons Affected: 000 |
| 11. Negligence (check one) A. None B. Low C. | Moderate ☐ D. High ☑ E. Reckless Disregard ☐ |
| 12. Type of Action 104 (a) 13. Type of Issuar | nce (check one) Citation 🗸 Order 🗌 Safeguard 🗍 Written Notice 🗌 |
| 14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice | E. Citation/ F. Dated Mo Da Yr Order Number |
| 15. Area or Equipment 16. Termination Due | |
| A. Date 3/13/2023 B. Time (24 Hr. Clock | 1138 |
| Section III-Termination Action 17. Action to Terminate | |
| 18. Terminated A. Date Mo Da Yr B. Time (24 Hr. Clock) | |
| Section IV-Automated System Data | Tot Democratific |
| 19. Type of Inspection (activity code) E01 20. Event Number 1234567 | 21. Primary or Mill P |
| 22. AR Name Copper Pot | 23. AR Number 12345 |
| established a National Small Business and Agriculture Regulatory Ombudsman and 10 enforcement actions. The Ombudsman annually evaluates enforcement activities and enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or will | e the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd office a comment with the Ombudsman is in addition to any other rights you may have, including |

Section 104(b): Order of Withdrawal – Denial of Right of Entry

Issue a §104(b) order of withdrawal if the operator continues to refuse entry after receiving a §104(a) citation. The District Manager may recommend injunctive proceedings if the operator does not comply with the order.

CAUTION

These violations are rare, often contentious, and frequently result in litigation. Supervisors shall consult with the District Office prior to issuing to assure understanding and concurrence with the actions being taken.

Note: The District should contact RSOL regarding these issuances.

Form 7000-3 Guidance: Section 104(b) Order of Withdrawal – Denial of Right of Entry

Item 8. The narrative must include, "...for the purpose of conducting an inspection of the mine in accordance with the requirements of Section 103(a) of the Federal Mine Safety and Health Act of 1977." Be sure to include a description of the initial condition or practice.

Item 9B. Select "103(a)."

Item 10. Do not complete.

Item 12. Select "104(b)."

Item 14. Refer to the initial violation issued.

Item 15. Enter "No area affected."

Item 16. No abatement time.

Sample Section 104(b) Order of Withdrawal – Denial of Right of Entry

| Mine Citation/Order | U.S. Department of Labor Mine Safety and Health Administration |
|--|---|
| Section I-Violation Data | |
| 1. Date Mo Da Yr 3/13/2023 2. Time (24 Hr. Clock) 1140 | 3. Citation/ Order Number 7654322 |
| 4. Served To John Doe, Owner | 5. Operator Academy Mining Company |
| 6. Mine | 7. Mine ID (Contractor) |
| Blue Falcon Sand and Gravel Mine | 76-54312 |
| 8. Condition or Practice | 8a. Written Notice (103g) |
| Mr. John Doe, Owner of Academy Mining Company Representative to enter the Blue Falcon Sand an an inspection of the mine in accordance with Federal Mine Safety and Health Act of 1977. | and Gravel Mine, for the purpose of conducting |
| | See Continuation Form (MSHA Form 7000-3a) |
| Section IIInspector's Evaluation | |
| 10. Gravity: | |
| A. Injury or Illness (has) (is): No Likelihood Unlikely Unlikely | Reasonably Likely Highly Likely Occurred |
| B. Injury or illness could reasonably be expected to be: No Lost Workdays □ Lost Workd | ays Or Restricted Duty Permanently Disabling Fatal |
| C. Significant and Substantial: Yes No | D. Number of Persons Affected: |
| 11. Negligence (check one) A. None B. Low C. Me | oderate D. High E. Reckless Disregard |
| 12. Type of Action 104 (b) 13. Type of Issuance | (check one) Citation ☐ Order ☑ Safeguard ☐ Written Notice ☐ |
| 14. Initial Action A. Citation ☑ B. Order □ C. Safeguard □ D. Written Notice □ | E. Citation/ F. Dated Mo Da Yr Order Number 7654321 F. Dated 3/13/2023 |
| 15. Area or Equipment No area Affected | |
| 16. Termination Due A. Date Mo Da Yr B. Time (24 Hr. Clock) | |
| Section IIITermination Action | |
| 17. Action to Terminate | |
| 18. Terminated A. Date Mo Da Yr B. Time (24 Hr. Clock) | |
| Section IVAutomated System Data | |
| 19. Type of Inspection (activity code) E01 20. Event Number 1234567 | 21. Primary or Mill |
| 22. AR Name Copper Pot | 23. AR Number |
| MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small B established a National Small Business and Agriculture Regulatory Ombudsman and 10 Re enforcement actions. The Ombudsman annually evaluates enforcement activities and rate enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or without the state of th | usiness Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has gional Fairness Boards to receive comments from small businesses about federal agency is each agency's responsiveness to small business. If you wish to comment on the en ormbudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd e a comment with the Ombudsman is in addition to any other rights you may have, including |

Section 103(j): Order of Withdrawal

Enforcement personnel shall consult with the appropriate District Manager before issuing orders of withdrawal under § 103(j). Section 103(j) orders apply to accidents where rescue and recovery work is necessary, and these orders may require additional documentation. The District Manager directs the modification and termination of the § 103(j) orders.

Note: Issue a § 103(j) order only under the direction of the District Manager.

Form 7000-3 Guidance: Section 103(j) Order of Withdrawal

Item 8. The narrative must describe the hazard and clearly state the prohibited activity.

Item 9. Do not complete.

Item 10. Do not complete.

Item 12. Select "103(j)."

Item 13. Select "Order."

Item 15. Describe and clearly identify the "Area or Equipment" affected.

Item 16. Do not complete.

Item 17. Do not complete.

Item 18. Do not complete.

Sample Section 103(j) Order of Withdrawal

| Mine Citatio | n/Order | | | | | | rtment of La y and Health | | ation 🛞 |
|---|---|--|---|--|---|--|---|---|--|
| Section I-Violati | on Data | | | | 14111 | <u> </u> | y and mount | , tarringti | 2.1011 |
| 1. Date | Mo Da Yr 3/13/2023 | 2. Time (24 Hr. Clo | ock) 1148 | | | 3 | 3. Citation/ Order Numbe | e : | 7654323 |
| 4. Served To | John Smitz, Superintend | Underground | L | 5. Operato | | Acaden | ny Mining | Company | |
| B. Mine | 25,400 | alcon #1 Min | _ | 7. Mine ID | 76-12 | 345 | 200 | | (Contractor) |
| 3. Condition o | 134000 AVE 21100 PALE | arcon #1 Min | | | 70-12 | 313 | | 8a. Writter | n Notice (103g) |
| center. that the | 7 miners h ey are locat ilable at t | ave communic ed near the he mine and | 7 main haulag ated with the bottom of the the backup te rohibited fro | surface fresh at am is nov | over t r shaf v en ro | he mir t. The ute to | ne's commu mine has the mine | nication one min to prov | ns system ne rescue vide the |
| 9. Violation | Safety Other | B. Section of Act | C | C. Part/Section Title 30 CFR | of | | See Continuati | ion Form (MS) | iA Form 7000-3a) 🔲 |
| Section II—Inspe 10. Gravity: | ctor's Evaluation | | | | | | | | |
| A. Injury or | Iliness (has) (is): | No Likelihood 🗌 | Unlikely 🗌 | Reasonabl | y Likely [| Hi | ghly Likely 🗌 | Occu | rred 🗌 |
| | Iliness could rea- be expected to be: | No Lost Workda | ays 🔲 Lost Wor | rkdays Or Rest | ricted Duty | | Permanently Di | sabling 🔲 | Fatal |
| 2000 1000 1000 | int and Substantial: | Yes 🗌 | No 🗌 | | | D. | Number of Pers | sons Affected | d: |
| 11. Negligenco | e (check one) | A. None | B. Low C. | Moderate | D. | High 🔲 | E. Red | kless Disreg | ard 🗌 |
| 12. Type of Ac | tion 1 | 03 (ქ) | 13. Type of Issuar | nce (check one) | Citatio | n 🖂 🤇 | Order Sa | feguard [| Written Notice |
| 14. Initial Action [| on | | D. Written Notice | E. Citation/ Order No | | 40 | 16K 1850 | F. Dated | Mo Da Yr |
| 15. Area or Eq This ord devices. | ler includes | Mo Da Vr | ound area of | | e, vent | ilatic | on and com | municat: | ion |
| | A. Date | | B. ⊤Ime (24 Hr. Clock |) | | | | | |
| Section III-Term 17. Action to T | 6 929 | | | | | | | | |
| 18. Terminate | A. Date | Da Yr B. Time | (24 Hr. Clock) | | | | | | |
| Section IVAuto 19. Type of In: | mated System Data spection | 20. Event Number | ž | 21. 1 | Primary or I | Viili | | | |
| (activity co | | | 1234568 | | - | | Log AD Normal | . | |
| 22. AR Name | | Сор | per Pot | | | | 23. AR Num | ber 1234 | 5 |
| established a Na enforcement acti enforcement acti Street, SW MC | ions. The Ombudsma ions of MSHA, you ma 2120, Washington, D | and Agriculture Regula n annually evaluates er y call 1-888-REG-FAIR | the provisions of the Sma tory Ombudsman and 10 forcement activities and r (1-888-734-3247), or writ however, that your right to he hearing before the Fee | Regional Faimes rates each agency e the Ombudsma office a comment | s Boards to r 's responsiv n at Small B with the Omb | eceive con eness to sr usiness Ad udsman is | nments from small mall business. If yo ministration, Office in addition to any o | businesses about wish to come of the National | out federal agency ment on the al Ombudsman, 409 3 |

Section 103(k): Order of Withdrawal

In the event of a mine accident, MSHA can issue orders deemed appropriate to ensure the safety of any person at the mine. The mine operator shall obtain the approval from the MSHA representative, in consultation with state mining agency representatives (if appropriate), about any plan to recover any person in the mine or the mine, or return affected mining areas to normal operations.

After arriving on mine property, use the following language and guidance to issue § 103(k) orders.

CAUTION

The Mine Act requires an AR to be onsite ("present") – on mine property – to issue a § 103(k) order.

Form 7000-3 Guidance: Section 103(k) Order of Withdrawal

Item 8. The narrative must describe the hazard and clearly state the prohibited activity. Use the following language (as applicable):

"A <accident type> accident occurred on <month day, year>, at approximately <time>. This order is being issued under the authority of the Federal Mine Safety and Health Act of 1977, under Section 103(k) to insure the safety of all persons at the mine, and requires the operator to obtain the approval of an authorized representative of MSHA of any plan to recover any person in the mine or to recover the mine or affected area. This order prohibits any activity in the affected area. The operator is reminded of the obligation to preserve all evidence that would aid in investigating the cause or causes of the accident in accordance with 30 CFR 50.12."

- 1. Accident type:
 - A. "fatal"
 - B. "nonfatal"
 - C. "noninjury"
- 2. If the accident type is unknown, begin the first sentence of the Item 8 narrative with, "An accident occurred..." and end that sentence with a short description of what happened or the known information.
- 3. <time> is the time of the accident, it may not be the time of death.

If a miner was injured and died later (but before issuing the § 103(k) order), use

the following for the first sentence: "A miner was fatally injured on <month day, year>, at approximately <time>, and died from the injury on <month day, year>, at approximately <time>."

If mine rescue or recovery work is ongoing, rephrase the sentence, "This order prohibits any activity in the affected area" appropriately for the situation.

Item 9. Do not complete.

Item 10. Do not complete.

Item 12. Select "103(k)."

Item 13. Select "Order."

Item 15. Describe and clearly identify the "Area or Equipment" affected.

Item 16. Do not complete.

Item 17. Do not complete.

Item 18. Do not complete.

Note: Refer to the Accident Investigations Procedures Handbook for additional information concerning the modification and termination of § 103(k) orders. The District should consult with SOL-MSH concerning the issuance or scope of the § 103(k) if needed.

Sample Section 103(k) Order of Withdrawal

| Mine Citation/Order | U.S. Department of Labor Mine Safety and Health Administration |
|--|---|
| Section I-Violation Data | |
| 1. Date Mo Da Yr 3/13/2023 2. Time (24 Hr. Clock) 1248 | 3. Citation/ Order Number 7654324 |
| 4. Served To John Smitz, Underground | 5. Operator |
| Superintendent | Academy Mining Company |
| 6. Mine | 7. Mine ID (Contractor) |
| Blue Falcon #1 Mine 8. Condition or Practice | 76-12345 8a, Written Notice (103g) |
| 103(k) to insure the safety of all persons a | ne Safety and Health Act of 1977, under section the mine, and requires the operator to obtain of any plan to recover any person in the mine or prohibits any activity in the affected area. The person all evidence that would aid in |
| 9. Violation A. Health B. Section of Act | See Continuation Form (MSHA Form 7000-3a) |
| Section II-Inspector's Evaluation | |
| 10. Gravity: | • |
| A. Injury or Iliness (has) (is): No Likelihood Unlikely Unlikely B. Injury or Iliness could reasonably be expected to be: No Lost Workdays Lost Workdays | Reasonably Likely Highly Likely Occurred days Or Restricted Duty Permanently Disabling Fatal |
| sonably be expected to be: No Lost Workdays Li Lost World C. Significant and Substantial: Yes No | D. Number of Persons Affected: |
| | #oderate □ D. High □ E. Reckless Disregard □ |
| 12. Type of Action 103 (k) 13. Type of Issuan | te (check one) Citation Order Safeguard Written Notice |
| 14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice | E. Citation/ F. Dated Mo Da Yr Order Number |
| 15. Area or Equipment This order covers the 2nd West section all enface at #20. | ntries starting from cross cut #1 to the working |
| 16. Termination Due A. Date Mo Da Yr B. Time (24 Hr. Clock) | |
| Section III-Termination Action | • |
| 17. Action to Terminate | |
| 18. Terminated A. Date Mo Da Yr B. Time (24 Hr. Clock) | |
| Section IVAutomated System Data | <u>.</u> |
| 19. Type of Inspection (activity code) 807 20. Event Number 1234568 | 21. Primary or Mill |
| 22. AR Name | 23. AR Number |
| established a National Small Business and Agriculture Regulatory Ombudsman and 10 in enforcement actions. The Ombudsman annually evaluates enforcement activities and re enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write | the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd file a comment with the Ombudsman is in addition to any other rights you may have, including |

Sample Section 103(k) Order of Withdrawal – Modification

| Continuation Section I-Subsequent Action/Continuation Data | | | | | | -7 |
|--|-----------------------------------|----------------|--------------------------------|-------------------------|--------------------------------------|----|
| Subsequent Action 1a. Continuation | 2. Dated Mo | Da Yr | 3. Citation/ | | | - |
| ✓ □ | (Original Issue) 03/13/2 | | 3. Citation/ Order Number 7 | 554324 - 01 | | |
| 1. Served To John Smitz, Underground | | 5. Opera | | 1771 | | |
| John Omits, Charlytonia | , aperimendent | | ny Mining Com | anv | | |
| i. Mine Blue Falcon #1 Mine | | 7. Mine I | | | (Contractor) | |
| | | 76-123 | 45 | | | |
| Section II–Justification for Action | | | | Action was converted to | - X-22 XV | |
| hange From | | | To | | | |
| | | | 10 | | | |
| Condition Or Practice | | | | | | |
| eason his modification allows the operator to re | nair the ventilation devices in 2 | nd West Secti | on in accordance wi | th the plan they culy | mitted | |
| - | pan the ventuation devices in 2 | nd West Been | on in accordance wi | in the plan they shot | milied. | |
| ustification | | | | | | |
| his order is being modified to allow work | | | | | | |
| ection", dated March 13, 2023. This plan ace ventilation. | consists of a one-page cover ie | iter and one n | nap. It allows for rej | airs of the stopping | s and | |
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| * | | | | | | |
| * | | | | | Section 2 | |
| | | | | | See Continuation Form | |
| ection III–Subsequent Action Taken | | | | | See Continuation Form | |
| Extended Tol Mo Do Vr | R Time (24 Hr Clash) | | C Vocated | □ D. Terminated | | |
| . Extended To A. Date Mo Da Yr | B. Time (24 Hr. Clock) | | ☐ C. Vacated | D. Terminated | See Continuation Form ✓ E. Modified | |
| Extended To A. Date Mo Da Yr | | | ☐ C. Vacated | D. Terminated | | |
| Extended To A. Date Mo Da Yr ection IV-Inspection Data Type of Inspection 10. E | Event Number | | ☐ C. Vacated | D. Terminated | | |
| Extended To A. Date Mo Da Yr ection IV-Inspection Data Type of Inspection 10. E | Event Number 44568 | | | | ✓ E. Modified | |
| A. Date ection IV-Inspection Data Type of Inspection 10. E | Event Number | 12. Date | C. Vacated Mo Da Yr | D. Terminated | ✓ E. Modified | |

Sample Section 103(k) Order of Withdrawal – Termination

| | ubsequent Action/Continuation Da | ta | | | | | W-1000-1000-1000-1000-1000-1000-1000-10 |
|-----------------|----------------------------------|--------------------|-------------|--------------|--------------------------------|----------------------|---|
| | uent Action 1a. Continuation | 2. Dated | Mo Da | Yr | 3. Citation/ Order Number 7 | 654324 - 02 | |
| V | | (Original Issue) | 03/13/202 | 23 | | | |
| . Served | To John Smitz, Undergroun | d Superintendent | | 5. Opera | tor ny Mining Com | nony. | |
| 6. Mine | Blue Falcon #1 Mine | | | 7. Mine I | | Dany | (Contractor) |
| | Bide I dicoii # I wine | | | 76-123 | | | (contractor) |
| Section II-J | lustification for Action | | | | | | |
| The rece | overy of the victim has b | neen accomplished | and the acc | ident inv | estigation is con | nnleted. It has be | en determined that it |
| | esume normal mining of | | | idelit ili | csugation is con | iipieteu. It iius oe | con determined that it |
| are to r | | | retou arour | | | | |
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| ction III-S | Subsequent Action Taken | | | | | | 1200 mg ma |
| Extende | 7-1 | Yr | | | | | |
| | A. Date Mo Da | B. Time (24 Hr. Ck | ock) | | C. Vacated | ✓ D. Terminated | E. Modified |
| | nspection Data | | | - 02 x 0 - 0 | | | |
| Type of | S0000 - D000000000 0 |), Event Number | | | | 7.007 | |
| | 1 1 | 234568 | | | | | |
| .07 . AR Nar | | AR Nu | | 2. Date | Mo Da Yr | 13. Time (24 Hr. C | |

Section 104(a): Citation

If, upon inspection or investigation, an inspector believes that a mine operator subject to the Mine Act has violated this Act, or any mandatory health or safety standard, rule, order, or regulation promulgated pursuant to the Mine Act, he or she shall, with reasonable promptness, issue a citation to the mine operator. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of the Mine Act, standard, rule, regulation, or order alleged to have been violated. In addition, the citation shall fix a reasonable time for the abatement of the violation. The requirement for the issuance of a citation with reasonable promptness shall not be a jurisdictional prerequisite to the enforcement of any provision of the Mine Act.

Form 7000-3 Guidance: Section 104(a) Citation

Item 8. Clearly state how the mine operator violated the standard, the hazard to miners should an accident or incident occur, and the exposure to the hazard.

Item 10C. S&S is yes when the inspector assesses a violation as:

Injury or Illness(has)(is): Reasonably Likely, Highly Likely, or Occurred AND

Injury or Illness could reasonably be expected to be: Lost Workdays or Restricted Duty, Permanently Disabling, or Fatal.

Note: Remember to provide sufficient information in Item 8's narrative to support S&S. The condition/practice, along with good notes, will go toward the legal test.

Sample Section 104(a) Citation – Non-S&S

| Section I-Violat | ion Data | | | | М | line Safety | and Health | Administrat | ion 🦎 |
|---|---|---|-------------------|--------------|------------------------------|----------------------|------------------------|----------------------|--|
| i. Date | Mo Da Yr | 2. Time (24 Hr. Cl | ock) | - | | 13 | . Citation/ | | |
| i. Dato | 3/16/2023 | 2. 11110 (21111. 01 | 0825 | | | ľ | Order Number | r 76 | 554325 |
| I. Served To | John Doe, | Owner | | | 5. Operator | Academ | y Mining | Company | |
| S. Mine | | | | | 7. Mine ID | | | | (Contractor) |
| B. Condition a | | Sand and Gra | vel Mine | | 76-5 | 4312 | | 8a Written | Notice (103g) |
| | | ng jacket on | the 10/5 A | WG e | nergized 480 | -volt n | ower cabl | | |
| | | l pump has be | | | | | | | |
| damaged possible | and are st e electrica feet behin | cket exposing ill insulated shock and a d the handrai | l. Miners a | are w The | orking in th cut in the c | ne immed outer in | iate area sulated j | exposing acket is | g them to located |
| | | | | | | | See Continuati | on Form (MSHA | . Form 7000-3a) |
| Violation | A. Health | B. Section | | | art/Section of | | 500 Oominidati | S. I SIN (MOI IA | |
| | Safety ☐ Other ☐ | of Act | | Tit | le 30 CFR | | 56.12 | 2004 | |
| Section IIInspe | ector's Evaluation | | | | | | 30111 | | |
| 0. Gravity: | | | | | | | | | |
| | r Illness (has) (is): r illness could rea- | No Likelihood | Unlikely ✓ | | Reasonably Likely | ∐ Hiç | ghly Likely 🗌 | Occurr | ed 🗀 |
| | be expected to be | . No Lost Workd | ays 🔲 Lost | Workda | ys Or Restricted Du | ty 🗌 💮 I | Permanently Dis | sabling 🔲 | Fatal √ |
| C. Significa | ant and Substantia | ıl: Yes □ | No ✓ | | | D. | Number of Pers | ons Affected: | 001 |
| 1 Negligeno | e (check one) | A. None | B. Low | C Mo | derate 🗆 [|) High [7] | E Doo | Islana Diaman | |
| | | A. None | | | | D. High 🔽 | | kless Disrega | |
| 2. Type of A | ction | 104(a) | 13. Type of Is | suance - | (check one) Cita | tion ✓ C | order 🗌 Sat | feguard 🗌 | Written Notice |
| 4. Initial Action A. Citation | | C. Safeguard | D. Written Notice | | E. Citation/ Order Number | | | F. Dated | Mo Da Yr |
| 5. Area or Ed | on Due | Mo Da Yr | D.T. (2.11.0 | | | ı | | | |
| | A. Date | 3/16/2023 | B. Time (24 Hr. C | lock) | 1025 | | | | |
| Section IIITern | | - | | | | | | | |
| disconn | Terminate e operator ection box. | removed the p The outer i | | | e and locked e cable has | | | | anlike |
| manner. | A. Date 3/1 | Da Yr .6/2023 B. Time | (24 Hr. Clock) | 09 | 930 | | | | |
| 8. Terminate | omated System Data | 20. Event Number | | | 21. Primary o | e Mill | | | |
| 8. Terminate | | 20. Event Number | 1234567 | | 21. Primary C | | | | |
| 8. Terminate | | Cop | per Pot | | ļi. | | 23. AR Num | ber 12345 | 5 |
| 8. Terminate Section IV-Auto 19. Type of In | | | | O | cinoca Bogulatory Enfa | vroement Egirn | ess Act of 1996, t | he Small Busine | ss Administration has ut federal agency |

Sample Section 104(a) Citation – S&S

| ection IViolat | | | | | | |
|--|--|--|---|---|---|--|
| . Date | Mo Da Yr 3/16/2023 | 2. Time (24 Hr. Clock) 0919 | | 3 | :. Citation/ Order Number | 7654326 |
| . Served To | John Doe, | Owner | 5. Operator | T and an | w Mining Com | |
| Mine | | | 7. Mine ID | Acadeii | ny Mining Compa | (Contractor |
| B Condition o | | Sand and Gravel Mine | | 76-54312 | 0- 14 | Vritten Notice (103g) |
| | | ng jacket on the 10/5 A | | 480-volt n | | , 0, _ |
| outer in and the immediat insulate area is | nsulated ja copper wir te area exp ed jacket a wet and mo | l pump has been damaged cket exposing the inner e is showing on the red osing them to possible nd the exposed phase le ist. Electrical conduc- was cited 1 time in two | r conductors. d and black ph electrocution eads is locate ctors exposed | The inner ase leads. and arc fl dabout 4 for mechanic | conductors have Miners are wo ash. The cut seet behind the all damage shall | we been damaged orking in the in the outer e handrail. The ll be protected |
| contract | | | | | See Continuation Form | (MSHA Form 7000-3a) |
| Violation | A. Health ☐ Safety ☐ | B. Section of Act | C. Part/Section of Title 30 CFR | | | |
| antina II Jana | Other ector's Evaluation | | | | 56.12004 | |
| sonably C. Signific | r illness could rea- be expected to be ant and Substantia e (check one) | , , | st Workdays Or Restrict | · · · | Permanently Disabling Number of Persons Aff E. Reckless D | fected: 0 01 |
| 2. Type of A | ction | 104 (a) 13. Type of I | Issuance (check one) | Citation 🗸 C | Order 🗌 Safeguard | Written Notice |
| 4. Initial Acti | | C. Safeguard D. Written Notice | E. Citation/ Order Num | har | F. Da | ted MoDaYr |
| 5. Area or E | | o. ca ogazia 🚨 D. minor monoc | , | | | |
| | | | | | | |
| 6. Terminatio | on Due A. Date | Mo Da Yr 3/16/2023 B. Time (24 Hr. | Clock) 0930 | | | |
| ection IIITern 7. Action to | nination Action | • | | • | | |
| The mina disconna | | | | | | |
| 3. Terminate | A. Date 3/1 | Da Yr 6/2023 B. Time (24 Hr. Clock) | 0929 | | | |
| ection IVAuto 9. Type of In | omated System Data | 20. Event Number | 21. Pri | nary or Mill | T | |
| (activity co | ode) E01 | 1234567 | | P | | |
| 2. AR Name | | Copper Pot | | | 23. AR Number | L2345 |
| | tions. The Ombudsm tions of MSHA, you m | s and Agriculture Regulatory Ombudsman a an annually evaluates enforcement activitie iay call 1-888-REG-FAIR (1-888-734-3247), DC 20416. Please note, however, that your | and 10 Regional Fairness E s and rates each agency's or write the Ombudsman a right to file a comment with | soards to receive com responsiveness to sm t Small Business Adi | iments from small busines: nall business. If you wish to ministration, Office of the N in addition to any other righ | ses about federal agency o comment on the lational Ombudsman, 409 3 |

Section 104(b): Order of Withdrawal – Failure to Abate

The inspector should consider all circumstances when a citation's abatement time has expired and determine whether there is a reasonable basis for extending the abatement date. If there is no justification to extend the abatement date, and the cited condition or practice remains unabated, the inspector must issue a § 104(b) order of withdrawal. When the mine operator has abated the condition or practice originally cited, the AR can terminate the order.

Form 7000-3 Guidance: Section 104(b) Order of Withdrawal - Failure to Abate

Item 8. Describe the operator's failure to abate the previously cited violation. Be sure to include a detailed description of the initial condition or practice.

Item 9. Complete Item 9B or 9C to match the original violation that is referenced in Item 14.

Item 10. Do not complete.

Item 11. Do not complete.

Item 12. Select "104(b)."

Item 13. Select "Order."

Item 14.

Item 14A. Select "Citation."

Item 14E. Enter the initial citation number.

Item 14F. Enter the date of citation issuance.

Item 15. Describe and clearly identify the "Area or Equipment" affected. Enter the phrase "No area affected" if this is a technical violation.

Item 16. Do not complete. Terminate the § 104(b) order when the mine operator corrects the out-of-compliance condition(s).

Item 17. When terminating the § 104(b) order, IAS will automatically terminate the original citation.

Sample Section 104(a) Citation and Sample Section 104(b) Order of Withdrawal

| Section IViolat 1. Date | Mo Da Yr | 2. Time (24 Hr. Clock | ١. | _ | | 3. Citation/ | | |
|---|---|--|--|--|--|---|----------------------------------|-----------------------------|
| | 3/16/2023 | 10 | | | | Order Number | 7€ | 554327 |
| 4. Served To | John Smitz Superinter | , Underground | | 5. Operato | | emy Mining C | ombany | |
| 3. Mine | | 20 SOSS VO | | 7. Mine ID | | | T2 | (Contractor) |
| 3. Condition o | | Falcon #1 Mine | | | 76-12345 | | 8a. Written I | Notice (103g) |
| and pust cable i miners | hed down in s located i to possible trolley fee | 80-volt cable a to the clay on n the intake er electrical sho der wires, and | the floor. try adajec ck and arc | The cabl cent to the c flash. Po | e doesn't a North Sump wer wires a | ppear to be This cond and cables, | damaged lition ex except t | d. The oposes crolley |
| 9. Violation | A. Health | B. Section | | C. Part/Section | of | See Continuatio | n Form (MSHA | Form 7000-3a) |
| . Violation | Safety 🗹 | of Act | | Title 30 CFR | 21 | 75.5 | 1.7 | |
| | ector's Evaluation | | | | | 12.3 | ales of the | |
| Gravity: A. Injury o | r Illness (has) (is): | No Likelihood | Unlikely ✓ | Reasonabl | / Likelv □ H | Highly Likely | Occurre | ed 🗆 |
| B. Injury o | r illness could rea- | No Lost Workdows | | orkdays Or Resti | <u> </u> | Permanently Dis | | Fatal ✓ |
| | be expected to be ant and Substantia | | | Orkuays Or Hesti | 2 2 2 | D. Number of Person | .M. (0-0) | ratai v |
| et 1000 mol | 201200 27 30 | al: Yes ☐ No | | | | J. Number of Ferso | nis Allected. | 001 |
| 1. Negligeno | ce (check one) | A. None B. | Low 🗌 (| C. Moderate 🔽 | D. High | E. Reck | less Disregar | |
| 12. Type of A | ction | 104(a) | 13. Type of Issu | ance (check one) | Citation 🗸 | Order 🗌 Safe | guard 🗌 | Written Notice |
| | ion | | | | | | F. Dated | Mo Da Yr |
| A. Citation | ☐ B. Order ☐ | C. Safeguard D. V | Vritten Notice | E. Citation/ Order Nu | | | | |
| A. Citation 15. Area or E 16. Termination | quipment On Due A. Date mination Action | Mo Da Yr | Vritten Notice | Order Nu | mber | | | |
| A. Citation 5. Area or E 6. Terminati 6. Cection IIITerm 7. Action to | equipment on Due A. Date mination Action Terminate | Mo Da Yr a 3/16/2023 B. | | Order Nu | mber | | | |
| A. Citation 5. Area or E 6. Terminati 6. Cection IIITerm 7. Action to | equipment on Due A. Date mination Action Terminate | Mo Da Yr | Γime (24 Hr. Cloα | Order Nu | mber | | | |
| A. Citation 5. Area or E 6. Terminati Section IIITerm 7. Action to 8. Terminate Section IVAuto | ed A. Date omated System Data | 9 Mo Da Yr 3/16/2023 B | Γime (24 Hr. Cloα | Order Nu | mber | | | |
| A. Citation 5. Area or E 6. Terminati Section IIITerm 7. Action to 8. Terminate Section IVAuto | ed A. Date A. Date Mc A. Date Mc A. Date | 9 Mo Da Yr 3/16/2023 B DDa Yr B. Time (24 | Γime (24 Hr. Cloα | Order Nu | mber | | | |
| 15. Area or E 16. Terminati 16. Terminati 17. Action to 1 18. Terminate Section IVAuti 19. Type of Ir | ed A. Date Managed A. | 9 Mo Da Yr 3/16/2023 B DDa Yr B. Time (24 | Fime (24 Hr. Cloc Hr. Clock) | Order Nu | mber | 23. AR Numb | | |

Sample Section 104(b) Order of Withdrawal

| Section IViola | ition Data | | | | (IVIII) | J Caloty 6 | and Health Ad | | // |
|--|--|--|--|---|---|---|---|---|---|
| . Date | Mo Da Yr 3/16/2023 | 2. Time (24 | Hr. Clock) | | | | Citation/ Order Number | 7. | 654328 |
| I. Served To | 8 8 | Underg: | | 5. Operat | or | | 30 VO | | 031320 |
| 3. Mine | Superintend | lent | | 7. Mine II | Υ | Academy | Mining Co | mpany | (Contractor) |
| | | alcon #1 | Mine | 7. 11 | 76-12 | 2345 | | | |
| 8. Condition | | waa mada | hu the energic | ar to adom | at alura | nrot oat | **** | | Notice (103g) |
| The ope | rator is her he intake ro | eby orde adway or | e by the operato ered to withdraw n both sides of observe that the | w the North the power | Sump e | electric until th | al power to e cable ha | o the s been | sump and |
| | | cited 1 | time in two ye | ears at min | e 76123 | 345 (1 t | o the oper | ator, | 0 to a |
| contrac | tor). | | | | | | | | |
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| | | | | | | | | | |
| | | | | | | | | | |
| | | | | | | | See Continuation F | orm (MSHA | Form 7000-3a) 🔲 |
| . Violation | A. Health ☐ Safety ☑ | B. Section of Act | | C. Part/Section Title 30 CFF | | | | | |
| | Other 🗖 | | | 1 | • | | 75.517 | 7 | |
| ection IIInsp 0. Gravity: | ector's Evaluation | | | | | | | | |
| | or Illness (has) (is): | No Likelihoo | d Unlikely 🗌 | Reasonal | ly Likely | High | ly Likely 🗌 | Occurr | ed 🗌 |
| | or illness could rea- y be expected to be: | No Lost | Workdays Lost | Workdays Or Res | tricted Dut | y | ermanently Disabl | ing 🔲 | Fatal |
| | ant and Substantial | | | | | 2 (21) (2) | umber of Persons | • | } |
| 20 ACC 100 | T(T) (2) | 162 | | | | N-800 (0.000) | | | ii |
| 1. Negligen | ce (check one) | A. None 🗌 | B. Low | C. Moderate |] D. | . High 🗌 | E. Reckles | ss Disrega | rd 🗌 |
| 2. Type of A | Action 1 | .04 (b) | 13. Type of Iss | suance (check on | e) Citati | ion 🗌 Ord | der. ☑ Safegu | ıard 🗌 | Written Notice |
| 4. Initial Act | | C. Safequare | D. Written Notice | E. Citation | | 7654 | | Dated | Mo Da Yr 3/16/2023 |
| 5. Area or E | | 0. 0 0 | | | | 7031 | 327 | | 3/10/2023 |
| | 75 75 | trical s | system and the | intake road | way. | | | | |
| | | | | | | | | | |
| 6. Terminat | ion Due A. Date | Mo Da Y | B. Time (24 Hr. C | lock) | | | | | |
| | , , , , , , , , , , , , , , , , , , , | | | | | | | | |
| Sentine III Ten | | | | | | | | | |
| Section IIITen | | | | | | | | | |
| ection IIITen 7. Action to | | | | | | | | | |
| | ed _ Mol | Da Yr E | 3. Time (24 Hr. Clock) | | | | | | |
| | A. Date | | | | | | | | |
| 7. Action to 8. Terminat | A. Date | | lumber | 21. | Primary or | Mill | | | |
| 7. Action to 8. Terminate Section IVAut 9. Type of I | A. Date tomated System Data nspection | 20. Event N | | | | | lee ana | | |
| 7. Action to 8. Terminat Section IVAut 9. Type of Ir (activity of | A. Date Iomated System Data Inspection E01 | 20. Event N | 1234569 | | | | 23. AR Number | 12345 | 5 |
| 7. Action to 8. Terminate Section IVAut 9. Type of I | A. Date Iomated System Data Inspection E01 | 20. Event N | 1234569 Copper Pot | L | | | | | |
| 7. Action to 8. Terminat Section IVAut 9. Type of In (activity of activity of AR Name | A. Date tomated System Data nspection code) E 01 | In accordar | Copper Pot | | | | | | |
| 7. Action to 8. Terminat 8. Terminat 9. Type of In (activity of the content of the conten | A. Date tomated System Data inspection sode) E 01 9 000-3, Apr 08 (revised) lational Small Business stions. The Ombudsma | In accordar and Agriculture n annually eval | Copper Pot nce with the provisions of the a Regulatory Ombudsman an uates enforcement activities : | d 10 Regional Fairne and rates each agen | ss Boards to cy's responsi | receive comm veness to smal | ents from small bus I business. If you w | nesses abo sh to comm | ut federal agency ent on the |
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Section 104(a): Citation – Working in Violation of a Section 104(b) Order of Withdrawal

Note: Regardless of the negligence evaluation, issue a § 104(a) citation, not a § 104(d) citation.

Form 7000-3 Guidance: Section 104(a) Citation – Working in Violation of a Section 104(b) Order of Withdrawal

Item 9B. Enter the section of the Mine Act violated.

Item 9C. Do not complete.

Item 10. Enter "No Likelihood".

Item 11. Enter "No Lost Workdays".

Item 12. Select "104(a)."

Item 13. Select "Citation."

Item 14.

Item 14A. Select "Order."

Item 14E. Enter the § 104(b) order number.

Item 14F. Enter the date of the § 104(b) order issuance.

Item 15. Do not complete.

Item 16. Enter a due date and time. Keep in mind the operator has been previously issued a violation and an order, which serve as prior notice of the condition(s). Therefore, a short time for abatement to comply with the previous § 104(b) order is likely appropriate.

Item 17. Enter the actions taken to abate the § 104(a) citation only if the operator complied with the previously issued § 104(b) order prior to the issuance of this citation.

Item 18. Enter the due date and time only if the condition is abated.

Sample Section 104(a) Citation – Working in Violation of a Section 104(b) Order of Withdrawal

| Jeulon I viole | ation Data | | | | | | | | | | |
|---|---|--|---|--|--|--|--|---|--|--|---------------------------------------|
| . Date | Mo Da Yr 3/17/2023 | 2. Time (24 Hr. C | (lock) 0800 | | | | CitatioOrder | n⁄ Number | (r | 765432 | 19 |
| . Served To | | , Undergroun | .d | 5. Oper | ator | | | | | | |
| 16 | Superintend | lent | | 7. Mine | ID | Acad | emy Mir | ing Co | mpany | 10 | V44\ |
| Mine | Blue F | alcon #1 Min | ne | 7. Willie | | .2345 | | | | le | Contractor) |
| Condition | or Practice | | | | | | | 8 | a. Writte | n Notice | (103g) 🗌 |
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| Violation | A. Health ☐ Safety ☑ Other ☐ | B. Section of Act | 104 (b) | C. Part/Secti Title 30 CF | | | See C | ontinuation l | Form (MSF | HA Form 70 | 000-3a) 🗖 |
| | pector's Evaluation | | | - | | | | | | | |
| 0. Gravity: A. Injury o | or Illness (has) (is): | No Likelihood ✓ | Unlikely 🗌 | Reason | ably Likely | | Highly Like | ly 🗆 | Occu | rred 🗌 | |
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| 47 Jan 1994 | cant and Substantial | : Yes □ | No ☑ | | | | D. Number | of Person | s Affecte | d: | 001 |
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Section 104(d)(1): Citation

Criteria for Issuing a Section 104(d)(1) Citation

An inspector shall issue a § 104(d)(1) citation if there is:

- A violation of a mandatory health or safety standard that significantly and substantially contributes to the cause and effect of a mine safety or health hazard; and
- 2. An unwarrantable failure of the mine operator or contractor to comply with the mandatory standard.

Note: MSHA cannot issue a violation of the Mine Act or 30 C.F.R. Parts 40, 41, 43, 44, 45, or 50 [excluding § 50.10] as a § 104(d) citation or a § 104(d) order even if the inspector determines the negligence evaluation to be "high" or "reckless disregard." However, MSHA can cite violations of interim mandatory health and safety standards found in Titles II and III of the Mine Act, not superseded by mandatory health and safety standards, as "S&S" and evaluate them as unwarrantable failure citations or orders based on the evaluations conducted in Items 10A and 10B of Form 7000-3.

A violation is caused by an unwarrantable failure if the inspector determines that the mine operator or contractor engaged in aggravated conduct constituting more than ordinary negligence.

Prior to issuance, the inspector should review citations or orders considered as "high" or "reckless disregard" negligence for aggravated conduct. Factors to consider when determining "aggravated conduct" may include:

- 1. The violative condition or practice posed a high degree of danger to miners, warranting the operator's increased attention to prevent or correct the hazards.
- 2. The violative condition or practice was obvious or extensive.
- 3. The violative condition or practice had existed for a period of time.
- 4. The mine or contractor received repeated similar violations in the recent past.
- 5. The operator's agent or contractor's agent had conducted an examination, been in the area, or was aware of the existence of the condition.
- 6. The operator knew or had reason to know the action(s) violated a mandatory standard.
- 7. The violative condition or practice had been reported to the operator or contractor

who failed to correct or adequately address the problem and then allowed it to exist for an extended period of time.

- 8. The violative condition was a result of the operator's deliberate activity.
- 9. The individual who committed the condition or practice or allowed it to exist was a supervisor or an agent of the operator, or an agent of a contractor.
- 10. The mine operator or contractor failed to make reasonable efforts to correct the violative condition or practice, and knew or had reason to know the action(s) violated a mandatory standard.
- 11. Other factors resulted in a negligence evaluation of "high" or "reckless disregard."

Any one of the circumstances above **may** constitute sufficient grounds for an unwarrantable failure citation or order. Include detailed factors and explain how the operator engaged in aggravated conduct in the Item 8 narrative of Form 7000-3 when issuing a § 104(d) citation or order. Identify the operator's agent by position, not name.

Form 7000-3 Guidance: Section 104(d)(1) Citation

Item 8. The citation must be S&S, therefore, a thorough narrative and sufficient facts to support the S&S finding. The factors that explain how the operator or the agent engaged in any of the factors could be considered for aggravated conduct.

Note: When completing the narrative section, be sure to omit names. Identify the agent of the operator who knew or should have known of the violative condition or practice by position only.

The violation narrative must include the following statement: "This violation is an unwarrantable failure to comply with a mandatory standard."

Item 10C. Select "Yes."

Item 11. Negligence must be at least "High."

Item12. Select "104(d)(1)."

Item 13. Select "Citation."

Sample Section 104(d)(1) Citation

| . Date | ion Data Mo Da Yr | 2. Time (24 Hr. Ck | nck) | | | | 3. Citation | / | | | |
|--|---|--|---|--|--|---|--|--|--|---|----------------------------------|
| . Date | 3/20/2023 | | 0730 | | | | Order N | | 7 | 654330 | |
| . Served To | | Underground | d | 5. C | Operator | | | | | | |
| . Mine | Superintend | lent | | 7.1 | /line ID | Acad | emy Min | ing Com | pany | /Co | atractor' |
| . IVIIITI O | Blue F | alcon #1 Min | le. | 7. N | | 12345 | | | | (Co | ntractor |
| . Condition o | r Practice | | | • | | | | 8a. | Written | Notice (1 | 03g) 🗌 |
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| A. Injury or B. Injury or Sonably C. Signification 1. Negligence 2. Type of Act 4. Initial Actic A. Citation 5. Area or Ect 6. Terminate Cection III-Term 7. Action to T 8. Terminate Section IV-Auto | r Illness (has) (is): r illness could reable expected to be: ant and Substantial: e (check one) ction 10. B. Order quipment On Due A. Date nination Action Terminate A. Date omated System Data | No Lost Workda Yes A. None 4 (d) (1) C. Safeguard Mo Da Yr 3/20/2023 Da Yr B. Time | B. Low 13. Type of Iss D. Written Notice [B. Time (24 Hr. Clack) | C. Modera uance (che | or Restricted E te ck one) Ci citation/ rder Number | D. High | Permane D. Number | ntly Disablin of Persons A E. Reckless Safegua | ng ☑ Affected Disrega | Fatal I: Card Written N | 01 lotice |
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| A. Injury or B. Injury or Sonably C. Significa 11. Negligenc 12. Type of Act 4. Initial Actic A. Citation 15. Area or Ect 16. Terminate 17. Action to 17. Action to 18. Terminate 18. Terminate 19. Type of In (activity or 19. Type of In (activity or 19. AR Name 19. Type of In (activity or 19. AR Name 19. Type of In (activity or 19. AR Name 19. Type of In (activity or 19. AR Name 19. Type of In (activity or 19. AR Name 19. Type of In (activity or 19. AR Name 19. Type of In (activity or 19. AR Name 19. Type of In (activity or 19. AR Name 19. Type of In (activity or 19. AR Name 19 | r Illness (has) (is): r illness could reable expected to be: ant and Substantial: e (check one) ction 10. B. Order quipment On Due A. Date nination Action Terminate A. Date Mo I contact System Data aspection ode) E 01 000-3, Apr 08 (revised) | No Lost Workda Yes A. None 4 (d) (1) C. Safeguard I Mo Da Yr 3/20/2023 Da Yr B. Time 20. Event Number | No B. Low 13. Type of Iss D. Written Notice B. Time (24 Hr. Clock) 1234569 per Pot the provisions of the S | Workdays C C. Modera uance (che | te | D. High D. High Itation | Permane D. Number Order 23. Ai | ntly Disablin of Persons A E. Reckless Safegua F. C | Affected Disregard Dated | Fatal I: C and | 01 lotice Tax Yr |
| A. Injury or B. Injury or Sonably C. Significa 1. Negligenc 2. Type of Ad 4. Initial Action A. Citation 5. Area or Ed 6. Termination 7. Action to 1 8. Terminate 9. Type of In (action IV-Auto 12. AR Name 15. AR | r Illness (has) (is): r illness could reable expected to be: ant and Substantial: e (check one) ction 10. B. Order quipment On Due A. Date nination Action Terminate A. Date cmated System Data respection ode) 00-3, Apr 08 (revised) ational Small Business ations. The Ombudsess | No Lost Workda Yes A. None 4 (d) (1) C. Safeguard 1 Mo Da Yr 3/20/2023 Da Yr B. Time | B. Low 13. Type of Iss D. Written Notice B. Time (24 Hr. Clock) 1234569 per Pot the provisions of the Story Ombudsman solitorement activities a | C. Modera uance (che E. C O ock) | te | Duty D. High D. High Itation or Mill Inforcement Is to receive nonsiveness to maisreemest | Permane D. Number Order Order 23. Al aimess Act of comments from 5 small busines | R Number 1996, the Sm n small business. If you wish | Affected Disregard Dated Dated 1234 hall Businesses about to communication to communication and comm | Fatal I: C and | lotice a Yr |

Sample Continuation Form Section 104(d)(1) Citation

| line Citation/Order ontinuation | | U.S. Department of Labor Mine Safety and Health Administration | | | | | |
|--|---|--|------------------------------|---------------------|-----------------------|--|--|
| ection I-Subsequent Action/Continuation Data | | | 00.00 | | • | | |
| Subsequent Action 1a. Continuation | 2. Dated Mo Da (Original Issue) 3/20/2 | | Citation/ Order Number | 76 | 54330 | | |
| Served To John Smitz, Undergroui | nd Superintendent | 5. Operator | Acad | emy Mining Comp | panv | | |
| Mine Blue Falcon #1 | Mino | 7. Mine ID | 76-12345 | | (Contractor) | | |
| ction IIJustification for Action | wille | | 70-12343 | | | | |
| Continuation of 8. Condition | on or Practice | | | | | | |
| shall be cleaned up and not | be permitted to a | ccumulate | e. This vio | lation is an | unwarrantable | | |
| failure to comply with a ma | andatory standard. | | | | | | |
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| | | | | | See Continuation Form | | |
| ection IIISubsequent Action Taken | | | | | | | |
| Extended To A. Date Mo Da Yr | B. Time (24 Hr. Clock) | | C. Vacated | D. Terminated | E. Modified | | |
| ection IVInspection Data | | | | | | | |
| Type of Inspection 10. Eve | ent Number | | 1234569 | | | | |
| . AR Name Copper Pot | AR Number 12345 | 12. Date 1 | Mo Da Yr 3/20/2023 | 13. Time (24 Hr. Cl | ock) 0730 | | |
| | | | | | 117.511 | | |

Section 104(d)(1): Order of Withdrawal

Form 7000-3 Guidance: Section 104(d)(1) Order of Withdrawal

Item 8. A § 104(d)(1) order can be either "S&S" or "non-S&S," therefore a thorough narrative is necessary. If the evaluation is S&S, include sufficient facts to support the S&S finding. The factors that explain how the operator or the agent engaged in any of the factors could be considered for aggravated conduct.

Note: When completing the narrative section, be sure to omit names. Identify the agent of the operator who knew or should have known of the violative condition or practice by position only.

The violation narrative must include the following statement: "This violation is an unwarrantable failure to comply with a mandatory standard."

Item 11. Negligence must be at least "High."

Item 12. Select "104(d)(1)."

Item 13. Select "Order."

Items 14A-D. IAS will autofill.

Item 14E. Select the number for the previous § 104(d)(1) citation.

Note: All § 104(d)(1) orders must refer to the first § 104(d)(1) citation issued in the D series sequence.

Item 14F. IAS will autofill.

Item 15. Describe and clearly identify the "Area or Equipment" affected.

Item 16. Do not complete.

Sample Section 104(d)(1) Order of Withdrawal

| Mine Citati | on/Order | | | | | eartment of Lean | | ation 🦃 |
|---|---|---|--|---|---|---|---|--|
| Section IViolat | tion Data | | | | | | | |
| 1. Date | Mo Da Yr 3/20/2023 | 2. Time (24 Hr. Cl | lock) 1030 | | | 3. Citation/ Order Num | ber 7 | 7654331 |
| 4. Served To | John Smitz | , Underground | d | 5. Operator | | • | | |
| | Superintend | dent | | | Acad | emy Mining | g Company | |
| 6. Mine | pir | and the second | | 7. Mine ID | 76 10045 | | | (Contractor) |
| 8. Condition of | | 'alcon #1 Mir | 16 | <u> </u> | 76-12345 | | 9a Writto | n Notice (103g) |
| | | SSAN PENNEY SIN REPORTED | yor-drive tail | | OLIVER MENANCE NO. | ner, co estendere control e e | 7,000,000,000,000,000,000 | |
| place wand a mentangladjacen getting this momake the machine | hile the cor iner could e ement injuri t rib and no around to i rning. The f | nveyor was in easily accide es or a fata ot replaced a t, but forgo foreman turne except when t erated. This | n motion. The entally trip ality. The grafter the belt to tabout it." ed off the cortesting the ms violation is | e unguarded and fall intuard had been move. The foremand achinery, gu | tail pul to the ro en remove e section n stated s and loc uards sha | ley is lootating puld previous foreman sthat they ked and tall be secu | cated at haley causions of the causion of the causion of the cause of | knee level ing serious et on the ne was I two cuts belt to place while |
| 0. Violation | A Washb 🗖 📗 | D Scotion | | C Part/Section of | | See Continu | uation Form (MSH | IA Form 7000-3a) 🔲 |
| 9. Violation | A. Health ☐ Safety ☑ Other ☐ | B. Section of Act | , | C. Part/Section of Title 30 CFR | | 75.1 | 722(c) | |
| | ector's Evaluation | | - | | | | | |
| 10. Gravity: | r Illness (has) (is): | No Likelihood | Unlikely 🗌 | Reasonably Li | ikoh 🖂 | Highly Likely | | rred |
| OHAMONIA ZAKO HIZA | r illness (nas) (is). | 140 LIKeIIII000 | Offlikely 🗆 | neasonably Li | INOIY V | nigiliy Likely L | | ileu 🗆 |
| | be expected to be: | No Lost Workd | ays 🔲 🛮 Lost Wo | rkdays Or Restricte | ed Duty 🗌 | Permanently | Disabling 🔲 | Fatal ✓ |
| C. Signific | ant and Substantial | : Yes ✓ | No 🗌 | | 6 | D. Number of P | ersons Affected | i : 001 |
| 11. Negligeno | ce (check one) | A. None 🗌 | B. Low C. | . Moderate 🔲 | D. High | ✓ E. F | Reckless Disreg | ard 🗌 |
| 12. Type of A | ction 10 | 4(d)(1) | 13. Type of Issua | nce (check one) | Citation | Order ☑ | Safeguard 🗌 | Written Notice |
| 14. Initial Acti A. Citation | | C. Safeguard 🗖 | D. Written Notice | E. Citation/ Order Numb | per 7 | 654330 | F. Dated | Mo Da Yr 3/20/2023 |
| 15. Area or E The #1 | 75 75 | veyor belt, 1 | from the tail | to head dri | ive. | | • | |
| 16. Terminati | A. Date | Mo Da Yr | B. Time (24 Hr. Clock | () | | | | |
| Section IIITerr | | | | | | | | |
| 17. Action to The ope | rator has ir | nstalled and | securely fast | ened the ta | ail pulle | y conveyo | r guard in | ito place. |
| 18. Terminate | A. Date 3/2 | Da Yr 0/2023 B. Time | (24 Hr. Clock) | 1100 | | | | |
| Access to the contract of the | omated System Data | Ion E | 902 | lan em | | - | | |
| 19. Type of Ir (activity c | | 20. Event Number | r 1234569 | 21. Prin | nary or Mill | | | |
| 22. AR Name | C | Cop | per Pot | | | 23. AR Ni | umber 1234 | .5 |
| established a N enforcement ac enforcement ac Street, SW MO | tions. The Ombudsma tions of MSHA, you ma C 2120, Washington, D | In accordance with and Agriculture Regula an annually evaluates e ay call 1-888-REG-FAIF C 20416. Please note | the provisions of the Sma atory Ombudsman and 10 nforcement activities and a (1-888-734-3247), or wri b, however, that your right to in a hearing before the Fe |) Regional Fairness Br rates each agency's r te the Ombudsman at o file a comment with | oards to receive esponsiveness to : Small Business the Ombudsmar | comments from sm small business. I Administration, Of is in addition to ar | 6, the Small Busin nall businesses ab f you wish to com fice of the Nationa | ness Administration has lout federal agency ment on the Il Ombudsman, 409 3rd |

Section 104(d)(2): Order of Withdrawal

Form 7000-3 Guidance: Section 104(d)(2) Order of Withdrawal

Item 8. Remember that an inspector can evaluate a § 104(d)(2) order as "S&S" or "non-S&S," so ensure a thorough narrative. If the evaluation is S&S, include sufficient facts to support the S&S finding. The factors that explain how the operator or the agent engaged in any of the factors could be considered for aggravated conduct.

Note: When completing the narrative section, be sure to omit names. Identify the agent of the operator who knew or should have known of the violative condition or practice by position only.

The violation narrative must include the following statement: "This violation is an unwarrantable failure to comply with a mandatory standard."

Item 11. Negligence must be at least "High."

Item 12. Select "104(d)(2)."

Item 13. Select "Order."

Items 14A-D. IAS will autofill.

Item 14E. Select the first § 104(d)(1) order number.

Note: All § 104(d)(2) orders must refer to the first § 104(d)(1) order issued in the D series sequence.

Item 14F. IAS will autofill.

Item 15. Describe and clearly identify the "Area or Equipment" affected.

Item 16. Do not complete.

Sample Section 104(d)(2) Order of Withdrawal

| ection IViolat | tion Data | | | | io care | ., | th Administra | |
|--|--|--|--|--|---|---|--|---|
| . Date | Mo Da Yr 3/20/2023 | 2. Time (24 Hr. Clo | ock) 1402 | | | 3. Citation/ Order Num | ber . | 7654332 |
| . Served To | | , Underground | | 5. Operator | | | | |
| . Mine | Superintend | lent | | 7. Mine ID | Acade | emy Minin | g Company | (Contractor) |
| | | alcon #1 Mine | e | | 76-12345 | | | |
| . Condition o | | crosscut 15 | | | | | | n Notice (103g) |
| frequent thickness The sect date, to before to crushing otherwis | tly travel. ss from 6 in tion foreman ime, and ini this conditi g injuries. se controlle | b was located. The loose raches to one used a scal. tial board it con was cited. Loose ribs and to protect a failure to a scale of the loose ribs. | ib measured foot. The ri ing bar and ndicated tha . The size of areas whe persons fro | 4 feet in home was gapped pulled the forem of the loosers measures measures reparts re | eight, 10 d at the t loose rib an had per e rib expo work or tr elated to | feet in loop approach down in conformed and seed mines avel shalls of | length, and inverse to mately of the movement on shifters to serial to supplie the supplies to supplie | nd varying 6-8 inches. ent. The t shortly ious ported or |
| . Violation | A. Health □ Safety ☑ | B. Section of Act | 1 | C. Part/Section of Title 30 CFR | | See Contin | uation Form (MSH | HA Form 7000-3a) 🗖 |
| | Other 🗖 | JIACI | | THIS SU OFFI | | 75. | 202(a) | _ |
| ection IIInspe O. Gravity: | ector's Evaluation | | | | | | - 14 | |
| 0.000 | r Illness (has) (is): | No Likelihood | Unlikely 🗌 | Reasonably L | ikely 🗌 🔝 I | Highly Likely | ✓ Occu | rred 🗌 |
| | r illness could rea- be expected to be: | No Lost Workda | ys 🔲 Lost Wo | orkdays Or Restrict | ed Duty 🗌 | Permanently | Disabling 🗖 | Fatal ☑ |
| C. Signific | ant and Substantial | Yes ✓ | No 🗆 | | 1 | D. Number of P | ersons Affecte | d: 001 |
| 1. Negligenc | ce (check one) | A. None | B. Low | . Moderate | D. High 💽 |] E. F | Reckless Disreg | jard 🗌 |
| 2. Type of A | ction 10 | 4(d)(2) | 13. Type of Issua | ance (check one) | Citation | Order 🗸 | Safeguard [| Written Notice |
| 4. Initial Acti | ion | The last terms of the last ter | | E. Citation/ | 12-02 | | F. Dated | Mo Da Yr |
| A. Citation 5. Area or E | 2 69 50 | C. Safeguard 🔲 🛚 |). Written Notice L | Order Num | ber 7 | 554331 | | 3/20/2023 |
| | | North Section | n #3 intake | entry. | | | | |
| 6. Termination | on Due A. Date | Mo Da Yr | B. Time (24 Hr. Cloc | k) | | | | |
| | mination Action | | | | • | | | |
| 7. Action to The fore | | the rib down | | | | | | |
| | | | | | | | | |
| 8. Terminate | Δ Data | Da Yr 0/2023 B. Time (| (24 Hr. Clock) | 1410 | | | | |
| | omated System Data | | | | | | | |
| 2010/03/2009 | | 20. Event Number | 1234570 | 21. Prir | nary or Mill | | | |
| 2010/03/2009 |) | 10 | 100 00 C 100 | | | 23. AR N | umber 1234 | 15 |
| 19. Type of In (activity co | | | per Pot | nall Business Regulato | ry Enforcement Fa | irness Act of 199 | | ness Administration has |
| 19. Type of In (activity co 22. AR Name MSHA Form 70 | 00-3, Apr 08 (revised) | | | | | | | oout federal agency |

Section 104(d) Series Enforcement Actions Process

A § 104(d)(1) Citation is issued.

A § 104(d)(1) Order is issued when the 90-day clock is still valid. When it is issued, the 90-day clock stops. It now activates a requirement for a clean inspection, which may be a combination of inspections, without any unwarrantable enforcement actions.

A § 104(d)(2) Order is issued when the first event has been closed in which the § 104(d)(1) order was issued. This is considered a subsequent event from the first event that the § 104(d)(1) order was issued. The § 104(d)(2) order will continue to be issued for unwarrantable conditions. The requirement for a clean inspection, which may be a combination of inspections, is still in place.

90-day clock begins.

90 days without another unwarrantable enforcement action issued.

90-day clock stops. The D series is over.

What stops the § 104(d) series? A complete inspection of the mine/plant/facility without any unwarrantable conditions cited. This may be a combination of inspections. This is considered a "clean inspection."

Did a clean inspection occur?

Yes = Removed from the D series and start fresh.

No = Unwarrantable condition was cited. It is not a clean inspection. They stay on the D series.

Section 104(e)(1): Pattern of Violations Notice

In accordance with 30 C.F.R. § 104.3(a), when a mine has a pattern of recurrent S&S violations of mandatory safety or health standards that demonstrate a mine operator's disregard for the health and safety of miners, the District Manager will issue a pattern of violations (POV) notice to the operator that specifies the basis of MSHA's action and will provide a copy of the notice to the miners' representative. The notice must identify each violation that is part of the pattern.

This section also allows for withdrawing all persons from the affected area if MSHA finds another S&S violation within 90 days of issuing the POV notice. The § 104(e) withdrawal order remains in effect until MSHA finds that this subsequent violation has been abated. However, abating the subsequent violation does not terminate the POV notice.

Form 7000-3 Guidance: Section 104(e)(1) Pattern of Violations Notice

Item 8. IAS prepopulates language from the Mine Act as follows:

"Pursuant to Section 104(e)(1) of the Federal Mine Safety and Health Act of 1977, the named Operator is hereby notified that a Pattern of Violations exists at the mine as identified by its Mine ID. If upon any inspection within 90 days after the issuance of this notice, an authorized representative of the Secretary finds any violation of a mandatory health or safety standard that could significantly and substantially contribute to the cause and effect of a coal or other mine safety or health hazard, the authorized representative shall issue an order requiring the operator to cause all persons in the area affected by such violation, except those persons referred to in subsection (c), to be withdrawn from, and to be prohibited from entering such area until an authorized representative of the Secretary determines that such violation has been abated. This Written Notice of Pattern of Violation shall remain posted at the mine under the terms of Section 109(a) of the Mine Safety and Health Act of 1977 until such notice is terminated by an authorized representative of the Secretary of Labor in accordance with Section 104.5, Title 30 Code of Federal Regulations."

The following language (with modifications as necessary) should then be added:

These violations constitute a pattern of violations of mandatory

health and safety standards in the mine and could have significantly contributed to the cause and effect of mine health or safety hazards.

If, within 90 days of this notice, an authorized representative finds any violation of a mandatory health or safety standard that could significantly and substantially contribute to the cause and effect of a mine safety or health hazard, the authorized representative shall issue an order.

This order requires the operator to withdraw from the area all persons the violation affects, except those persons referred to in Section 104(c) of the Mine Act. These individuals will be prohibited from re-entering until an authorized representative of the Secretary determines that such hazard has been abated. This notice of Pattern of Violations shall remain posted at the mine until it is terminated by an authorized representative."

The District Manager should consult SOL-MSH when drafting the notice.

Note: See the Sample Section 104(e)(1) POV Notice on the following page for an example of the inserted language and notice format.

Item 9. Do not complete.

Item 10. Do not complete.

Item 11. Do not complete.

Item 12. Select "104(e)(1)."

Item 13. Select "Written Notice."

Item 14. Do not complete.

Item 15. Do not complete.

Item 16. Do not complete.

Item 17. Do not complete.

Item 18. Do not complete.

Sample Section 104(e)(1) Pattern of Violations Notice

| roonon i viola | ion Data | | | | | | | | | |
|--|--|--|--|--|---|--|---|---|--|--|
| . Date | Mo Da Yr 2/15/20: | | 2. Time (24 Hr. C | lock) 0800 | | | | 3. Citation/ Order Numbe | r 5 | 7654333 |
| . Served To | Jane Do | e, M | ine Manager | 75 | 5. Op | oerator | Academv | Mining Com | panv. Ir | nc. |
| . Mine | Blı | ıe Fa | alcon #2 Min | 16 | 7. Mii | ne ID | 01254 | | 1 2, | (Contractor) |
| . Condition o | | | TOOT WE THE | | | , 0 | 01221 | | 8a. Writte | n Notice (103g) |
| its Mine authoris safety sof a coorder reexcept sprohibit shall relable Health | e ID. If zed represtandard al or othe equiring those pented from nes that emain posecuted of 19 | tupo that ther r the rsons ente such sted | on any insp cative of to could sig- nine safety operator to sering such in violation at the min antil such | | in 90 day y finds a and subst hazard, t persons ction (c) an author bated. T terms of | ys after any viol tantiall the auth in the in the read read read read for this Wrife Section by an | the ilation ly cont norized area a withd epresen ltten N on 109(author | ssuance of of a mandat ribute to trepresenta ffected by rawn from, tative of totice of Pala of the Mized repres | this not ory head he cause tive sha such vid and to he Secrettern of the Safe entative | cice, an alth or earn and effect all issue an olation, oe etary f Violation ety and e of the |
| | | | | | | | | See Continuat | ion Form (MSF | HA Form 7000-3a) 🔽 |
| . Violation | A. Health Safety C |] [| 3. Section of Act | | C. Part/Se Title 30 | | | | | |
| ection IIInspe | | | | | 1 | | | | | |
| | JOI OF B EVENEURING | 110 | | | | | | | | |
| 0. Gravity: | | | | | | | | | | . = |
| A. Injury o | r Illness (has) | (is): | No Likelihood 🗌 | Unlikely 🗌 | Reas | onably Likely | y 🗆 | Highly Likely | Occu | rred 🗌 |
| A. Injury or B. Injury or | | (is): rea- | No Likelihood 🗌 | | Reaso Workdays Or | | | Highly Likely Permanently Di | 70 | rred 🗌 |
| A. Injury of B. Injury of sonably | r Illness (has) r illness could | (is): rea- io be: | No Lost Work | days 🔲 Lost | | | Outy 🗆 | | sabling 🔲 | Fatal 🗌 |
| A. Injury or Sonably C. Signification | r Illness (has) r illness could be expected t ant and Subst | (is): rea- to be: antial: | No Lost Work | days Lost | Workdays Or | Restricted [| Outy 🗆 | Permanently Di | sabling 🔲 | Fatal □ d: |
| A. Injury or Sonably C. Signification | r Illness (has) r illness could be expected t | (is): rea- to be: antial: | No Lost Work | days 🔲 Lost | | Restricted [| Outy 🗆 | Permanently Di | sabling 🔲 | Fatal □ d: |
| A. Injury or Sonably C. Signification | r Illness (has) r illness could be expected t ant and Subst e (check one) | (is): rea- lo be: antial: | No Lost Work | days Lost | Workdays Or C. Moderate | Restricted [| Outy 🗆 | Permanently Di D. Number of Per | sabling 🔲 | Fatal □ d: |
| A. Injury of B. Injury of sonably C. Signific. Negligence Type of Additional Actions Initial Actions | r Illness (has) r illness could be expected t ant and Subst e (check one) ction | (is): rea- to be: antial: | No Lost Works Yes A. None (e) (1) | No B. Low 13. Type of Iss | Workdays Or C. Moderate suance (check | Restricted D | Duty D. High | Permanently Di D. Number of Per | sabling sons Affected kless Disreg | Fatal |
| A. Injury of B. Injury of sonably C. Signification Negligence Type of A. 4. Initial Action A. Citation | r Illness (has) r illness could be expected t ant and Subst e (check one) ction B. Order | (is): rea- to be: antial: | No Lost Works Yes A. None (e) (1) | lays Lost No B. Low | Workdays Or C. Moderate suance (check | Restricted [| Duty D. High | Permanently Di D. Number of Per | sabling sons Affected kless Disreg feguard | Fatal ☐ d: lard ☐ Written Notice ☑ |
| A. Injury of B. Injury of sonably C. Signification Negligence Type of A. 4. Initial Action A. Citation | r Illness (has) r illness could be expected t ant and Subst e (check one) ction B. Order | (is): rea- to be: antial: | No Lost Works Yes A. None (e) (1) | No B. Low 13. Type of Iss | Workdays Or C. Moderate suance (check | Restricted D | Duty D. High | Permanently Di D. Number of Per | sabling sons Affected kless Disreg feguard | Fatal ☐ d: lard ☐ Written Notice ☑ |
| A. Injury of B. Injury of sonably C. Signification Negligence Type of A. 4. Initial Action A. Citation | r Illness (has) r illness could be expected t ant and Subst e (check one) ction B. Order | (is): rea- to be: antial: | No Lost Works Yes A. None (e) (1) | No B. Low 13. Type of Iss | Workdays Or C. Moderate suance (check | Restricted D | Duty D. High | Permanently Di D. Number of Per | sabling sons Affected kless Disreg feguard | Fatal ☐ d: lard ☐ Written Notice ☑ |
| A. Injury of B. Injury of sonably C. Signification 1. Negligence 2. Type of A. Initial Action A. Citation 5. Area or Ed. | r Illness (has) r illness could be expected to ant and Subst e (check one) ction on | (is): rea- to be: antial: | No Lost Workd Yes A. None (e) (1) C. Safeguard | No B. Low 13. Type of Iss | Workdays Or C. Moderate suance (check | Restricted D | Duty D. High | Permanently Di D. Number of Per | sabling sons Affected kless Disreg feguard | Fatal ☐ d: lard ☐ Written Notice ☑ |
| A. Injury of B. Injury of sonably C. Signific. Negligence Type of Additional Actions Initial Actions | r Illness (has) r illness could be expected to ant and Subst e (check one) ction on B. Order quipment | (is): rea- to be: antial: | No Lost Works Yes A. None (e) (1) | No B. Low 13. Type of Iss | C. Moderate suance (check | Restricted D | Duty D. High | Permanently Di D. Number of Per | sabling sons Affected kless Disreg feguard | Fatal ☐ d: lard ☐ Written Notice ☑ |
| A. Injury or B. Injury or sonably C. Signific. Type of A. 4. Initial Action A. Citation Area or Ed. 6. Termination | r Illness (has) r illness could be expected to ant and Subst the (check one) ction on B. Order quipment Dr. Due A. | (is): rea- to be: antial: | No Lost Workd Yes A. None (e) (1) C. Safeguard | No D. B. Low D. Written Notice | C. Moderate suance (check | Restricted D | Duty D. High | Permanently Di D. Number of Per | sabling sons Affected kless Disreg feguard | Fatal ☐ d: lard ☐ Written Notice ☑ |
| A. Injury or B. Injury or sonably C. Signific. Type of A. 4. Initial Action A. Citation Area or Ed. 6. Termination | r Illness (has) r illness could be expected to ant and Subst the (check one) ction On B. Order quipment On Due A. nination Action | (is): rea- to be: antial: | No Lost Workd Yes A. None (e) (1) C. Safeguard | No D. B. Low D. Written Notice | C. Moderate suance (check | Restricted D | Duty D. High | Permanently Di D. Number of Per | sabling sons Affected kless Disreg feguard | Fatal ☐ d: lard ☐ Written Notice ☑ |
| A. Injury of B. Injury of sonably C. Signific. Type of A. Initial Action A. Citation Area or Ed. C. Termination C | r Illness (has) r illness could be expected to ant and Subst the (check one) ction On B. Order quipment On Due A. nination Action | (is): rea- to be: antial: | No Lost Workd Yes A. None (e) (1) C. Safeguard | No D. B. Low D. Written Notice | C. Moderate suance (check | Restricted D | Duty D. High | Permanently Di D. Number of Per | sabling sons Affected kless Disreg feguard | Fatal ☐ d: lard ☐ Written Notice ☑ |
| A. Injury of B. Injury of sonably C. Signific. Type of A. Initial Action A. Citation Area or Ed. C. Termination C | r Illness (has) r illness could be expected to ant and Subst the (check one) ction On B. Order quipment On Due A. nination Action | (is): rea- to be: antial: | No Lost Workd Yes A. None (e) (1) C. Safeguard | No D. B. Low D. Written Notice | C. Moderate suance (check | Restricted D | Duty D. High | Permanently Di D. Number of Per | sabling sons Affected kless Disreg feguard | Fatal ☐ d: lard ☐ Written Notice ☑ |
| A. Injury of B. Injury of sonably C. Signific. 1. Negligence 2. Type of A. 4. Initial Action A. Citation 5. Area or Ed. 6. Termination 6. Termination 7. Action to 1 | r Illness (has) r illness could be expected to ant and Subst e (check one) ction on | (is): rea- rea- rea- rea- rea- rea- rea- rea- | No Lost Worko Yes A. None (e) (1) C. Safeguard Mo Da Yr | No B. Low 13. Type of Iss D. Written Notice | C. Moderate suance (check | Restricted D | Duty D. High | Permanently Di D. Number of Per | sabling sons Affected kless Disreg feguard | Fatal ☐ d: lard ☐ Written Notice ☑ |
| A. Injury of B. Injury of Sonably C. Signification 1. Negligence 2. Type of A. Initial Action 5. Area or Edition 11. Terminate 7. Action to 7. | r Illness (has) r illness could be expected to ant and Subst e (check one) ction B. Order quipment on Due A. nination Action Terminate | (is): rea- o be: antial: 104 Date | No Lost Worko Yes A. None (e) (1) C. Safeguard Mo Da Yr | No D. B. Low D. Written Notice | C. Moderate suance (check | Restricted D | Duty D. High | Permanently Di D. Number of Per | sabling sons Affected kless Disreg feguard | Fatal ☐ d: lard ☐ Written Notice ☑ |
| A. Injury of B. Injury of Sonably C. Signification 1. Negligence 2. Type of Addition 4. Initial Action 5. Area or Edition 111-Term 7. Action to 18. Terminate 18. Terminate 19. Terminat | r Illness (has) r illness could be expected to ant and Subst e (check one) ction B. Order quipment on Due A. nination Action Terminate A. Date omated System | (is): rea- o be: antial: 104 Date | No Lost Worko Yes □ A. None □ (e) (1) C. Safeguard □ Mo Da Yr a Yr B. Time | No B. Low 13. Type of Iss D. Written Notice B. Time (24 Hr. Cl | C. Moderate suance (check | Restricted E | D. High [| Permanently Di D. Number of Per | sabling sons Affected kless Disreg feguard | Fatal ☐ d: lard ☐ Written Notice ☑ |
| A. Injury of B. Injury of Sonably C. Signification 1. Negligence 2. Type of A. Initial Action 5. Area or Edition 11. Terminate 7. Action to 7. | r Illness (has) r illness could be expected to ant and Subst e (check one) ction on B. Order quipment on Due A. nination Action Terminate ad A. Date cmated System isspection | (is): rea- rea- rea- rea- rea- rea- rea- rea- | No Lost Worko Yes A. None (e) (1) C. Safeguard Mo Da Yr | No B. Low 13. Type of Iss D. Written Notice B. Time (24 Hr. Cl | C. Moderate suance (check | Restricted D | D. High [| Permanently Di D. Number of Per | sabling sons Affected kless Disreg feguard | Fatal ☐ d: lard ☐ Written Notice ☑ |
| A. Injury of B. Injury of sonably C. Signific. 1. Negligence 2. Type of A. 4. Initial Action A. Citation 5. Area or Ed. 6. Terminate Gestion IIITerm 7. Action to 18. Terminate Gestion IVAute 9. Type of Info. | r Illness (has) r illness could be expected to ant and Subst e (check one) ction De B. Order quipment A. nination Action Terminate A. Date consider System aspection ode) E | (is): rea- o be: antial: 104 Date | No Lost Worko Yes A. None (e) (1) C. Safeguard Mo Da Yr B. Time | Alays Lost No B. Low 13. Type of Iss D. Written Notice B. Time (24 Hr. Clock) e (24 Hr. Clock) | C. Moderate suance (check | Restricted E | D. High [| Permanently Di D. Number of Per | sabling sons Affected kless Disreg feguard F. Dated | Fatal |
| A. Injury of B. Injury of sonably C. Signific. 1. Negligence 2. Type of A. 4. Initial Action 5. Area or Edition 6. Terminatia 6. Terminatia 7. Action to 3 8. Terminate 9. Type of In (activity of 2. AR Name) | r Illness (has) r illness could be expected to ant and Subst e (check one) ction De B. Order quipment A. nination Action Terminate A. Date consider System aspection ode) E | Mo D Data O Data | No Lost Worko Yes A. None (e) (1) C. Safeguard Mo Da Yr a Yr B. Time | No B. Low 13. Type of Iss D. Written Notice B. Time (24 Hr. Clock) e (24 Hr. Clock) or 123 4571 oper Pot | Workdays Or C. Moderate suance (check E. Cit Orc | Restricted E Restricted E Rome Ro | D. High [Itation | Permanently Di D. Number of Per E. Rec Order Sa | sabling | Fatal |

Sample Continuation Form Section 104(e)(1) Pattern of Violations Notice

| ection ISubsequent Action/Continuation | Data | | | | | *** |
|---|---|--|---|--|---|---|
| Subsequent Action 1a. Continuatio | | | Da Yr /2023 | Citation/ Order Number | 76 | 54333 |
| Served To Jane Doe, Mine | | 2/15 | 5. Operat | | 70 | 04000 |
| Jane Doe, Mine | Manager | | | Academ | y Mining Compar | 1800 |
| Mine Blue Fal | con #2 Mine | | 7. Mine II | 76-01254 | | (Contractor) |
| ction IIJustification for Action | BOTT #2 WILLIE | | | 70 01204 | | |
| Continuation of 8. Co | ndition or | Practice | | | | |
| As illustrative of triolations which are to the cause and effects | of such nat | ure as could | l have si | gnificantly a | ınd substanti | |
| 1. MSHA issued the and/or practices that (1/1/2023), 7654321 (in this format. | contribute | to mines ha | zardous | conditions th | roughout the | mine: 1234567 |
| Two or more of the vi- mandatory health and a could have significan other mine health or a | safety stan tly and sub | dard in the stantially c | coal or | other mine wh | nich are of s | uch nature as |
| Authorized Representa safety standard that sof a coal or other mindred requiring the operations of a coal or other mindred requiring the operations of the prohibited from determines that such cremain posted at the | could signi ne safety o perator to referred to entering s violation h | ficantly and or health haz cause all pe o in Section such area untas been abat | substant ard, the rsons in 104(c) coil an Aued. Thi | tially contri Authorized F the area aff f the Mine Ac thorized Repr s Notice of F | bute to the epresentative ected by such to be with esentative operation of Vi | cause and effect e shall issue an h violation, hdrawn from, and f the Secretary olations shall Representative. |
| ction III Subsequent Action Taken | | | | | | See Continuation Form |
| Extended To A. Date Mo Da | Yr B. Time (2 | 24 Hr. Clock) | | C. Vacated | D. Terminated | E. Modified |
| action IVInexaction Data | 10. Event Numb | er | | 100157 | | |
| ection IVInspection Data Type of Inspection | | | | 1234571 | 13. Time (24 Hr. Cl | nck) |
| Type of Inspection E01 | | AR Number | 12 Data | Mo Da Vr | | |
| Type of Inspection E01 | | AR Number 12345 | 12. Date | Mo Da Yr 2/15/2023 | To. Time (E4TH: Of | 0800 |
| Type of Inspection E01 . AR Name | | | 12. Date | | 10. 11116 (24111. 01 | ** \$45.45 \text{\tin}\text{\text{\text{\text{\text{\text{\text{\text{\text{\text{\text{\text{\text{\text{\text{\text{\text{\text{\text{\tex{\tex |

Section 104(e)(1): Order of Withdrawal

Form 7000-3 Guidance: Section 104(e)(1) Order of Withdrawal

Item 8. At the end of the narrative, add the following statement: "A Notice of Pattern of Violations, <POV notice number>, was issued on <date>."

Items 10A-D. Complete.

Item 11. Select Negligence level.

Item 12. Select "104(e)(1)."

Item 13. Select "Order."

Item 14D. Select "Written Notice."

Item 14E. Select the § 104(e)(1) notice violation number.

Item 14F. Enter the POV notice issue date.

Item 15. Describe and clearly identify the "Area or Equipment" affected.

Item 16. Do not complete.

Sample Section 104(e)(1) Order of Withdrawal

| Mine Citatio | on/Order | | | | | | | | | partment fety and h | | | ation | |
|---|---|--|--|---|--|--|--|--|--|--|--|--|---|-----------------------|
| Section IViolati | ion Data | | | | | | | | | - | | | | |
| 1. Date | Mo Da 2/20/: | | 2. Time | (24 Hr. C | lock) 0831 | | | | | Citation Order | n/ Number | (F | 7654334 | |
| I. Served To | Jane 1 | Doe, l | Mine Ma | anager | \$ | | 5. Operator | | radem: | / Minin | r Comp | anv Ti | n.c. | |
| 6. Mine | | | | | | | 7. Mine ID | AC | aucin | MITITIE | a comb | any, n | | ntractor |
| . WILLIE | E | Blue F | alcon | #2 Mir | 1e | | 7. 111110 15 | 76-0 | 1254 | | | | 100 | iniactor |
| . Condition o | r Practice | | | | | | | | | | | 8a. Writte | n Notice (1 | 03g) 🔲 |
| surround section. breaker 12 inche | ding the . The rolleres to 2 This i | ne are accur bean 24 inc is gen | ea on t mulatio ring. ches. T neratin | he No n meas The ac | ry coal find. 1 sectional sured 15 independent cumulation lectional cutional heat | l bel ches extenas k | t conve in dept ended ou been com | yor the coving the coving the contract the c | ail prering for 21 ed arc | oulley of g the si L feet a ound the | on the urroun and ra e tail | 2nd No ding Jo nged in rolle | orth wo by Feed n depth rs and | rking ler Lfrom |
| | | | | | | | | | | See (| Continuation | n Form (MSF | HA Form 700 | 0-3a) [|
| . Violation | A. Health | | B. Section | 1 | | | art/Section of | of | | | | | | |
| | Safety Othe | | of Act | | | -10 | itle 30 CFR | | | | 75.40 | 0.0 | | |
| ection IIInspe | 5 | | | | | | | | | | | · · · | | |
| 0. Gravity: A. Injury or | r Illness (h | as) (is): | No Likelil | nood 🗌 | Unlikely 🗌 | | Reasonably | y Likely | V | Highly Like | ely 🗆 | Occu | rred 🗌 | |
| B. Injury or | r illness co be expect | | No Lo | st Worko | lavs D Lost | Workd | ays Or Restr | ricted Du | tv 🗆 | | ently Disa | ıblina 🗹 | Fatal | П |
| C. Significa | | | 163 | es 🗸 | No 🗆 | | 50 | | 5 00 00 | D. Numbe | r of Perso | ns Affected | d: (| 10 |
| 1. Negligenc | e (check o | ne) | A. None | | B. Low | C. Mo | oderate 🗸 | 10 | D. High | | E. Reckl | ess Disreg | ard 🗌 | |
| 2. Type of Ad | ction | 10 | 4(e)(1) |) | 13. Type of Is: | suance | (check one) | Cita | tion 🗌 | Order [✓ | Safe | guard 🗌 | Written N | Notice [|
| Initial Action A. Citation | | der 🗌 | C. Safegu | ıard 🔲 | D. Written Notice | √ | E. Citation/ Order Nu | | , | 7654333 | | F. Dated | | a Yr /2023 |
| 5. Area or Ed The 2nd entries. | North | work | | | from cross (| cut ‡ | ‡1 to th | ie Wol | king | face at | t cros | s cut | #50 al | 1 |
| 6. Termination | on Due | A. Date | Mo Da | Yr | B. Time (24 Hr. C | lock) | | | | | | | | |
| ection IIITerm | | on | | | | | | | | | | | | |
| 7. Action to 1 | Terminate | | | | | | | | | | | | | |
| 8. Terminate | A. Date | Мо | Da Yr | B. Time | e (24 Hr. Clock) | | | | | | | | | |
| ection IVAuto | and the constructive con- | em Data | Ton = | | WG | | Tes = | | | | | | | |
| Type of In (activity co | | E01 | 20. Ever | nt Numbe | r 1234571 | | 21. P | rimary c | r Mill | | | | | |
| 2. AR Name | OM* | | 1 | Cor | pper Pot | | ı | | | 23. / | AR Numbe | er 1234 | 15 | |
| enforcement act enforcement act Street, SW MC | ational Smal tions. The C tions of MSF 2120, Was | l`Busines:)mbudsma lA, you ma hington, [| s and Agricul an annually e ay call 1-888 DC 20416. P | ture Regul valuates e -REG-FAIF lease note | the provisions of the atory Ombudsman an inforcement activities: (1-888-734-3247), o , however, that your rin a hearing before the | d 10 Re and rate r write th ght to file | gional Fairness s each agency e Ombudsmar e a comment w | s Boards t 's respon: n at Small vith the Oi | o receive siveness t Busines: mbudsma | comments fr o small busin s Administrati in is in additio | om small bu ess. If you on, Office o | usinesses ab wish to com f the Nationa | out federal a ment on the al Ombudsma | agency an, 409 3 |

Section 104(e)(2): Order of Withdrawal

Where MSHA has ordered that the mine operator withdraw miners under § 104(e)(1), MSHA shall issue an additional withdrawal order if an inspector finds an S&S violation during any subsequent inspection.

Form 7000-3 Guidance: Section 104(e)(2) Order of Withdrawal

Item 8. At the end of the narrative, add the following statement: "A Notice of Pattern of Violations, <POV notice number>, was issued on <date>."

Items 10A-D. Complete.

Item 11. Select Negligence level.

Item 12. Select "104(e)(2)."

Item 13. Select "Order."

Items 14A-D. IAS will autofill and should enter the date and time of the first § 104(e)(1) order issued in the POV sequence.

Item 14E. Select the first § 104(e)(1) order number.

Item 14F. IAS will autofill after selecting 14E.

Item 15. Describe and clearly identify the "Area or Equipment" affected.

Item 16. Do not complete.

Sample Section 104(e)(2) Order of Withdrawal

| | ion Data | | | | | ty and Health A | | <u>, </u> |
|--|--|---|---|--|---|--|--|---|
| . Date | Mo Da Yr 3/6/202 | | Clock) 0812 | | | 3. Citation/ Order Number | - | 7654335 |
| . Served To | Jane Doe | e, Mine Manage | er | 5. Operator | Academv | Mining Comp | anv. Ii | nc. |
| . Mine | Blu | e Falcon #2 M | ine | 7. Mine ID | 5-01254 | J | 2, | (Contractor) |
| . Condition o | | c raroon wa n | 1110 | | 01231 | | 8a. Writte | n Notice (103g) |
| electric unit. : the wall serious this obs | cal motor The expos Tway, whe entangle servation | s to the gear ed rotating o re a miner co ment injuries was cited. | uard the Dodge box on the driv ouplers are loo uld easily trip to themselves. ations, (765433 | re roller on cated on the and fall in This belt | the #4C side of ito the r conveyor | conveyor be the speed r otating cou was operat | lt driv educer plers o | ve take-up adjacent to causing |
| . Violation | A. Health Safety Other | of Act | | D. Part/Section of Title 30 CFR | | See Continuation | 20 VI | HA Form 7000-3a) □ |
| 0. Gravity: | ctor's Evaluation | | | | | | | |
| A. Injury or | Illnoce (hac) (| is): No Likelihood | Unlikely | Reasonably Like | elv 🗸 🕒 | lighly Likely 🔲 | Occu | rred 🗌 |
| CALCADA LA LA CARRA LA LA LA CARRA LA C | 1111000 (1100) (| is). No Likelillood L | | | | | X10-1400 YASA | |
| | illness could r | ea- | | rkdays Or Restricted | 2007 | Permanently Disa | ıbling 🗹 | Fatal 🗌 |
| sonably | ACCORDING MARKET | ea- o be: No Lost Wo | rkdays Lost Wo | | Duty 🗆 | N. W. W. | - | Fatal 🗌 |
| sonably C. Significa | illness could r be expected to ant and Substa | ea- o be: No Lost Wor untial: Yes 🗸 | rkdays Lost Wo | rkdays Or Restricted | I Duty | Permanently Disa | ns Affected | Fatal □ d: 001 |
| sonably C. Significa | illness could r be expected to ant and Substa e (check one) | ea- o be: No Lost Wo | rkdays Lost Wo | rkdays Or Restricted | Duty 🗆 | Permanently Disa D. Number of Perso E. Reckl | - | Fatal □ d: 001 |
| sonably C. Significa 1. Negligenc | illness could r be expected to ant and Substa e (check one) ction | ea- be: No Lost Wol initial: Yes A. None 104 (e) (2) | rkdays Lost Wo | rkdays Or Restricted | D. High | Permanently Disa | ns Affected | Fatal |
| sonably C. Significa 1. Negligenc 2. Type of Ad 4. Initial Activa A. Citation 5. Area or Ed The #4C | illness could repeted to ant and Substate (check one) cition B. Order quipment conveyor | ea- be: No Lost Wor ntial: Yes A. None 104(e)(2) C. Safeguard belt from he | No B. Low C. 13. Type of Issuar D. Written Notice | Moderate (check one) | D. High | Permanently Disa D. Number of Perso E. Reckl Order Safe | ns Affected ess Disreg | Fatal |
| sonably C. Significa 1. Negligenc 2. Type of Ad 4. Initial Action A. Citation 5. Area or Ed The #4C | illness could ribe expected to ant and Substa e (check one) ction B. Order quipment conveyor A. I | ea- be: No Lost Wol initial: Yes A. None 104 (e) (2) C. Safeguard | No B. Low C. 13. Type of Issuar D. Written Notice | Moderate Content of the content of | D. High | Permanently Disa D. Number of Perso E. Reckl Order Safe | ns Affected ess Disreg | Fatal |
| sonably C. Significa 1. Negligenc 2. Type of Ad 4. Initial Action A. Citation 5. Area or Ed The #4C 6. Termination | illness could ribe expected to ant and Substa e (check one) ction B. Order quipment conveyor Due A. I | ea- be: No Lost Wol initial: Yes A. None 104(e)(2) C. Safeguard belt from he | rkdays Lost Wo No B. Low C. 13. Type of Issuar D. Written Notice ad to tail. | Moderate Content of the content of | D. High | Permanently Disa D. Number of Perso E. Reckl Order Safe | ns Affected ess Disreg | Fatal |
| sonably C. Significa 1. Negligenc 2. Type of Ad 4. Initial Actic A. Citation 5. Area or Ed The #4C 6. Termination 7. Action to 7 A guard | illness could ribe expected to ant and Substa e (check one) ction B. Order quipment conveyor On Due A. I | ea- be: No Lost Wor initial: Yes A. None 104(e)(2) C. Safeguard belt from he Date Mo Da Yr Dodge coupler | rkdays Lost Wo No B. Low C. 13. Type of Issuar D. Written Notice ad to tail. | Moderate Moderate E. Citation/ Order Number | D. High Citation 76 | Permanently Disa D. Number of Perso E. Recki Order Safe | ns Affected ess Disreg guard F. Dated | Fatal |
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| sonably C. Significa 1. Negligenc 2. Type of Ad 4. Initial Action 5. Area or Ed The #4C 6. Termination 7. Action to The Guard Fast eneces 8. Terminate ection IV-Auto | illness could ribe expected to ant and Substa e (check one) ction DD B. Order quipment conveyor on Due A. I forminate for the dintopl d A. Date mated System D | ea- be: No Lost Wol initial: Yes A. None 104(e)(2) C. Safeguard belt from he Date Mo Da Yr Dodge coupler ace. Mo Da Yr 3/6/2023 B. Ti | rkdays Lost Wo No B. Low C. 13. Type of Issuar D. Written Notice ad to tail. B. Time (24 Hr. Clock) has been insta | Moderate ince (check one) E. Citation/ Order Number Corder in a words 1222 | D. High Citation 76 | Permanently Disa D. Number of Perso E. Recki Order Safe | ns Affected ess Disreg guard F. Dated | Fatal |
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Section 104(e) Series Enforcement Actions Process

A § 104(e)(1) Notice is issued.

If within 90 days of the date of Notice. A § 104(e)(1) Order is issued for every S&S violation rather than issuing a § 104(a) or D series. Because the mine is on the POV and has received a § 104(e)(1) notice the Mine Act requires the issuance of § 104(e)(1) orders instead, which requires the withdrawal of the miners from the affected area.

A § 104(e)(2) Order is issued when the first event has been closed in which the § 104(e)(1) order was issued. This is considered a subsequent event from the first event that the § 104(e)(1) order was issued. The § 104(e)(2) order will continue to be issued for all S&S violative conditions.

90 days without any S&S § 104(e)(1) or (e)(2) orders issued.

90-day clock for

the Notice begins.

A § 104(e)(1) Notice shall be terminated.

What stops the § 104(e) series? A complete inspection of the mine/plant/facility without any S&S conditions cited. This may be a combination of inspections. This is considered an "entire inspection."

Did the entire mine receive any § 104(e)(1) or (e)(2) orders during the inspection?

Yes = Mine remains on the POV until no S&S violations are issued under § 104(e)(1) or (e)(2).

No = $\S 104(e)(1)$ Notice shall be terminated.

Section 104(e)(3): Actions to Terminate the Notice

If an MSHA inspection of the entire mine finds no S&S violations of mandatory standards, the District Manager shall terminate the POV notice. However, a mine operator can reestablish a POV status if MSHA finds subsequent S&S violations.

Section 104(e)(3) of the Mine Act states the following, "If, upon an inspection of the entire coal or other mine, an authorized representative of the Secretary finds no violation of mandatory health or safety standards that could significantly and substantially contribute to the cause and effect of a coal or other mine health and safety hazard, the pattern of violations that resulted in the issuance of the notice under paragraph (1) shall be deemed to be terminated and the provisions of paragraphs (1) and (2) shall no longer apply. However, if as a result of subsequent violations, the operator establishes a pattern of violations, paragraphs (1) and (2) shall again be applicable to such operator."

Form 7000-3 Guidance: Section 104(e)(3)

Use a Mine Citation/Order Continuation Form 7000-3a and the initial Notice number from the POV sequence to terminate a POV notice.

Note: Ensure the subject mine has been inspected in its entirety.

CAUTION

The District Manager must consult the Regional Solicitor or SOL-MSH prior to terminating the POV notice.

Use the termination language provided in the termination with changes as required:

"<Mine ID> Mine underwent an inspection of the entire mine which was completed on <date> without being cited for a violation that could significantly contribute to the cause and effect of a mine safety or health hazard. Therefore, the mine is no longer subject to orders of withdrawal issued pursuant to Section 104(e) of the Federal Mine Safety and Health Act of 1977. Accordingly, the Notice of Pattern of Violations is terminated."

Sample Section 104(e)(3) - Termination

| Continuation | n/Order า | | | | | | « |
|---|--|----------------------------------|--------------------------------------|-----------------------------------|-----------------------------------|---|--|
| | quent Action/Continuation Action 1a. Continuati | on 2. Dated | | Da Yr 5/2023 | 3. Citation/ Order Number | 7654333 - 01 | |
| | Jane Doe, Mine Man | ager | 02/13 | 5. Operato | | | |
| 6. Mine Bl | ue Falcon #2 Mine | | | 7. Mine IC |) | ipany, mc. | (Contractor) |
| Section II-Justific | ation for Action | | | 76-0125 |)4 | | |
| violation wl Therefore, t | nich could signific | cantly and sub ger subject to | stantially contri orders of withd | ibute to the ca rawal issued p | use and effect oursuant to Sec | of a mine safety a ction 104(e) of the | nt being cited for a nd health hazard. Federal Mine Safety |
| | | | | | | | |
| | quent Action Taken | | | | | | |
| 8. Extended To | A. Date Mo Da | Yr B. Time | (24 Hr. Clock) | | C. Vacated | D. Terminated | E. Modified |
| Section IV—Inspect 9. Type of Inspect E01 | | 10. Event Num 1234572 | ber | | | | |
| 11. AR Name | | 11437314 | AR Number 12345 | 12. Date 03/27/202 | Mo Da Yr | 13. Time (24 Hr. C | llock) |
| Copper Pot | | | 117.343 | 103/2//202 | ,5 | [14.31 | |

Section 104(g)(1): Orders of Withdrawal

Section 104(g)(1) of the Mine Act provides for the withdrawal of untrained miners from a mine or mill until they have received the required training pursuant to § 115 of the Mine Act. The purpose of a § 104(g)(1) order is to eliminate the hazard that untrained or inadequately trained miners pose to themselves and to other miners. The inspector shall evaluate § 104(g)(1) orders for "S&S" using the criteria in Chapter 1.

When citing for untrained miners under § 104(g)(1):

- Underground Mines (Part 48). MSHA can cite only §§ 48.5, .6, .7, .8, and 11.
- Surface Mines and Surface Areas of Underground Mines (Part 48). MSHA can cite only §§ 48.25, .26, .27, .28, and 31.
- Surface Mines (Part 46). MSHA can cite only §§ 46.5, .6, .7, .8, and 11.

MSHA shall **not** issue citations in lieu of § 104(g)(1) orders **unless** the miner cannot be trained because the miner is no longer employed at the mine, was permanently disabled, or was fatally injured.

When miners have received training, but there are violations involving training plans, cooperative training programs, records of training, compensation for training, adequacy of training, etc., the inspector should not issue § 104(g)(1) orders of withdrawal. In these situations, the inspector should issue a § 104(a) citation or a § 104(d) citation or order.

An inspector shall issue a § 104(g)(1) order of withdrawal for the following categories of untrained miners:

- New miners,
- Experienced or newly hired experienced miners,
- Miners assigned to perform a task for which they have had no prior experience,
- Miners whose annual refresher training is not up to date, and
- Miners or applicable persons working on mine property who have not received hazard training.

Violations Involving One Miner

If only one miner is involved, but the mine operator has violated two or more sections of Part 46 or Part 48, issue one § 104(g)(1) order and cite the standard that would have the most serious immediate consequences for the miner.

For example, failure to task train a miner operating an unfamiliar piece of equipment may have a greater immediate consequence to the health and safety of the untrained miner than the lack of annual refresher training. However, the inspector should include a description of all violations in the condition or practice portion of the order to ensure the operator has complied with all training deficiencies prior to terminating the order.

Example: One underground miner was found not task trained and had not received annual refresher training. Issue only one § 104(g)(1) order for the failure to provide task training. However, the Item 8 narrative should include a description of both violations.

Violations Involving More Than One Miner

Use the following descriptions when determining withdrawal actions for § 104(g)(1) violations involving more than one untrained miner:

- Issue a single § 104(g)(1) order if the Part 46 or Part 48 training violation is the same for all the miners.
- Issue one or more § 104(g)(1) orders, depending on the circumstances, if there are different violations of the training requirements for each miner.

Example: Eight underground miners lacked the requisite safety training (three did not receive new miner training, two were not task trained, and three missed annual refresher training). The inspector would issue three separate § 104(g)(1) orders: one for a violation of 30 C.F.R. § 48.5; one for a violation of 30 C.F.R. § 48.8.

Note: For each violation, list the untrained miners' names in Item 15 "Area or Equipment."

When multiple miners are involved in a violation of the same standard, enter the total number of miners withdrawn in Item 10D "Number of Persons Affected" and list each miner's name in Item 15 "Area or Equipment."

The inspector can modify a § 104(g)(1) order that lists multiple miners to allow individual miners to return to work as soon as the miner completes the training specified in the order.

Violations Involving Independent Contractors

MSHA would issue a § 104(g)(1) order of withdrawal to the direct employer of any miner who has not received the required training. If there is uncertainty as to who employs a specific miner, issue the order to the operator with the greatest physical presence at the mine. After the miner is withdrawn, the inspector can resolve any discrepancies through subsequent modification actions.

Citations Issued with Section 104(g)(1) Orders

Except in instances of overlapping compliance responsibility between contractors and mine operators, an inspector shall not issue citations in addition to § 104(g)(1) orders for the same violation. However, there may be circumstances where it is appropriate to issue citations or orders for training violations to both the independent contractor and the mine operator.

Example: A miner is the employee of an independent contractor, and the mine operator had agreed to provide the miner training in accordance with the mine's MSHA-approved training plan. However, the operator failed to ensure that the miner received the required training. The inspector would issue a § 104(g)(1) order to the independent contractor, and as appropriate, a § 104(a) citation, § 104(d)(1) order, or a § 104(d)(2) order to the mine operator.

Form 7000-3 Guidance: Section 104(g)(1) Orders of Withdrawal

Item 8. Describe the hazard and clearly state the prohibited activity. Include the statement "The Federal Mine Safety and Health Act of 1977 declares that untrained miner(s) are a hazard to themselves and others."

Item 9C. Enter the first standard cited.

Item 12. Select "104(g)(1)."

Item 13. Select "Order."

Item 15. List the miner(s) to be withdrawn.

Item 16. Do not complete.

Sample Section 104(g)(1) Order – Annual Retraining Part 48

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| . Mine | | Co | rnish M: | ino | | | 7. Mine ID | | | | | | | ntractor) |
| Condition of | or Practice | CO. | IIIISII M. | THE | | | | 76-013 | LII | | 8a. V | Vritten | Notice (1 | 03g) 🔲 |
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| Section IIInspe | Other ector's Evalua | | | | | | | | | 40 | 3.28(a) | | | |
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Sample Section 104(g)(1) Order – Single Miner and a Single Violation Part 48

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|---|--|--|--|--|---|--|--|--|---|
| . Date | Mo Da Yr 3/24/2023 | 2. Time (24 Hr. C | 1240 | | | 3 | . Citation/ Order Number | 7 | 654339 |
| I. Served To | Jane Doe, | Mine Manager | e) | 5. Ope | | adamy N | ining Comp | anv In | n.c. |
| 3. Mine | | FR 51 05 | | 7. Min | e ID | | IIIII COME | any, in | (Contractor) |
| 3. Condition of | | ornish Mine | | | 76-01 | 111 | | 8a Written | Notice (103g) |
| require The min unneces operato require | d MSHA 40- e operator sary for a r is hereb d training | ayroll Number hour new mine: was aware of temporary emy ordered to the The Federal to himself a: | r training the Part 4 ployee. Mr. withdraw Mi Mine Safet | prior to 48 trainin Martin h ichael Mar ty and Hea | performing require ad no pre tin from | ng main ements evious the mi | tenance du but believ mining exp ne until h | ties un red it w erience e has r | derground. vas e. The received the |
|). Violation | A. Health ☐ Safety ☑ Other ☐ | B. Section of Act | | C. Part/Sec Title 30 C | | | See Continuatio | | A Form 7000-3a) 🗖 |
| | ector's Evaluation | • | | | | | | | |
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| sonably C. Signific 1. Negligenc 2. Type of A 4. Initial Acti A. Citation 5. Area or E Michael 6. Terminati | rillness could receive expected to be ant and Substant ele (check one) ction 1 on B. Order quipment Martin (P. | A. None Outside: Yes A. None Outside: Yes O | No B. Low 13. Type of Is D. Written Notice 123456) | C. Moderate ssuance (check E. Cita Orde | ✓ D. one) Citation/ | D. | Number of Perso | ons Affected | l: 001 ard Written Notice |
| sonably C. Signific 1. Negligenc 2. Type of A 4. Initial Acti A. Citation 5. Area or E Michael 6. Terminati | r illness could receive expected to be annual and Substantice (check one) ction 1 on B. Order quipment Martin (Partin (Partin Action) | A. None Outside: Yes A. None Outside: Yes O | No B. Low 13. Type of Is D. Written Notice 123456) | C. Moderate ssuance (check E. Cita Orde | ✓ D. one) Citation/ | D. | Number of Perso | ons Affected | l: 001 ard Written Notice |
| sonably C. Signific 1. Negligenc 2. Type of A 4. Initial Act A. Citation 5. Area or E Michael 6. Terminati Section IIITerr 7. Action to | r illness could receive expected to be annual and Substantice (check one) ction 1 on B. Order quipment Martin (Parination Action Terminate A. Date | A. None A. None O. C. Safeguard ayroll Number te Mo Da Yr | No B. Low 13. Type of Is D. Written Notice 123456) | C. Moderate ssuance (check E. Cita Orde | ✓ D. one) Citation/ | D. | Number of Perso | ons Affected | l: 001 ard Written Notice |
| sonably C. Signific 1. Negligenc 2. Type of A 4. Initial Acti A. Citation 5. Area or E Michael 6. Terminati 6. Terminati 7. Action to 8. Terminate 8. Terminate 9. Type of Ir | rillness could recover be expected to be ant and Substant ce (check one) ction 1 on B. Order quipment Martin (P. on Due A. Danination Action Terminate ad A. Date on | A. None A. None O. C. Safeguard ayroll Number te Mo Da Yr | No B. Low 13. Type of Is D. Written Notice 123456) B. Time (24 Hr. Cock) | C. Moderate ssuance (check E. Cita Orde | ✓ D. one) Citation/ | D. High con co | Number of Perso | ons Affected | i: 001 ard Written Notice |
| sonably C. Signific 1. Negligenc 2. Type of A 4. Initial Acti A. Citation 5. Area or E Michael 6. Terminati 6. Terminati 7. Action to 8. Terminate 8. Terminate 9. Type of Ir (activity o | r illness could receive expected to be ant and Substant electron 1 on B. Order quipment Martin (P. on Due A. Damination Action Terminate and A. Date Martin particular and System Date inspection ode) E01 | A. None A. None O. 4 (g) (1) C. Safeguard ayroll Number te Mo Da Yr B. Time | No B. Low 13. Type of Is D. Written Notice 123456) B. Time (24 Hr. Cock) | C. Moderate ssuance (check E. Cita Orde | ☑ D. one) Citatie tion/ er Number | D. High con co | Number of Person | ons Affected | i: 001 ard Written Notice |
| sonably C. Signific 1. Negligenc 2. Type of A 4. Initial Act A. Citation 5. Area or E Michael 6. Terminate 6. Terminate 7. Action to 8. Terminate 9. Type of Ir (activity of | r illness could receive expected to be ant and Substant electron 1 on B. Order quipment Martin (P. on Due A. Damination Action Terminate and A. Date Martin particular and System Date inspection ode) E01 | A. None A. None O4 (g) (1) C. Safeguard ayroll Number Mo Da Yr B. Time 20. Event Number | No | C. Moderate ssuance (check E. Cita Orde | D. One) Citation/ er Number | D. High on On Mill | Number of Person | ons Affected Affected Beguard F. Dated F. Dated | l: 001 ard |

Sample Section 104(g)(1) Order – Untrained Miner Part 48

| | ation Data | | | | | | | | |
|---|--|--|--|---------------------------------------|--|--|--|---|---|
| . Date | Mo Da Yr 3/27/2023 | 2. Time (24 Hr. Cl | ock) 1253 | | | | 3. Citation/ Order Nu | mber | 7654340 |
| l. Served To | Jane Doe, | Mine Manager | | 5. C | perator | Academy | / Mining (| Company, | Inc. |
| i. Mine | <u>9.00</u> | 1.3.54 | | 7. N | line ID | | | | (Contractor) |
| . Condition | 0-2 | rnish Mine | | | | 76-01111 | | Ra Writ | ten Notice (103g) |
| | A | as cited 1 ti | me in two w | eare at | mine | 7601111 | (1 to the | 3,070,000,000 | |
| undergr Section receive trainin immedia Authori (If a m | cound portion 115 of the cd none of t ig, John Jon itely from t ized Representant no country that no country the country from the country that no country the country that | forming labor n of the mine Act. Mr. Jon he required 4 es is declare he mine until ntative. t received tr issued; howev | e. He has notes is a new 0 hours of da hazard he has rectaining in v | t receiminer, new min to hims eived t | ved to hire the receipt a contract to the re | the safety d by this caining. I and others equired to 2 or more | training company in the abs and is training, a | g as requion 8/13/ sence of to be with as determ | ired by 08. He has such hdrawn ined by an regulations, |
| | | rm 7000-3a.) | er, each ad | ultiona | II VIC | otation is | 2 | | |
|). Violation | A. Health | B. Section | | C. Part/S | ection of | | See Conti | nuation Form (M | SHA Form 7000-3a) 🔽 |
| . Troiciacii | Safety 🗹 | of Act | | Title 30 | | | 41 | 3.5(a) | |
| ection II-Insp | Other Dector's Evaluation | L | | | | | 4. | 5.5(a) | |
| C. Signific | y be expected to be cant and Substantia ce (check one) | al: Yes 🗹 | No B. Low 13. Type of Issu | C. Modera | | D. High | D. Number of E. Order | Persons Affect Reckless Disr Safeguard | egard |
| 4. Initial Act | tion | 04 (g) (1) C. Safeguard □ | 1 | E. C | itation/ rder Nun | | Older y | F. Dated | |
| 5. Area or E John Jo | ones, Labore | r is withdraw | on from the m | 4-10 | | | | | |
| 25 2255 2555 | Terminate | | | | | | | | |
| Section III-Ter | | | | | T | | | | |
| Section III-Ter 7. Action to | ed A. Date Mo | Da Yr B. Time | (24 Hr. Clock) | | | | | | |
| ection III-Ter 7. Action to 8. Terminat | A. Date | Da Yr B. Time | (24 Hr. Clock) | | -277 | imary or Mill | | | |
| Section III-Ter 7. Action to 8. Terminat | A. Date tomated System Data nspection | B. Time | P 140 | | 21. Pr | inay or will | | | |
| 7. Action to 8. Terminat Section IVAut 19. Type of li | A. Date tomated System Data nspection code) E01 | B. Time | • | | 21. Pr | | 23. AR I | | 345 |

Sample Section 104(g)(1) Order – Multiple Miners and a Single Violation Part 48

| Section IViolat | ion Data | | | | | | IVI | ne Sar | ety and Healt | ın Administi | ation | <u>`//</u> |
|--|---|---|--------------------------------|---|--|--|----------------|---------------|------------------------------|--|---------------------------------|------------------------|
| . Date | Mo Da Yr 3/27/2023 | | (24 Hr. Clo | ck) .343 | | | | | 3. Citation/ Order Numl | hor | 765434 | 1 |
| l. Served To | Jane Doe, | | | .5.15 | | 5. Operator | | | Older Hallin | 501 | 705151 | |
| 3. Mine | | | .5 | | | 7. Mine ID | Ac | ademy | Mining Co | ompany, I | | ontractor) |
| | | Cornish M | Mine | | 8 | 7. WILLE ID | 76-0 | 1111 | | | | 15 |
| . Condition o | r Practice | | | | | | | | | 100000 10000000 | en Notice (| 0 |
| "the proordered training | 7. The min oduction s to withdr g. The Fed i to himse | chedule aw the 5 eral Min | has bed 6 mine: 1e Safet | en too t: rs from t ty and He | ight to the mine | work i or mi | n the 11 un | trai til t | ning." The hey have r | e operato received | r is h the re | ereby quired |
| . Violation | A. Health | B. Section | n | | C. Pa | ut/Section o | f | | See Continu | uation Form (MS | HA Form 70 | 00-3a) 🗖 |
| a aaremaa | Safety ☑ Other □ | of Act | | | | e 30 CFR | | | 4 | 8.8 | | |
| ection IIInspe | ector's Evaluation | | | | | | | | | | | |
| A Crewitte | | | | | | | | | | | | |
| | r Illness (has) (is |): NoLikelih | hood 🗌 | Unlikely | ✓ F | Reasonably | Likely | | Highly Likely | Occ | urred 🗌 | |
| A. Injury of B. Injury of | r illness could re | a- N-1- | _ | | 52222 5 | | | 20.00 | 0,,,, | | | |
| A. Injury of B. Injury of sonably | rillness could re be expected to | a- De: No Lo | st Workda | ys 🗖 L | ☑ F ost Workday | | | 20.00 | Permanently | Disabling 🗖 | Fatal | No. 100 |
| A. Injury of B. Injury of sonably C. Signific. | r illness could re be expected to ant and Substan | a- oe: No Lo tial: Ye | st Workda | ys □ Le | ost Workday | ys Or Restri | cted Dut | ty 🗹 | Permanently D. Number of P | Disabling Dersons Affecte | Fatal ed: | 056 |
| A. Injury of B. Injury of sonably C. Signification Negligence | rillness could re be expected to ant and Substan e (check one) | a- oe: No Lo tial: Ye A. None | st Workda | ys Low _ | ost Workday C. Mod | ys Or Restri | cted Dut | ty ☑ | Permanently D. Number of Po | Disabling ersons Affecte Reckless Disre | Fatal ed: gard □ | 056 |
| A. Injury of B. Injury of sonably C. Signific. 1. Negligeno 2. Type of A. | r illness could re be expected to ant and Substan e (check one) | a- oe: No Lo tial: Ye | st Workda | ys Low _ | C. Mod | ys Or Restri | cted Dut | ty 🗹 | Permanently D. Number of Po | Disabling ersons Affecte Reckless Disre Safeguard | Fatal ed: gard Written | 056 Notice □ |
| B. Injury of sonably C. Signific | r illness could re be expected to ant and Substan e (check one) | A. None | st Workda | ys Low _ | C. Mod | ys Or Restri | cted Dut | ty ☑ | Permanently D. Number of Po | Disabling ersons Affecte Reckless Disre | Fatal ed: gard Written | 056 |
| A. Injury of B. Injury of sonably C. Signification 11. Negligeno 12. Type of A. Injurial Action A. Citation 15. Area or Edition 15. Area or Editio | rillness could re be expected to l ant and Substan e (check one) ction B. Order quipment per, Karen | A. None L04(g)(1) C. Safegu | st Workda | ys Low Low 13. Type o | C. Mod | Jerate check one) E. Citation/ Order Nu | cted Dut | ty ☑ | Permanently D. Number of Po | Disabling ersons Affecte Reckless Disre Safeguard | Fatal ed: gard Written | 056 Notice □ |
| A. Injury of B. Injury of Sonably C. Signific I1. Negligenc I2. Type of A I4. Initial Acti A. Citation I5. Area or Ed | rillness could re be expected to l ant and Substan e (check one) ction B. Order quipment per, Karen | A. None A. None L04 (g) (1) C. Safegu Jones , | sst Workda | ys Low Low 13. Type o | C. Mod f Issuance (c | Jerate check one) E. Citation/ Order Nu | cted Dut | ty ☑ | Permanently D. Number of Po | Disabling ersons Affecte Reckless Disre Safeguard | Fatal ed: gard Written | 056 Notice □ |
| A. Injury of B. Injury of sonably C. Signific 11. Negligeno 12. Type of A. Initial Action A. Citation 15. Area or Eden Hopp 16. Termination 16. Termination 16. Section III-Term | r illness could re be expected to l ant and Substan e (check one) ction B. Order quipment peer, Karen on Due A. Da nination Action | A. None A. None L04 (g) (1) C. Safegu Jones , | sst Workda | ys Low Low 13. Type o D. Written Noti | C. Mod f Issuance (c | Jerate check one) E. Citation/ Order Nu | cted Dut | ty ☑ | Permanently D. Number of Po | Disabling ersons Affecte Reckless Disre Safeguard | Fatal ed: gard Written | 056 Notice 🗌 |
| A. Injury of B. Injury of sonably C. Signific 11. Negligeno 12. Type of A. Initial Action A. Citation 15. Area or Eden Hopp 16. Termination 16. Termination 16. Section III-Term | r illness could re be expected to l ant and Substan e (check one) ction B. Order quipment peer, Karen on Due A. Da nination Action | A. None A. None L04 (g) (1) C. Safegu Jones , | sst Workda | ys Low Low 13. Type o D. Written Noti | C. Mod f Issuance (c | Jerate check one) E. Citation/ Order Nu | cted Dut | ty ☑ | Permanently D. Number of Po | Disabling ersons Affecte Reckless Disre Safeguard | Fatal ed: gard Written | 056 Notice □ |
| A. Injury of B. Injury of sonably C. Signific 11. Negligeno 12. Type of A 14. Initial Action A. Citation 15. Area or E. Ben Hopp 16. Terminate 17. Action to 18. Terminate 18. Terminate 18. Terminate 18. Terminate 18. | rillness could rebe expected to lant and Substan e (check one) ction B. Order quipment per, Karen on Due A. Da nination Action Terminate | A. None A. None L04 (g) (1) C. Safegu Jones , Mo Da | sst Workda | ys Low Low 13. Type o D. Written Noti | C. Mod f Issuance (ce mes here r. Clock) | Jerate check one) E. Citation/ Order Nu | cted Dut | ty ☑ | Permanently D. Number of Po | Disabling ersons Affecte Reckless Disre Safeguard | Fatal ed: gard Written | 056 Notice □ |
| A. Injury of B. Injury of sonably C. Signific 11. Negligeno 12. Type of A 14. Initial Action 15. Area or E Ben Hopp 16. Terminate 17. Action to 18. Terminate 19. Automorphism 19. Action 19. A | rillness could rebe expected to bant and Substan e (check one) ction B. Order quipment per, Karen on Due A. Da nination Action Terminate A. Date branted System Da | A. None A. None L04 (g) (1) C. Safegu Jones , Mo Da Mo Da Yr | st Workda as | ys Low B. Low 13. Type o O. Written Noti 11 56 nat 3. Time (24 Hi | C. Mod f Issuance (ce mes here r. Clock) | lerate check one) E. Citation/ Order Nu | Citat | by 🗸 | Permanently D. Number of Po | Disabling ersons Affecte Reckless Disre Safeguard | Fatal ed: gard Written | 056 Notice □ |
| A. Injury of B. Injury of sonably C. Signific 1. Negligeno 2. Type of A 4. Initial Action 5. Area or E Ben Hopp 6. Terminate 7. Action to 8. Terminate Section IV-Auto IV-Auto IV-Auto IV-Auto IV-Auto III-Terminate Section IV-Auto IV-Auto IV-Auto IV-Auto IV-Auto III-Terminate Section IV-Auto IV-Auto IV-Auto IV-Auto III-III-IIIIIIIIIIIIIIIIIIIIIIIIIIIII | r illness could re be expected to leant and Substan e (check one) ction B. Order quipment per, Karen on Due A. Da nination Action Terminate A. Date mated System Dates | A. None A. None L04 (g) (1) C. Safegu Jones , Mo Da Mo Da Yr a 20. Ever | st Workda as | ys Low B. Low 13. Type o O. Written Noti 11 56 nat 3. Time (24 Hi | C. Mod f Issuance (ce mes here r. Clock) | lerate check one) E. Citation/ Order Nu | cted Dut | by 🗸 | Permanently D. Number of Po | Disabling ersons Affecte Reckless Disre Safeguard | Fatal ed: gard Written | 056 Notice □ |
| A. Injury of B. Injury of sonably C. Signification II. Negligence 12. Type of A. Citation II. Area or E. Ben Hopp II. Action to 17. Action to 18. Terminate Section IVAut III. Type of Information III. Type of Information III. Type of Information III. | rillness could rebe expected to be expected to be ant and Substance (check one) ction | A. None A. None L04 (g) (1) C. Safegu Jones , Mo Da Mo Da Yr a 20. Ever | st Workda as | ys Low B. Low 13. Type o Written Noti 11. 56 nat 3. Time (24 Hr. | C. Mod f Issuance (ce mes here r. Clock) | lerate check one) E. Citation/ Order Nu | Citat | by 🗸 | Permanently D. Number of Po | Disabling | Fatal | 056 Notice |

Sample Section 104(g)(1) Order – Single Miner and Multiple Violations Part 48

| | ation Data | | | | | | 1911110 | Odlet | y and Health | Administ | auon 🧳 |
|--|--|---|--|--|---------------------------------|--|--|---|--|---|---|
| . Date | Mo Da 3/27/ | | 2. Time (24 Hr. C | lock) 1408 | | | | ; | 3. Citation/ Order Numbe | r | 7654342 |
| . Served To | | | Mine Manager | | 5. | Operator | • | | Older Nambe | 1 | 7034342 |
| | | | | | | | Acad | emy 1 | Mining Com | pany, I | |
| . Mine | | Coi | rnish Mine | | 7. | Mine ID | 76-011 | 11 | | | (Contracto |
| . Condition | or Practice | | | | | | | | | 8a. Writte | en Notice (103g) 🗌 |
| Jones Ì that he trainin 1/13/08 Januar directe | had sta: e had no ng with: 8. Mr. 1 y 8, 20 or said l Mine (| rted tot recin the Jones 08. Th | the drill on the d | prior to as ly two hours raining. Jir e months. Mi ious mining ator was awa schedule ha Act of 1977 | prion Jones Jones exper: are of | r to t s had es' la ience; the t n too | his ord also no st MSHA prior t raining tight t | er be t red tra: o beq requo o wo: | eing writt ceived ann ining was ginning wo uirements. rk in the | en. He ual ref receive rk at t The sa trainin | indicated resher d on his mine on fety g." The |
| . Violation | A. Healtl Safet Othe | у 🗹 📗 | B. Section of Act | | | /Section o 30 CFR | of | | See Continuat | | HA Form 7000-3a) 📘 |
| 0. Gravity: | pector's Evalu | iation | | | | | | | | | |
| | or Illness (h | 7 1 7 | No Likelihood 🗌 | Unlikely 🗌 | Re | asonably | Likely 🗸 | H | ighly Likely 🔲 | Оссі | urred 🗌 |
| B. Iniury | or illness co | | | | | | | | | | |
| | ly be expect | ed to be: | No Lost Work | days ☐ Lost | Workdays | Or Restri | icted Duty | | Permanently Di | sabling 🔲 | Fatal ✓ |
| sonab | ly be expect icant and Su | | | days □ Lost | Workdays | Or Restri | icted Duty [| | Permanently Di | | |
| sonab C. Signifi | | ubstantial: | | | Workdays C. Mode | | , | D. | . Number of Per | sons Affecte | od: 0 01 |
| sonab C. Signifi 1. Negliger | icant and Su | ubstantial: one) | Yes 🗸 | No B. Low | C. Mode | rate 🗌 | D. H | D. igh ✓ | . Number of Per | sons Affecte | gard |
| sonab C. Signifi 1. Negliger 2. Type of 4. Initial Ac | icant and Sunce (check c Action | ubstantial: one) 104 | Yes | No B. Low 13. Type of Iss | C. Modesuance (ch | rate neck one) Citation/ | D. H Citation | D. igh ✓ | . Number of Per | sons Affecte | od: 0 01 |
| sonab C. Signifi 1. Negliger 2. Type of 4. Initial Ac A. Citation | icant and Sunce (check check c | ubstantial: one) 104 | Yes | No B. Low | C. Modesuance (ch | rate 🗌 neck one) | D. H Citation | D. igh ✓ | . Number of Per | sons Affecte kless Disre feguard | od: 001 gard |
| sonab C. Signifi 1. Negliger 2. Type of 4. Initial Ac A. Citation 5. Area or | icant and Sunce (check check c | ubstantial: one) 104 rder 🗌 | Yes | No B. Low 13. Type of Iss D. Written Notice | C. Modesuance (ch | rate neck one) Citation/ | D. H Citation | D. igh ✓ | . Number of Per | sons Affecte kless Disre feguard | od: 001 gard |
| sonab C. Signifi 1. Negliger 2. Type of 4. Initial Ac A. Citation 5. Area or | icant and Sunce (check check c | ubstantial: one) 104 rder 🗌 | Yes A None 4 (g) (1) C. Safeguard No. 3123456 | No B. Low 13. Type of Iss D. Written Notice | C. Modesuance (ch | rate neck one) Citation/ | D. H Citation | D. igh ✓ | . Number of Per | sons Affecte kless Disre feguard | od: 001 gard |
| sonab C. Signifi 1. Negliger 2. Type of 4. Initial Ac A. Citation 5. Area or Jim Jon 6. Termina | icant and Sunce (check check c | one) 104 rder yroll A. Date | Yes A None 4 (g) (1) C. Safeguard No. 3123456 | No B. Low 13. Type of Iss D. Written Notice | C. Modesuance (ch | rate neck one) Citation/ | D. H Citation | D. igh ✓ | . Number of Per | sons Affecte kless Disre feguard | od: 001 gard |
| sonab C. Signifi 1. Negliger 2. Type of 4. Initial Ac A. Citation 5. Area or Jim Jon 6. Termina | icant and Sunce (check of Action Stion B. Of Equipment Inces (page stion Due | ne) 104 rder yroll A. Date | Yes A None 4 (g) (1) C. Safeguard No. 3123456 | No B. Low 13. Type of Iss D. Written Notice | C. Modesuance (ch | rate neck one) Citation/ | D. H Citation | D. igh ✓ | . Number of Per | sons Affecte kless Disre feguard | od: 001 gard |
| sonab C. Signifi 1. Negliger 2. Type of 4. Initial Ac A. Citation 5. Area or Jim Jon 6. Termina | icant and Sunce (check of Action cition Equipment nes (pa; tion Due | ne) 104 rder yroll A. Date | Yes A None 4 (g) (1) C. Safeguard No. 3123456 | No B. Low 13. Type of Iss D. Written Notice | C. Modesuance (ch | rate neck one) Citation/ | D. H Citation | D. igh ✓ | . Number of Per | sons Affecte kless Disre feguard | od: 001 gard |
| sonab C. Signifi 1. Negliger 2. Type of 4. Initial Ac A. Citation 5. Area or Jim Jon 6. Termina ection III-Te 7. Action to | icant and Stance (check of Action Action B. Oi Equipment the search (pay of the Action Due or Terminate) ted A. Date | one) 104 rder yroll A. Date | Yes A. None 4 (g) (1) C. Safeguard No. 3123456 Mo Da Yr | No B. Low 13. Type of Iss D. Written Notice | C. Modesuance (ch | rate neck one) Citation/ | D. H Citation | D. igh ✓ | . Number of Per | sons Affecte kless Disre feguard | od: 001 gard |
| sonab C. Signifi C. Signifi L. Negliger L. Type of L. Initial Ac A. Citation L. Area or Jim Jon C. Termina ection III-Te L. Action to R. Termina ection IV-Action IV-A | icant and State Control of the Contr | one) 104 rder yroll A. Date | Yes A. None 4 (g) (1) C. Safeguard No. 3123456 Mo Da Yr Da Yr B. Tim | No B. Low 13. Type of Iss D. Written Notice 7) B. Time (24 Hr. Clock) | C. Modesuance (ch | rate neck one) Citation/ Order Nu | D. H Citation mber | DDigh Ø | . Number of Per | sons Affecte kless Disre feguard | od: 001 gard |
| sonab C. Signifi 1. Negliger 2. Type of 4. Initial Ac A. Citation 5. Area or Jim Jon 6. Termina ection III-Te 7. Action to | icant and Succe (check of Action Stion In | one) 104 rder yroll A. Date | Yes A. None 4 (g) (1) C. Safeguard No. 3123456 Mo Da Yr | No B. Low 13. Type of Iss D. Written Notice 7) B. Time (24 Hr. Clock) | C. Modesuance (ch | rate neck one) Citation/ Order Nu | D. H Citation | DDigh Ø | . Number of Per | sons Affecte kless Disre feguard | od: 001 gard |
| sonab C. Signifi C. Signifi L. Negliger L. Type of L. Initial Ac A. Citation L. Ac Citation L. Ac Citation L. Action III.—Te L. Action to L. Action to L. Action to L. Termina L | icant and State (check of Action State of Action Due State of | abstantial: ne) 104 rder yroll A. Date ion Mo I | Yes A. None 4 (g) (1) C. Safeguard No. 3123456 Mo Da Yr Da Yr B. Tim 20. Event Number | No B. Low 13. Type of Iss D. Written Notice 7) B. Time (24 Hr. Clock) | C. Modesuance (ch | rate neck one) Citation/ Order Nu | D. H Citation mber | DDigh Ø | . Number of Per | sons Affecte kless Disre feguard F. Dated | gard Written Notice Mo Da Yr |

Sample Section 104(a) Citation – Inadequate Training Plan Part 46

| Section IVio | lation Data | | | | | wine Sat | ety and Healtl | Administr | au011 *// |
|---------------------------------------|---|--|--|---|--|---|--|------------------|--------------------|
| I. Date | Mo Da Yr 3/24/2023 | 2. Time (24 Hr. Cl | ock) 1421 | | | | 3. Citation/ Order Numb | or | 7654343 |
| 4. Served T | | | 1421 | 5. Op | erator | | Older Nullic | iei | 7054343 |
| | BOILT BOO, 6 | MIGI | | | | Acad | emy Mining | Company | |
| 3. Mine | Blue Falcon S | Sand and Gra | vel Mine | 7. Mi | | 5-54312 | | | (Contractor) |
| 3. Condition | or Practice | | | | | | | 8a. Writte | en Notice (103g) 🗌 |
| The fo | h 46.3(b)(5), llowing items here was not o approximate o evaluation o course mate ical and othe | contribute a general de time range procedures w rial was pro | to the ineff scription of was given fo ere included wided for th | ectiver the tear or the s l to det | ness of eaching subject cermine | f the pl g method areas e the ef | an: s to be us to be cove fectivenes | red. s of the | |
|). Violation | Safety 🗖 | B. Section of Act | | C. Part/Se Title 30 | | | 50,000 to \$4,000 to \$6,000 | 20 100 | HA Form 7000-3a) 🗖 |
| ection IIIns | Other spector's Evaluation | | | | | | 46. | 3(a) | |
| sonab C. Signif | 100.0 | No Lost Workd Yes A. None 04 (a) | No ☑ | orkdays Or C. Moderate ance (check | · 🗸 | A 107-07 | | .80 00-0 | 012 |
| 4. Initial Ad | ction | 30. 300 2 00.2 | D. Written Notice | E. Cit | | | | F. Dated | Mo Da Yr |
| 15. Area or 16. Termina | Equipment ation Due A. Date armination Action o Terminate | Mo Da Yr 3/31/2023 | B. Time (24 Hr. Clod | ok) | 1421 | | | | |
| | ated A. Date Mo [| Da Yr B. Time | (24 Hr. Clock) | | | | | | |
| 7. Action to 8. Termina | utomated System Data | | | | 21. Prima | | Ī | | |
| 7. Action to 8. Termina Section IVA | utomated System Data Inspection | 20. Event Number | | | | P | 23. AR Nu | mhor | |
| 17. Action to | utomated System Data Inspection code) E01 | | 1234567 per Pot | | | | ZS. ALTINU | 123 | 4 F |

Sample Section 104(a) Citation – Training Certification Not Provided Part 46

| 1. Date Mo Da Yr | 2. Time (24 Hr. Ck | | Ĭ | | 3 | . Citation/ | | |
|---|---------------------------|---------------------|------------------------|----------------------|------------|---------------|----------------|---|
| 3/24/2023 4. Served To John Doe, | <u>.</u> | 1433 | 5. O | perator | | Order Numbe | er : | 7654344 |
| John Doc, | Owliei | | 222 521 | | Academ | y Mining | Company | |
| 6. Mine Blue Falcon | Sand and Grav | vel Mine | 7. Mi | ne ID 76- | 54312 | | | (Contractor) |
| 8. Condition or Practice | | | | | | | 8a. Writte | n Notice (103g) 🗌 |
| miner training. | | | | | | | | |
| | | | | | | | | |
| | | | | | | See Continua | tion Form (MSF | IA Form 7000-3a) 🗖 |
| 9. Violation A. Health Safety Other | B. Section of Act | | C. Part/Se Title 30 | | | 46.9(| d)(1) | |
| Section IIInspector's Evaluation 10. Gravity: | 2_2 | | | | | | | |
| A. Injury or Illness (has) (is): B. Injury or illness could rea | | Unlikely ✓ | Reas | onably Likely | / 🗌 Hiệ | jhly Likely 🗌 | Occu | rred 🗌 |
| sonably be expected to be | | ays 🛛 Lost W | orkdays O | Restricted D | Outy 🗌 📗 | Permanently D | isabling 🔲 | Fatal 🗌 |
| C. Significant and Substanti | al: Yes □ | No 🗸 | | | D. | Number of Per | sons Affected | d : 000 |
| 11. Negligence (check one) | A. None | B. Low | C. Moderate | € [] | D. High 🔲 | E. Re | ckless Disreg | ard 🗌 |
| 12. Type of Action | 104(a) | 13. Type of Issu | iance (chec | k one) Ci | tation 🗸 🤇 | order ☐ Sa | ifeguard 🗌 | Written Notice |
| 14. Initial Action | C Setemand 🗖 . | Nyittan Nation | | ation/ der Number | | | F. Dated | Mo Da Yr |
| A. Citation B. Order 15. Area or Equipment | C. Safeguard 🔲 [| J. WHILEH NOUCE | | der Number | | | <u> </u> | |
| 10. Alea of Equipment | | | | | | | | |
| | | | | | | | | |
| 16. Termination Due A. Dat | e Mo Da Yr e 3/31/2023 | B. Time (24 Hr. Clo | ck) | 1433 | | | | |
| Section IIITermination Action | 3/31/2023 | | | 1433 | | | | |
| 17. Action to Terminate | | | | | | | | |
| | | | | | | | | |
| 18. Terminated A. Date | Da Yr | (04 Un Cleal) | | | | | | |
| Section IVAutomated System Data | 3,50,50,00,000,000 | (24 Hr. Clock) | | | | | | |
| 19. Type of Inspection | 20. Event Number | 8 | | 21. Primary | or Mill | | | |
| / a cathodas a collect | | 1234567 | | | P | Tan and | • 7 | |
| (activity code) E01 | Cop | per Pot | | | | 23. AR Nun | 1234 | :5 |
| 22. AR Name | | 100 WIND 10070 A-C | mall Business | | | | | ness Administration ha out federal agency ment on the |

Sample Section 104(a) Citation – Incomplete Training Records Part 46

| | tion Data | | | 20 | | | |
|--|--|--------------------------------|--|---------------------------------|-----------------|------------------------------|-----------------------|
| 1. Date | Mo Da Yr 3/27/2023 | 2. Time (| 24 Hr. Clock) 1440 | | | 3. Citation/ Order Number | 7654345 |
| 4. Served To | John Doe, | Owner | | 5. Operat | | | |
| 6. Mine | 540 | | | 7. Mine II | | emy Mining Com | oany (Contractor) |
| | Blue Falcon | Sand an | d Gravel Mine | 7. 1011110 11 | 76-54312 | | (Contractor) |
| 8. Condition o | or Practice | | | • | | 8a. | Written Notice (103g) |
| | | | | | | | |
| 9. Violation | A. Health Safety Other D | B. Section of Act | | C. Part/Section Title 30 CFF | | See Continuation For | m (MSHA Form 7000-3a) |
| Section IIInspe | ector's Evaluation | <u> </u> | | | | 46.9(D) | |
| 10. Gravity: | | A STATE SECOND | | | | | |
| Comment of the Commen | r Illness (has) (is): r illness could rea- | Y 2004 CHARLEST AND A STATE OF | ood ☐ Unlikely ☑ | Heasonat | ly Likely ☐ H | Highly Likely 🗌 | Occurred |
| | be expected to be | | t Workdays 🛭 Lost | Workdays Or Res | tricted Duty | Permanently Disablin | g ☐ Fatal ☐ |
| C. Signific | ant and Substantia | al: Yes | s □ No ☑ | | ľ | D. Number of Persons A | Affected: 000 |
| 11. Negligeno | e (check one) | A. None | B. Low | C. Moderate 🗸 | D. High | E. Reckless | Disregard |
| 12. Type of A | ction | 104(a) | 13. Type of Is | suance (check on | e) Citation 🗸 | Order Safegua | rd Written Notice |
| 14. Initial Acti | | | ard D. Written Notice | E. Citation | | F. C | ated MoDaYr |
| A. Citation | quipmont | | | <u> </u> | | <u> </u> | |
| orders were man | quipirient | | | | | | |
| orders were man | quipment | | | | | | |
| 15. Area or E | | | | | - | | |
| orces was not | | Mo Da | IB Time (24 Hr (| Clock) | n | | |
| 15. Area or E | on Due A. Date | Mo Da e 3/29/2 | IB Time (24 Hr (| Clock) 144 | .0 | | |
| 15. Area or E | on Due A. Date | Δ | IB Time (24 Hr (| Clock) 144 | 0 | | |
| 15. Area or Ed 16. Termination | on Due A. Date | Δ | IB Time (24 Hr (| Clock) 144 | .0 | | |
| 15. Area or Ed 16. Termination Section III-Term 17. Action to | on Due A. Date | Δ | IB Time (24 Hr (| Clock) 144 | .0 | | |
| 15. Area or Ed 16. Termination Section III-Term 17. Action to 1 | on Due A. Date | e 3/29/2 | B. Time (24 Hr. C | Clock) 144 | .0 | | |
| 16. Termination Section III-Term 17. Action to 18. Terminate Section IV-Auto | on Due A. Date | e 3/29/2 | B. Time (24 Hr. C | 144 | Primary or Mill | | |
| 15. Area or Ed 16. Termination Section IIITerm 17. Action to 11 18. Terminate Section IVAut 19. Type of In | on Due A. Date A. Date A. Date A. Date A. Date A. Date Mc Cornated System Data aspection ode) E01 | e 3/29/2 | B. Time (24 Hr. Clock) B. Time (24 Hr. Clock) | 144 | Primary or Mill | 23. AR Number | 12345 |

Sample Section 104(a) Citation – Training Records Not Provided Part 46

| 1. Date | ion Data Mo Da Yr | 2. Time (2 | 4 Hr. Clock) | | | | | 3. Citation/ | | |
|---|--|---|---|------------------------------|------------|--------------|-------------------|----------------|-------------------|---|
| | 3/27/2023 | 2. 11110 (2 | 1447 | | | | | Order Num | ber | 7654346 |
| 4. Served To | John Doe, | Owner | | | 5. O | perator | Acade | my Minin | g Compan | V |
| 6. Mine | | | | | 7. M | line ID | | | JE | (Contracto |
| B. Condition o | | Sand and | l Gravel Mi | ne | | 76 | -54312 | | 8a Writt | ten Notice (103g) |
| | and Madestanda | failed to | o record ar | nd cert | ifv th | at each | miner h | ad recei | 1500000 100000000 | |
| | | | | | | | | | | |
| 9. Violation | A. Health 🔲 | B. Section | | ı | C. Part/Se | ootion of | | See Contin | uation Form (Mi | SHA Form 7000-3a) |
| | Safety ☐ Other ☐ | of Act | | | Title 30 | | | 46 | .9(a) | |
| 10. Gravity: | ector's Evaluation | | 2574 | | | | | | - 50. | _ 8 |
| Constitution of the control of | r Illness (has) (is) | St. Description of the second | od 🗌 Unli | kely ✓ | Reas | sonably Like | ely 🗌 🗀 | ighly Likely | Occ | curred |
| | rillness could rea be expected to b | | Workdays 🗹 | Lost Wo | orkdays O | r Restricted | Duty \square | Permanently | Disabling 🗖 | I Fatal □ |
| C. Significa | ant and Substanti | al: Yes | □ No ☑ | | | | D | . Number of P | ersons Affect | ed: 000 |
| 11. Negligenc | e (check one) | A. None | B. Low | | . Moderat | e 🗸 | D. High | E. F | Reckless Disre | egard 🗌 |
| 12. Type of A | ction | 104(a) | 13. Ty | pe of Issua | ance (chec | k one) (| Citation 🗸 | Order | Safeguard [| Written Notice [|
| 14. Initial Action | | 10. 21. 22 | 80 - 07-70-VCV | 20000 so 10-20 | | tation/ | | No. of | F. Dated | Mo Da Yr |
| A. Citation | - 10 × | C. Safeguar | d D. Written | Notice 🗌 | Or | der Numbe | r | | | |
| 15. Area or Ed | quipment | | | | | | | | | |
| | | | | | | | | | | |
| 16. Termination | on Due A. Dai | Mo Da Y | IR I Ima (| 24 Hr. Cloc | k) | | | | | |
| Section IIITern | 100 -000 | 4/3/20 | 23 | | 14 | 1447 | | | | |
| 17. Action to | | | | | | | | | | |
| | | | | | | | | | | |
| 18. Terminate | al M | o Da Yr | | | | 1 | | | | |
| io. Terminate | A. Date | J La II | B. Time (24 Hr. C | lock) | | | | | | |
| | omated System Data | | | | | | | 4 | | |
| Type of In (activity co | | 20. Event | Number 123456 | 57 | | 21. Prima | ry or Mill P | | | |
| | | | Copper Po | ot. | | | | 23. AR N | umber 123 | 845 |
| 22. AR Name | 00-3, Apr 08 (revise | | nce with the provision o Regulatory Ombu | ons of the Sm dsman and 1 | 0 Regional | Fairness Boa | rds to receive co | mments from sn | 6, the Small Bu | siness Administration habout federal agency mment on the |

Sample Section 104(g)(1) Order – Single Miner and a Single Violation Part 46

| | on Data Mo Da Yr | 2 Tim | ne (24 Hr. C | lock) | | | | - | 3. Citation/ | | | |
|---|---|--|--|--|--------------------------------------|-------------------------------------|--|------------------------------------|---|-------------------------------|------------------------------|--------------------|
| . Date | 3/28/202 | | 10 (24 111. 0 | 1455 | | | | | Order Numbe | ər | 7654347 | |
| . Served To | John Doe | , Owner | | | 5 | 5. Operator | | പരില | my Mining | Company | | |
| . Mine | . 12 | | 8 | 2 8 | 7 | 7. Mine ID | | | | o o mp sarry | | ntractor) |
| B: Condition or | lue Falco rPractice | n Sand | and Gra | vel Mine | | | 76-543 | 12 | | 8a Writte | en Notice (1 | 03a) 🗀 |
| new mine mining e aware of the mine | er traini experienc the Par until h | ng with: e, and l t 46 tra e receiv | in 90 d he was aining ves the | 2), a truck ays after be only provide requirements required to miner is a h | eginni ed wit s. The rainin | ng wor h 8 ho mine ng. The | k at th urs of operato Federa | e min train or mun ol Min | ne. Miss. ning. The st withdra ne Safety | Doe had mine op w Nancy | l no pre erator Doe fr | vious was om |
| . Violation | A. Health □ Safety □ Other □ | B. Sect of Ad | | | | nt/Section o | of | | See Continual | tion Form (MS | HA Form 7000 | 0-3a) 🗖 |
| ection iiinsper O. Gravity: | ctor's Evaluation | | 120-70 | | | | | | 25-27 | | | |
| | Illness (has) (i | | elihood 🗌 | Unlikely 🗌 | F | Reasonably | / Likely 🔽 | Н | ighly Likely 🗌 | Оссі | urred 🗌 | |
| | illness could r be expected to | | Lost Work | lays 🔲 Lost | Workday | s Or Restr | icted Duty [| | Permanently D | isabling 🔲 | Fatal | ✓ |
| 0.00 | ant and Substa | ntial: | Yes ▽ | No 🗆 | | | | D | . Number of Per | sons Affecte | ed: | 01 |
| C. Significa | | | | 140 | | | | | | | Ų | O.T. |
| | e (check one) | A. None | | B. Low | C. Mode | erate 🗌 | D. H | ligh [√] | E. Re | ckless Disre | | ,01 |
| 1. Negligence | e (check one) | A. Non | e 🗌 | 0.000 | 10000 | 1,-1 | Accorded to the | | | ckless Disre | | 0 87 20 30 |
| Negligence Type of Ac Initial Action | e (check one) ction | A. Non | e [] | B. Low 13. Type of Iss | suance (c | check one) | Citation | | ×. | non unum m | gard Written N | 0 87 20 30 |
| Negligence Type of Ac Initial Actio A. Citation [A. Action [A. Acti | e (check one) etion on B. Order | A. None 104 (g) (| e [] | B. Low 13. Type of Iss | suance (c | heck one) | Citation | | ×. | afeguard [| gard Written N | Notice 🗌 |
| Negligence Type of Ac Initial Actio A. Citation [A. Action [A. Acti | e (check one) stion B. Order quipment Payr | A. None 104 (g) (C. Safe | e [] | B. Low 13. Type of Iss | suance (c | check one) | Citation | | ×. | afeguard [| gard Written N | Notice 🗌 |
| 1. Negligence 2. Type of Ac 4. Initial Actic A. Citation [5. Area or Eq Nancy Do | e (check one) tion B. Order quipment pe , (Payr) | A. None 104 (g) (C. Safe | e | B. Low 13. Type of Iss D. Written Notice | suance (c | check one) | Citation | | ×. | afeguard [| gard Written N | Notice 🗌 |
| 1. Negligence 2. Type of Ac 4. Initial Actic A. Citation [5. Area or Eq Nancy Do 6. Terminatio | e (check one) tion Di B. Order quipment Payr Due A. C | A. None 104 (g) (C. Safe | e | B. Low 13. Type of Iss D. Written Notice | suance (c | check one) | Citation | | ×. | afeguard [| gard Written N | Notice 🗌 |
| 1. Negligence 2. Type of Ac 4. Initial Actic A. Citation [5. Area or Eq Nancy Do 6. Terminatio ection III-Term 7. Action to T | e (check one) tion B. Order quipment Payr n Due A. C ination Action cerminate | A. None 104 (g) (C. Safe | e [] 1) eguard [] poer 983 | B. Low 13. Type of Iss D. Written Notice | suance (c | check one) | Citation | | ×. | afeguard [| gard Written N | Notice 🗌 |
| 1. Negligence 2. Type of Ac 4. Initial Actic A. Citation [5. Area or Eq Nancy Do 6. Terminatio ection III-Term 7. Action to T | e (check one) ction Diagram B. Order juipment pe , (Payr) on Due A. C | A. None 104(g) (C. Safe coll numb Date Mo D Mo Da Yr | e [] 1) eguard [] poer 983 | B. Low 13. Type of Iss D. Written Notice 42) B. Time (24 Hr. Cl | suance (c | check one) | Citation | | ×. | afeguard [| gard Written N | Notice 🗌 |
| 1. Negligence 2. Type of Ac 4. Initial Actic A. Citation [5. Area or Eq Nancy Do 6. Terminatio ection III-Term 7. Action to T 8. Terminates | e (check one) ction Diagram B. Order quipment Diagram A. Cuination Action reminate d A. Date mated System Dispection | A. None 104 (g) (C. Safe coll numb Date Mo Da Yr ata 20. Ex | e [] 1) eguard [] poer 983 | B. Low 13. Type of Iss D. Written Notice 42) B. Time (24 Hr. Clock) | suance (c | check one) : Citation/ Order Nu | Citation mber | | ×. | afeguard [| gard Written N | Notice 🗌 |
| 1. Negligence 2. Type of Ac 4. Initial Actic A. Citation [5. Area or Eq Nancy Do 6. Terminatio lection III-Term 7. Action to T 8. Terminates | e (check one) ction Dn B. Order quipment pe , (Payr in Due A. C ination Action Terminate d A. Date mated System D spection | A. None 104 (g) (C. Safe coll numb Date Mo Da Yr ata 20. Ex | e | B. Low 13. Type of Iss D. Written Notice 42) B. Time (24 Hr. Co | suance (c | check one) : Citation/ Order Nu | Citation | | ×. | afeguard F. Dated | gard □ Written N Mo D | Notice 🗌 |

Sample Section 104(g)(1) Order – Multiple Miners and a Single Violation Part 46

| | ation Data | | _ | | | | | | | | | | |
|--|--|---------------------------------------|--|---|---------------------|--|----------------|----------|-------------------------------------|--|-------------------|------------------|-------------|
| l. Date | Mo Da Y 3/27/20 | | 2. Time (24 Hr. C | lock) 1507 | | | | 3 | 3. Citation/ Order Num | ber | 765 | 54348 | |
| 4. Served To | | | wner | 222 | ţ | 5. Operator | | | | | , | - 10 10 | |
| S. Mine | | | | | | 7. Mine ID | I | Academ | ny Mining | g Compai | ny | /0 | |
| | Blue Falo | on S | Sand and Gra | vel Mine | 100 | 7. MINE ID | 76-543 | 312 | | | | , | ractor) |
| B. Condition | or Practice | | | | | | | | | 8a. Wr | ritten Ne | otice (10: | 3g) 🗌 |
| the 22 | miners f and Heal | rom | the mine un | the training til they have states that | ve red | eived | the rec | quired | l traini: | ng. The | Fede | eral M | line |
| . Violation | A. Health Safety Other | 3 | B. Section of Act | | | rt/Section o | of | | | uation Form (I | MSHA F | orm 7000- | 3a) 🗖 |
| Section IIInsp I 0. Gravitv : | ector's Evaluation | on | | | | | | | | | | | |
| | or Illness (has) | (is): | No Likelihood 🗌 | Unlikely 🗸 | F | Reasonably | / Likely 🔲 | Hi | ghly Likely | □ o | ccurrec | ı 🗆 | |
| | | | | | | | | | | | | | |
| | or illness could | | No Lost Work | days 🔲 Lost | Workday | s Or Restri | icted Duty | V | Permanently | Disabling | | Fatal [| |
| sonabl | or illness could y be expected cant and Subs | to be: | | | Workday | s Or Restri | icted Duty | | Permanently Number of P | | 0-01 | 15 | - AN |
| sonabl C. Signifi | y be expected | to be: tantial: | Yes 🗌 | No ✓ | | | | D. | Number of P | ersons Affe | ected: | 02 | 22 |
| sonabl C. Signifi 1. Negligen | y be expected cant and Subs ce (check one | to be: tantial: | Yes 🗌 A. None 🔲 | No 🗸 | C. Mod | erate 🗌 | D. H | D. | Number of P | Persons Affe | ected: sregard | 02 | 22 |
| sonabl C. Signifi 1. Negligen 2. Type of / | y be expected cant and Subs ce (check one Action | to be: tantial: | Yes 🗌 | No ✓ | C. Mod | erate 🗌 | D. F | D. | Number of P | ersons Affe | octed: sregard | 02 | 22 otice |
| sonabl C. Signifi 1. Negligen 2. Type of / | y be expected cant and Subs ce (check one Action | to be: tantial: | Yes A. None 4 (g) (1) | No 🗸 | C. Mod suance (d | erate check one) | D. F | D. | Number of P | Persons Affe Reckless Dis Safeguard [| octed: sregard | 02 Uritten No | 22 otice |
| sonabl C. Signification 1. Negligen 2. Type of A. Initial Act A. Citation 5. Area or B | y be expected cant and Subscent and Subscent conection tion B. Orde | to be: tantial:) 104 | Yes A. None 4 (g) (1) C. Safeguard | No B. Low 13. Type of Is: D. Written Notice | C. Mod suance (d | erate check one) | D. F | D. | Number of P | Persons Affe Reckless Dis Safeguard [| octed: sregard | 02 Uritten No | 22 otice |
| sonabl C. Signification 1. Negligen 2. Type of A. Initial Act A. Citation 5. Area or B | y be expected cant and Subscent and Subscent conection tion B. Orde | to be: tantial:) 104 | Yes A. None 4 (g) (1) | No B. Low 13. Type of Is: D. Written Notice | C. Mod suance (d | erate check one) | D. F | D. | Number of P | Persons Affe Reckless Dis Safeguard [| octed: sregard | 02 Uritten No | 22 otice |
| sonabl C. Signific | y be expected cant and Subscee (check one Action tion B. Orde Equipment pe, List | to be: tantial:) 104 r all | Yes A. None 4 (g) (1) C. Safeguard | No B. Low 13. Type of Is: D. Written Notice name here. | C. Mod suance (c | erate check one) | D. F | D. | Number of P | Persons Affe Reckless Dis Safeguard [| octed: sregard | 02 Uritten No | 22 |
| sonabl C. Signification 1. Negligen 2. Type of A 4. Initial Ac A. Citation 5. Area or E John Do | y be expected cant and Subscee (check one Action tion B. Orde Equipment pe, List | to be: tantial:) 104 | Yes A. None A. (g) (1) C. Safeguard 22 peoples | No B. Low 13. Type of Is: D. Written Notice | C. Mod suance (c | erate check one) | D. F | D. | Number of P | Persons Affe Reckless Dis Safeguard [| octed: sregard | 02 Uritten No | 22 otice |
| sonabl C. Signific 1. Negligen 2. Type of 4. Initial Ac A. Citation 5. Area or B John Do 6. Terminal | y be expected cant and Subscee (check one Action tion B. Orde Equipment pe, List ion Due Armination Action | to be: tantial:) 104 r all | Yes A. None A. (g) (1) C. Safeguard 22 peoples | No B. Low 13. Type of Is: D. Written Notice name here. | C. Mod suance (c | erate check one) | D. F | D. | Number of P | Persons Affe Reckless Dis Safeguard [| octed: sregard | 02 Uritten No | 22 otice |
| sonabl C. Signific 1. Negligen 2. Type of 4. Initial Ac A. Citation 5. Area or B John Do 6. Terminal | y be expected cant and Subscee (check one Action tion B. Orde Equipment pe, List ion Due Armination Action | to be: tantial:) 104 r all | Yes A. None A. (g) (1) C. Safeguard 22 peoples | No B. Low 13. Type of Is: D. Written Notice name here. | C. Mod suance (c | erate check one) | D. F | D. | Number of P | Persons Affe Reckless Dis Safeguard [| octed: sregard | 02 Uritten No | 22 otice |
| sonabl C. Signific 1. Negligen 2. Type of 4. Initial Ac A. Citation 5. Area or B John Do 6. Terminal Rection III-Ter 7. Action to | y be expected cant and Subscee (check one Action tion B. Orde Equipment pe, List ion Due A mination Action Terminate | to be: 104 104 Date | Yes A. None A. (g) (1) C. Safeguard 22 peoples Mo Da Yr | No B. Low 13. Type of Is: D. Written Notice name here. | C. Mod suance (c | erate check one) | D. F | D. | Number of P | Persons Affe Reckless Dis Safeguard [| octed: sregard | 02 Uritten No | 22 otice |
| sonabl C. Signific 1. Negligen 2. Type of / 4. Initial Ac A. Citation 5. Area or B John D 6. Terminat 7. Action to 8. Terminat | y be expected cant and Subs ce (check one Action tion B. Orde Equipment be, List inn Due Amination Action Terminate | to be: tantial:) 104 Tr Date | Yes A. None A. (g) (1) C. Safeguard 22 peoples Mo Da Yr | No B. Low 13. Type of Isa D. Written Notice name here. B. Time (24 Hr. C | C. Mod suance (c | erate check one) | D. F | D. | Number of P | Persons Affe Reckless Dis Safeguard [| octed: sregard | 02 Uritten No | 22 |
| sonabl C. Signific 1. Negligen 2. Type of / 4. Initial Ac A. Citation 15. Area or B John Do 16. Terminat 7. Action to 18. Terminat Section IVAu 19. Type of I | y be expected cant and Subscee (check one Action tion B. Orde Equipment List ion Due A mination Action Terminate ted A. Date tomated System inspection | to be: tantial: 104 104 Date Data | Yes A. None A. (g) (1) C. Safeguard 22 peoples Mo Da Yr | No B. Low 13. Type of Isa D. Written Notice name here. B. Time (24 Hr. C | C. Mod suance (c | erate check one) check one) check one) check one) | D. H. Citation | D. | Number of P | Persons Affe Reckless Dis Safeguard [| octed: sregard | 02 Uritten No | 22 otice |
| sonabl C. Signific 1. Negligen 2. Type of / 4. Initial Ac A. Citation 15. Area or B John Do 16. Terminal 7. Action to 18. Terminal 8. Terminal 19. Type of I (activity of | y be expected cant and Subscee (check one Action Lion B. Orde Equipment Dec. List Action Due | to be: tantial:) 104 Tr Date | Yes A. None A. None A. (g) (1) C. Safeguard C. Safeguard Mo Da Yr Da Yr B. Time | No B. Low 13. Type of Iss D. Written Notice name here. B. Time (24 Hr. Cock) | C. Mod suance (c | erate check one) check one) check one) check one) | D. H. Citation | D. | Number of P | Persons Affe Reckless Dis Safeguard F. Date | ected: sregard V | 02 Uritten No | 22 |
| sonabl C. Signific 1. Negligen 2. Type of a 4. Initial Ac A. Citation 15. Area or B John Do 6. Terminal 6. Terminal 7. Action to 18. Terminal 18. Terminal 19. Type of a 19. Type of activity of activ | y be expected cant and Subscee (check one Action Lion B. Orde Equipment Dec. List Action Due | to be: tantial: 104 104 Date Mo D | Yes A. None A. None | No B. Low 13. Type of Isa D. Written Notice name here. B. Time (24 Hr. C | C. Mod suance (c | erate check one) check one) check one) check one) | D. H. Citation | digh ✓ | Number of P E. F Order 23. AR N | Persons Affe Reckless Dis Safeguard F. Date | ected: Void | 02 Written No | otice 🗆 |

Sample Section 104(g)(1) Order – Single Miner and Multiple Violations Part 46

| | tion Data | | | | | and Health Adm | |
|---|---|--|---|--|-----------------------------------|--|---------------------------|
| 1. Date | Mo Da Yr 3/28/2023 | 2. Time (24 Hr. Ck | ock) 0720 | | 3 | B. Citation/ Order Number | 7654349 |
| 4. Served To | John Doe, | Owner | | 5. Operator | Academ | y Mining Co | mpany |
| 6. Mine | 55.95 29 - 89 | 5 0 16 19 | 2 602 | 7. Mine ID | 26 - 62000 | 2 | (Contractor) |
| B. Condition of | TOTACKTI-MOREK AND NORTH OF HOLD KINDS | Sand and G | ravel Mine | 76- | -54312 | 82 | Written Notice (103g) |
| the hau 46.7(a) before receive | nl truck he] The drive beginning e ed annual re | was operating er stated he mployment at fresher train | prior to assumed prior to perate this mine on J | ming his du ed any haul anuary 15, 2 han 12 montl | ties on (trucks p 2022. Th | October 5, 20 rior to this is driver sho | date, including |
| trainin and Hea Exposur | ng, but no a alth Act of re to mining | ctions were t 1977 declares | s an untrained nout proper tra | t or elimina miner is a l | ate the d | condition. To himself and increases th | he Mine Safety others. |
| | Other ector's Evaluation | P086 (NESSEC 175) | | n (1995) | | 46.7 (| a) |
| 11. Negligeno | ant and Substantia ce (check one) | A. None | - x2x2/6 | oderate | D. High 🗸 | 20-20-20-20-20-20-20-20-20-20-20-20-20-2 | Disregard |
| 12. Type of A | | 4 (g) (1) | 13. Type of Issuance | <u> </u> | itation C | Order 🔽 Safegua | |
| | | C. Safeguard | D. Written Notice | E. Citation/ Order Number | | F. [| Dated Mo Da Yr |
| 14. Initial Acti A. Citation | | | | ,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, | | | |
| A. Citation 15. Area or E Driver | quipment of the Num | ber 24 Haul | Truck (Payro | 11 98340) | | | |
| A. Citation 15. Area or E | quipment of the Num | Mo Da Yr | Truck (Payro | ll 98340) | | | |
| A. Citation 15. Area or E Driver 16. Terminati | equipment of the Num on Due A. Date | Mo Da Yr | A 1 (1 (1 (1 (1 (1 (1 (1 (1 (1 (1 (1 (1 (| 11 98340) | | | |
| A. Citation 15. Area or E Driver 16. Terminati | equipment of the Num on Due A. Date | Mo Da Yr | A 1 (1 (1 (1 (1 (1 (1 (1 (1 (1 (1 (1 (1 (| 11 98340) | | | |
| A. Citation 15. Area or E Driver 16. Terminati Section IIITerr 17. Action to | on Due A. Date A. Date Mo | Mo Da Yr | A 1 (1 (1 (1 (1 (1 (1 (1 (1 (1 (1 (1 (1 (| 11 98340) | | | |
| A. Citation 15. Area or E Driver 16. Terminati Section IIITerr 17. Action to | on Due A. Date A. Date Mo A. Date Mo Mo Material System Data Aspection | Mo Da Yr | B. Time (24 Hr. Clock) | 21. Primary | y or Mill P | | |
| A. Citation 15. Area or E Driver 16. Terminati Section IIITerm 17. Action to 18. Terminate Section IVAut 19. Type of Ir | on Due A. Date Monated System Data Asspection A. Date Monated System Data Asspection A. Date A. Date Monated System Data Asspection A. Date Monated System Data Asspection A. Date | Mo Da Yr Da Yr B. Time | B. Time (24 Hr. Clock) | | | 23. AR Number | 12345 |

Section 107(a): Order of Withdrawal - Imminent Danger

Imminent danger is the existence of any condition or practice in a mine that could reasonably be expected to cause death or serious physical harm to a miner if normal mining operations continue before the dangerous condition is eliminated.

An imminent danger withdrawal order shall have a detailed description of the conditions or practices that cause and constitute the imminent danger and a description of the mine, or area of the mine, from which persons must be withdrawn and prohibited from entering. Only those persons described in § 104(c) of the Mine Act may enter the affected area while the order is in place.

An imminent danger withdrawal order often arises because of a violation of the Mine Act and its mandatory health or safety standards. Issuing an imminent danger order does not prevent issuing § 104(d) series enforcement actions. Address all violations that caused or contributed to the imminent danger as separate citations or orders and refer to the § 107(a) imminent danger order of withdrawal.

- Unless the danger still exists, an inspector cannot issue an imminent danger withdrawal order for an accident that has already occurred.
- An inspector does not have to witness the immediate physical exposure to the imminent danger to issue a § 107(a) order.
- A § 107(a) order immediately removes miners from exposure to a serious hazard that must exist at the time the inspector issues the order. When an inspector sees an imminent danger, the inspector immediately issues an "Oral 107(a) Order" to withdraw the exposed miner(s) from danger.

Note: Document an "Oral 107(a) Order" in the field notes as soon as practical.

CAUTION

The appropriate District Manager shall approve the vacating of all § 107(a) Orders to ensure proper coordination and documentation.

Form 7000-3 Guidance: Section 107(a) Imminent Danger Order of Withdrawal

Item 8. In addition to the narrative description, there are two required statements:

1. An oral imminent danger was issued to <recipient's full name>, <recipient's title>, <time issued>, <location>, and <reason for issuing>.

- 2. This condition is an imminent danger.
- Item 9. Do not complete.
- Item 10. Do not complete.
- Item 11. Do not complete.
- Item 12. Select "107(a)."
- Item 13. Select "Order."
- Item 14. Do not complete.
- Item 15. Describe and clearly identify the "Area or Equipment" affected.
- Item 16. Do not complete.
- **Item 17.** Describe the actions taken to terminate the condition.
- Item 18. Enter the termination date and time, if terminated.

Sample Section 107(a) Order of Withdrawal – Imminent Danger

| Mine Citat | ion/Order | | | | | | | | tment of | Labor Ith Admini | stration | |
|---|---|--|--|---|---|--|--|--|---|---|---|--------------------|
| Section IViola | ation Data | | | | | | | | 0.1101 1 100 | | | |
| 1. Date | Mo Da Yr 2/8/202 | | (24 Hr. C | lock) 0653 | | | | 3 | . Citation/ Order Nur | nber | 8533280 | |
| 4. Served To | Shane Co | ornish, M | ine Ma | nager | 5. | Operato | | ish M | ining (| Company, | LLC. | |
| 6. Mine | | Cornish | Mine | | 7. | Mine ID | 05-012 | 34 | | | (Cor | tractor) |
| 8. Condition | | | | | | | | | | | ritten Notice (10 | |
| The wel | der was c | nill at 06 observed i erbalance | :53 AM .nside wheel | order was 4, this mor the jaw cr was not se plates. T | ning fo usher h cured v | or the nard f vith t | e follow Eacing (The lock | ing r weldi ing m | easons: ng) the echanis | wear p | lates. The | ne |
| fatal i cam-ove danger instruc | njury by r and cau to the we ted the w | crushing use the ja elder. Th welder to | him be w to m ne mine secure | etween the move back as manager is the count | wear pl nd fort mmediat erbalar | ates; ch. T cely water | if the his con withdrew lockin | coun ditio the g it | terbala n const welder into pl | nce whe ituted from thate. | el were to an immine e crusher | o nt |
| | ate citat in conjun | | | ation of 30 order. | CFR 77 | .404 | (c). Cit | ation | No. (8 | 533281) | is being | |
| | | | | | | | | | See Conti | nuation Form (| MSHA Form 7000 | -3a) 🏻 |
| 9. Violation | A. Health Safety | of Act | n | | | Section 30 CFR | of | | OCC COMM | idation i om (| MOTIVE CITE 7000 | ou, <u></u> |
| Section IIInsp | Other ector's Evaluation | | | | | | | | | | | |
| 10. Gravity: | | | | | | | | | | | | |
| | or Illness (has) (| | hood 🗌 | Unlikely 🗌 | Re | asonabl | y Likely 🗌 | Hig | hly Likely | | ccurred | |
| | or illness could i be expected to | | st Workd | ays 🔲 Lost | Workdays | Or Rest | icted Duty [| `F | Permanenth | / Disabling | ☐ Fatal | |
| | ant and Substa | - PA! - I. | | | | | | | | Persons Affe | | |
| | | Υ. | es 🗌 | No 🗆 | | | | | | | | |
| 11. Negligen | ce (check one) | A. None | | B. Low | C. Moder | ate 🗌 | D. H | igh 🗌 | E. | Reckless Dis | sregard 🗌 | |
| 12. Type of A | ction | 107(a) | | 13. Type of Is: | suance (ch | eck one) | Citation | | rder 🔽 | Safeguard | Written N | otice 🗌 |
| 14. Initial Act A. Citation | | C. Safegu | uard 🔲 | D. Written Notice | | Citation/ Order Nu | ımber | | | F. Date | d Mo Da | a Yr |
| 15. Area or E John Do | quipment e, the we | elder. | | | | | 9 | | | | | |
| 16. Terminati | on Due A. I | Date Mo Da | Yr | B. Time (24 Hr. C | lock) | | | | | | | |
| Section IIITen | mination Action | | | | | | | | | | | |
| 17. Action to The min | Terminate e manager | withdrew | the w | elder from | the ja | w cru | sher. | | | | | |
| 18. Terminate | A. Date | Mo Da Yr 2/8/2023 | B. Time | (24 Hr. Clock) | 065 | 4 | | | | | | |
| Section IVAut 19. Type of Ir | omated System D | | nt Number | , | | 04.5 | rimary or M | , 1 | | | | |
| (activity c | ode) E0 | | it ivuilibei | 4262847 | | 21. 6 | Tilliary of M | " | 123. AR N | lumbor | | |
| LL. AR INAITIE | 1 | | | | | | | | 23. AN N | unibel | | |
| | tions. The Ombu | siness and Agricul Idsman annually o ou may call 1-888 ton, DC 20416. P | ture Regula valuates er -REG-FAIR lease note, | the provisions of the story Ombudsman an aforcement activities (1-888-734-3247), o however, that your right | d 10 Regiona and rates each write the Or ght to file a c | al Fairnes ch agency nbudsma omment v | s Boards to red 's responsiver of at Small Bus with the Ombuc | ceive comi ess to sma iness Adm dsman is ir | ments from si all business. hinistration, Co n addition to a | mall businesse If you wish to of ffice of the Nat | s about federal ag comment on the cional Ombudsma | ency n, 409 3rd |
| enforcement ac enforcement ac Street, SW Mo | est citations and | proposed penaltie | s and obtain | n a hearing before the | e Federal Mir | ne Safety | and Health He | view Com | 1111551011. | | | |

Section 104(a) Citation in Conjunction with a Section 107(a) Order of Withdrawal

Issue a § 104(a) citation(s) in conjunction with a § 107(a) order when a violation of a mandatory standard caused or contributed to the imminent danger. Describe the condition(s) or practice(s) that created the imminent danger situation and why the risk of hazard will occur before it can be remedied. In most cases, it will mirror the description of the § 107(a) order.

Form 7000-3 Guidance: Section 104(a) Citation in Conjunction with a Section 107(a) Order

Item 8. The inspector should add the following statement in the Item 8 narrative:

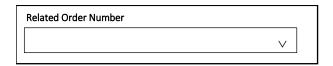
"This citation was issued for the following condition that was a contributing factor to the issuance of the Imminent Danger Order No. <order number> dated <order date>. Therefore, no abatement time was set."

Item 10. Enter "Highly Likely." (This is due to the dangerous condition which caused the § 107(a) order.)

Related Order Number

When entering a § 104(a) citation in IAS to issue in conjunction with a § 107(a) order, the inspector **must** connect the citation to the imminent danger withdrawal order through the "Related Order Number" block using the drop-down menu (see graphic below). The drop-down menu will allow selecting the relevant Imminent Danger withdrawal order number, linking the two, and allowing IAS to issue the § 104(a) citation without a Termination Due Date.

Note: This "Related Order Number" block is visible only in IAS and is only for issuing the § 104(a) or § 104(d) series in conjunction with a § 107(a) order. It will not appear on the final printed Mine Citation/Order form.



Termination

Because the § 104(a) citation has no set termination due date and is linked to the § 107(a) order, the inspector must first terminate the § 104(a) citation or other enforcement action connected to the § 107(a) order. After terminating the § 104(a) citation (or other linked enforcement action), the inspector can then terminate the § 107(a) order.

Sample Section 104(a) Citation Related to a Section 107(a) Order

| | tion/Order | | | | | | | | | partment of La | | entine. | |
|---|---|--|--|--|---|-----------------------------------|---|--|--|---|---|---|--------------------------------|
| Section IVio | ation Data | | | | | | | 11 | /iiiie Sai | fety and Health | Administr | alion | "// |
| 1. Date | Mo Da 2/8/20 | | 2. Time | (24 Hr. (| Clock) 0655 | | | | | 3. Citation/ Order Numb | er | 8533281 | 1 |
| 4. Served To | Shane | Corni | sh, Mi | ne Ma | anager | | 5. Opera | | ornish | Mining Cor | mpany, L | LC. | |
| 6. Mine | | Cor | nish N | line | | | 7. Mine I | | 01234 | | | (Co | ontractor) |
| 8. Condition | or Practice | | | | | | | | 01001 | | 8a. Writte | en Notice (1 | 103g) 🔲 |
| crushe: accider fatal: cam-ove danger instruc mainter blocked This co | r's coun ntal move injury ber and coun to the reted the nance shall agains ondition | terba ement y cru ause welde welde all n t mot | lance of th shing the ja r. Th er to ot be ion. a fact | wheel e jaw him b w to e min secur perfo | e jaw crushe was not se y plates. To setween the move back a le manager i ee the countermed on machaet contriburefore, no | cure his wear nd f mmed erba hine | d with conditi plates orth. iately lance kry unti | the loon exp i; if i This owithdray local l the | ocking posed the co condit rew th king i power | mechanism the welder unterbalanc ion consti e welder fi t into plac if off and imminent | to prevento a pose wheel cuted and the Rep defined the ma | ent the tential were t immine crusher airs or chinery | lly to ent r and r |
| | | | | | | | | | | | tion Form (MSI | HA Form 700 | 00-3a) 🔲 |
| 9. Violation | A. Health Safety Other | | B. Section of Act | | | | Part/Section itle 30 CFF | | | 77.4 | 04(c) | | |
| 11. Negliger | ce (check on Action | | A. None [04(a) | | B. Low 13. Type of Is | | | e) Cita | D. High [ation ☑ | | ckless Disreç | | Notice |
| 14. Initial Ac A. Citation | | er 🔲 (| C. Safegu | ard 🔲 | D. Written Notice | | E. Citation Order N | | | | F. Dated | Мо | Da Yr |
| 15. Area or I | ion Duo | | Mo Da | Vr | 1 | | | | 1 | | | | |
| | mination Action | A. Date | IVIO Da | " | B. Time (24 Hr. 0 | Clock) | | | | | | | |
| secured | ne manag l. The m | nine r | nanage | r hel | welder fro d a safety n place pri | meet: | ing wit | h the | crew | and discuss | | | |
| 18. Terminat | A. Date | 2/8/ | a Yr '2023 | B. Time | e (24 Hr. Clock) | 0 | 730 | | | | | | |
| 19. Type of I | nspection | E01 | 20. Even | t Numbe | er 4262847 | , | 21. | Primary o | or Mill | | | | |
| | 9 | | | : | | | • | | | 23. AR Num | ber | | |
| 22. AR Nami | 000-3, Apr 08 (r | | | lance with | n the provisions of the latory Ombudsman ar | | | | | | | | |

Section 107(b)(1): Order - Notice

Although rarely used, § 107(b) of the Mine Act provides unique enforcement procedures and requirements to contend with the unusual circumstances of dangerous conditions that cannot be abated effectively using existing technology.

The inspector shall discuss any intent to employ this action with the first-line supervisor before issuing a § 107(b)(1) Order Notice. In addition, the inspector or District Manager must draft the language and content of the written notice with the help of the Administrator for Mine Safety and Health Enforcement and SOL-MSH to ensure it is consistent with MSHA policy and procedures.

CAUTION

Inspectors or District Managers shall consult with the Administrator for Mine Safety and Health Enforcement **before** taking any action or issuing, modifying, terminating, or vacating orders under § 107(b). See the final paragraphs of Program Policy Manual Volume 1, §§ 104(h) and 107(d) Vacating Citations and Orders for more information.

Section 110(g): Miners Smoking or Carrying Smoking Materials in Prohibited Areas

According to § 110(g) of the Mine Act, any miner who willfully violates the mandatory safety standards relating to smoking or carrying smoking materials, matches, or lighters is subject to a civil penalty.

Note: Since smoking is not prohibited in all mines, the inspector should identify whether smoking is prohibited in the type of mine under inspection.

The inspector issues the § 110(g) notice directly to the miner who violated the prohibition of smoking or carrying smoking materials; the notice belongs to that miner. Because the notice is a § 110(g) and not from § 104 of the Mine Act, there is no set abatement date.

Note: A copy of the notice will be emailed to MSHA's Office of Assessments for a penalty to be proposed. The email will provide the last known personal address for the miner(s) so that the proposed assessment can be processed. This is a serious hazard. If there are any mitigating facts to be considered in proposing the penalty, the email shall so state. Note: The assessment has a statutory maximum.

Form 7000-3 Guidance: Section 110(g) Notice for Miners Smoking

- Item 4. Enter the miner's full name.
- **Item 5.** Enter the operator's name.
- **Item 6.** Enter the mine's name.
- Item 7. Enter the Mine ID number.
- **Item 8.** Describe the observed violation. Be sure to include the following statement at the end of the narrative: "This is a notification that <miner's full name> will receive a civil penalty for willfully violating a mandatory safety standard relating to smoking or the carrying of smoking materials, matches, or lighters."
- **Item 9B.** Enter "110(g)".
- **Item 9C.** Complete with one of the standards violated: 56/57.4100(a) or (b); 56/57.4502(b); 57.5041; 56/57.6904; 56/57.7805; 57.22101; 57.22102; 57.22105; 75.1702; or 77.1711.
- **Items 10A-D.** Complete based on the determination made at the time of the observed violation.
- **Item 11.** Negligence must be at least "High."

Item 16. Do not complete.

Note: Remember that this violation constitutes a serious hazard.

Give one copy of the completed notice to the cited miner(s).

Email a copy of the notice to MSHA's Office of Assessments to propose a penalty. In the email, be sure to provide:

- Any mitigating facts the Office of Assessments should consider when proposing the civil penalty.
- The last known personal address for the miner(s) to allow for processing of the proposed assessment.

The assessment has a statutory maximum that adjusts annually.

Sample Section 110(g) Notice – Smoking in Prohibited Areas

| | tion Data | | | | | | | | · · · |
|--|---|--|---|--|-------------------------------|-------------------|----------------------------|---------------------|-------------------------|
| . Date | Mo Da Yr 3/28/2023 | 2. Time (24 Hr. | Clock) 1030 | | | 3 | . Citation/ Order Numbe | ar 5 | 7654350 |
| . Served To | | name who h | ad the smoki | ng 5. Oper | | | | | |
| . Mine | material | | | 7. Mine | | ademy M | lining Com | ıpany, Ir | (Contractor) |
| . WIIIIO | Blue F | alcon #2 M | ine | 7. Willie | | 1254 | | | (Oditiaciói) |
| . Condition o | | | working sec | | | | | | n Notice (103g) |
| cigaret liberat willful | te lighter i ion. This is | in a prohib. s a notifica g a mandato: | ossession of ited area. 'a ation that (n ry safety sta r lighters. | This mine miner's fu | is on a ıll name | five-d e) will | lay spot c receive a | f methar civil p | ne penalty for |
| | | | | | | | See Continuat | ion Form (MSH | IA Form 7000-3a) 🗖 |
| . Violation | A. Health Safety Other | B. Section of Act | 110 (g) | C. Part/Secti Title 30 Cl | | | 75.3 | 1702 | |
| eαion IIInspe 0. Gravity: | ector's Evaluation | | | | | | | | |
| • | r Illness (has) (is): | No Likelihood | Unlikely 🗌 | Reason | ably Likely | ✓ Hid | ghly Likely | Occu | rred 🗆 |
| | r illness could rea- | | | | | | · · · | | |
| | be expected to be: | | kdays 🗀 Lost | Workdays Or R | estricted Du | | Permanently Di | | Fatal ✓ |
| C. Signific | ant and Substantial | l: Yes ✓ | No □ | | | D. | Number of Per | sons Affected | 4. |
| _ | | | | | | | | | 001 |
| 1. Negligeno | e (check one) | A. None | B. Low | C. Moderate | | D. High 🔽 | E. Re | kless Disreg | 001 |
| Negligence Type of A | | A. None | | C. Moderate suance (check o | | | | kless Disreg | 001 |
| | ction | | | suance (check c | one) Cita | | | | 001 |
| Type of A Initial Acti | ion B. Order uquipment | C. Safeguard ☐ | 13. Type of Is | suance (check c | one) Cita | | | feguard 🗌 | ard Written Notice |
| 2. Type of A 4. Initial Acti A. Citation 5. Area or E | or Due A. Date | C. Safeguard ☐ | 13. Type of Is: D. Written Notice | suance (check c | one) Cita | | | feguard 🗌 | ard Written Notice |
| 2. Type of A 4. Initial Acti A. Citation 5. Area or E 6. Termination iection III-Term 7. Action to | on Due A. Date | C. Safeguard □ Mo Da Yr | 13. Type of Is: D. Written Notice | suance (check c | one) Cita ion/ r Number | | | feguard 🗌 | ard Written Notice |
| 2. Type of A 4. Initial Acti A. Citation 5. Area or E 6. Termination iection III-Term 7. Action to | ction On Due A. Date mination Action Terminate eman removed ad A Date Mo | C. Safeguard Mo Da Yr d the smoki: | D. Written Notice B. Time (24 Hr. C | suance (check c | one) Cita ion/ r Number | | | feguard 🗌 | ard Written Notice |
| 2. Type of A 4. Initial Acti A. Citation 5. Area or E 6. Terminati ection III-Term 7. Action to The form 8. Terminate | on Due A. Date mination Action Terminate eman removed ad A. Date Mo 3/24 omated System Data | C. Safeguard Mo Da Yr d the smoki: Da Yr 8/2023 B. Tir | 13. Type of Is: D. Written Notice B. Time (24 Hr. Cong material : | Elock) Endown the number of the second seco | one) Cita ion/ r Number | tion (| | feguard 🗌 | ard Written Notice |
| 2. Type of A 4. Initial Acti A. Citation 5. Area or E 6. Terminati 6. Citation IIITerm 7. Action to The fore 8. Terminate 6. Terminate 6. Terminate 7. Action to The fore 8. Terminate 7. Action IVAut 9. Type of Ir | on Due A. Date nination Action Terminate eman removed ad A. Date Mo 3/2: constant System Data aspection | C. Safeguard Mo Da Yr d the smoki: | 13. Type of Is: D. Written Notice B. Time (24 Hr. Cong material: ne (24 Hr. Clock) | Elock) Endown the number of the second seco | one) Cita ion/ r Number | tion (| | feguard 🗌 | ard Written Notice |
| 2. Type of A 4. Initial Acti A. Citation 5. Area or E 6. Terminati ection III-Term 7. Action to The form 8. Terminate | on Due A. Date mination Action Terminate eman removed ad A. Date Mo 3/2: conated System Data aspection ode) E01 | C. Safeguard Mo Da Yr d the smoki: Da Yr 8/2023 B. Tir | 13. Type of Is: D. Written Notice B. Time (24 Hr. Cong material : | Elock) Endown the number of the second seco | one) Cita ion/ r Number | tion (| | feguard F. Dated | written Notice Mo Da Yr |

Section 104(a): Violation Related to Smoking Materials at the Mine

When an inspector finds a miner smoking or carrying smoking materials, matches, or lighters that enable a heat source to light the smoking material in a prohibited area, the inspector shall issue a citation and, depending on the circumstance observed, possibly an imminent danger withdrawal order to the mine operator or contractor. Even if the inspector does not issue a § 110(g) notice to a miner, the inspector can still issue a § 104(a) citation to the mine operator. If warranted, the inspector may also issue a § 104(d) series.

Note: Since smoking is not prohibited in all mines, the inspector should identify whether smoking is prohibited in the type of mine under inspection.

Form 7000-3 Guidance: Section 104(a) Citation for Smoking Materials or Use of

Issue the § 104(a) or § 104(d) series violation to the mine operator or contractor.

Item 8. The narrative must clearly state how the standard was violated. Include a description of the hazard to miners should an accident or incident occur, and explain the exposure to the hazard. Try to phrase the narrative so it resembles or identically matches the language used in the § 110(g) notice that was issued to the miner (if issued).

Note: Be sure to omit the statement about the individual civil penalty (i.e., "This is a notification that <miner's full name> will receive a civil penalty for willfully violating a mandatory safety standard relating to smoking or the carrying of smoking materials, matches, or lighters.") since the mine operator or contractor is the recipient of the § 104(a) or § 104(d) series violation.

Item 9C. Complete with one of the standards violated: 56/57.4100; 57.5041; 56/57.6904; 56/57.7805; 57.22101; 57.22102; 57.22105; 75.1702; or 77.1711.

Item 10C. S&S is yes when the inspector assesses a violation as:

Injury or Illness(has)(is): Reasonably Likely, Highly Likely, or Occurred **AND**

Injury or Illness could reasonably be expected to be: Lost Workdays or Restricted Duty, Permanently Disabling, or Fatal.

Note: Remember to provide sufficient information in Item 8's narrative to satisfy the four-part Mathies Test.

Item 16. Enter the date and time by which the operator or contractor must abate the violation.

Item 17. Describe the actions the operator or contractor took or implemented to abate the violation.

Item 18. Enter the termination date and time.

Sample Section 104(a) Citation for a Miner Smoking and/or Possessing Smoking Materials

| | tion Data | | | | | | | • |
|--|--|--|---|--|------------------------|--|---|---|
| . Date | Mo Da Yr 3/28/202 | | . Clock) 1031 | | | 3. Citation/ Order Number | er ' | 7654351 |
| . Served To | Jane Do | e, Mine Manage | er | 5. Operator | Academy | Mining Cor | mpany. I | nc. |
| . Mine | p.i. | . B. J | ā | 7. Mine ID | | | | (Contractor) |
| . Condition of | | ie Falcon #2 M | iriie | | 76-01254 | | 8a. Writte | n Notice (103g) |
| section prohibit article | , a miner ted area. | had four cig This mine i easily ignite | octed by the fo parettes, two u s on a five-da the methane or | sed cigaret y spot of m | te butts, ethane li | and a ciga beration. | arette l The smo | ighter in a king |
| . Violation | A. Health Safety 7 | of Act | | C. Part/Section of Title 30 CFR | | | tion Form (MS I 1702 | HA Form 7000-8a) 🗖 |
| | ector's Evaluation | 1 | <u>'</u> | | | | | |
| O. Gravity: A. Injury o | r Illness (has) | (is): No Likelihood [| Unlikely 🗌 | Reasonably I | ikalv 🗾 | Highly Likely | Occu | ırred 🗌 |
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Section 314(b): Notice to Provide Safeguard(s)

Underground Coal Mines Only

Section 314(b) of the Mine Act is specific to underground coal mines. It requires the mine operator to provide "other safeguards" an AR judges adequate to minimize haulage and hoisting-related hazards while transporting miners and materials.

MSHA describes "other safeguards" and related hazards in 30 C.F.R., Subpart O – Hoisting and Mantrips, § 75.1403, specifically within §§ 75.1403-2 through 75.1403-11. When an inspector identifies a hazard in an underground coal mine that falls under those regulations, the inspector shall provide a notice to the mine operator in writing. This notice will outline a specific safeguard required under § 75.1403. The inspector shall also set a deadline for the operator to implement and maintain the required safeguard.

Scope

As noted above, § 314(b) is specific to transporting miners and materials; any other use is outside that intended scope.

Issuing a Safeguard

Summary Review

To ensure that the mine has not previously received a similar safeguard, the inspector shall review MSHA Form 2000-136, "Summary of Safeguards," before issuing a new safeguard.

Previous Similar Safeguard

If the mine has already received a similar safeguard for the same criteria (see §§ 75.1403-2 through 75.1403-11), the inspector shall use the previously issued safeguard.

The inspector should read the previous safeguard carefully and decide if the Item 8 narrative lists the specific current hazard. If it does not, the inspector shall modify the existing safeguard to include the specific current hazard and issue only the modification, not a new safeguard.

When modifying an existing safeguard, use or revise the following language to amend Item 8.

Sample Item 8 Modification: This Safeguard is modified to include the following: On February 3, 2023, during an E01 inspection on the working section, a diesel-powered scoop was observed parked on an incline without the wheel blocked or the

machine turned into the rib. This safeguard is hereby modified to require the blocking of all scoops or turning the scoop into the rib to prevent accidental movement of the machine when left unattended. Hazards associated with this condition include struck-by, crushing injuries, and death. The mine operator has 10 days to comply with this additional requirement to this safeguard.

New Safeguard

If, after careful review, the inspector does not identify a previously issued safeguard for a specifically referenced criterion, the inspector shall issue a safeguard under § 75.1403 and reference the criterion (see §§ 75.1403-2 through 75.1403-11) in Item 8. If there are no criteria that fit the condition, then an inspector may use "other safeguards" as noted in § 75.1403, provided the "other safeguard" relates to haulage or transportation of miners or materials.

Item 8. Describe the condition or practice that supports the safeguard. Ensure the narrative fits one of the criteria in §§ 75.1403-2 through 75.1403-11. If "other safeguards" are required, see § 75.1403-1(a).

The language must be specific to the related hazard(s). The narrative must identify both the hazard(s) and the mine's failure: why the inspector thought a safeguard was warranted. List the hazard(s) in the narrative of the safeguard.

The inspector must include the following statements in the narrative.

- 1. This is a notice to Provide a Safeguard requiring < list the requirements>.
- 2. This Safeguard is being issued in reference to criteria in 75.1403- < list which one>.

Sample Item 8: This is a notice to provide a Safeguard requiring all scoops to be blocked against motion when left unattended. During today's inspection on the 3rd west working section, a diesel power scoop was observed parked on an incline unattended without wheel chocks or having the bucket turned into the rib to prevent accidental movement. Hazards associated with this condition include struck-by, crushing injuries, and death. This safeguard is being issued in reference to criterion 75.1403-10(e).

Establishing an Abatement Period

The inspector shall set an abatement period that affords the mine operator time to implement the safeguard. Remember that it is a safeguard, not a citation, that establishes a new standard and notifies the mine operator of a new requirement based on the criteria described under § 75.1403. The inspector should use good judgment and work cooperatively with the operator to determine a reasonable amount of time to comply with the safeguard. For example, if the abatement period is too brief, the

operator might need additional time to address the safeguard in safety meetings if crew rotations interfere with the timing.

Supervisory Oversight

The inspector's supervisor shall review the safeguard for accuracy and update the MSHA Form 2000-136, "Summary of Safeguards." The supervisor will then promptly provide each inspector a copy of the new safeguard for review, along with any modification to the existing safeguards. When applicable, the supervisor will ensure the modification and an explanation to inspection personnel have been added to the "Summary of Safeguards."

Issuing a Violation Versus Modifying an Existing Safeguard

Scenarios

Situation #1: Same hazard in different parts of the mine.

Example: An inspector issues a safeguard on January 2, 2008, regarding an open entrance to shaft #3 that is not equipped with safety gates at the top per 30 C.F.R. § 75.1403-11. On March 25, 2025, an inspector finds an open entrance to shaft #1 that is not equipped with safety gates at the top. Is this a citation or modification to the existing safeguard?

Solution: A citation would be issued.

Situation #2: Same hazard but on different pieces of equipment.

Example: An inspector issues a safeguard on January 2, 2005, for a self-propelled personnel carrier model number SCRTNX that does not have an audible warning device per 30 C.F.R. § 75.1403-6(a)(1). On April 1, 2025, an inspector finds a self-propelled personnel carrier model number URNTOS that does not have an audible warning device per 30 C.F.R. § 75.1403-6(a)(1). Is this a citation or modification to the existing safeguard?

Solution: The existing safeguard would be modified to include the new model number.

Situation #3: Different types of hazards but covered under a single regulation (e.g., two different issues but both fall under § 75.1403-2).

Example: An inspector issues a safeguard on January 2, 2007, for personnel pushing a mantrip per 30 C.F.R. § 75.1403-7(c). On June 30, 2025, an inspector finds miners were not provided safety goggles or eye shields while being transported in open-type mantrips per 30 C.F.R. § 75.1403-7(e). Is this a citation or modification to the existing safeguard?

Solution: This would be a modification to the existing safeguard.

Situation #4: If a timeframe applies (e.g., life of mine, or does something restart the clock, such as ownership changes or another factor).

Example: An inspector issues a safeguard on January 2, 2007, for workers not wearing safety belts while doing work in or over shafts per 30 C.F.R. § 75.1403-3(f). The mine changes ownership in 2022. On May 15, 2025, an inspector finds workers not wearing safety belts while doing work in or over shafts per 30 C.F.R. § 75.1403-3(f). Is this a citation or modification to the existing safeguard or a new safeguard (since new ownership)?

Solution: A citation is issued for violation of the safeguard. Safeguards are issued on a mine-by-mine basis. The mine ID and any existing safeguard(s) remain with the mine and new ownership.

Mine Operator Objections

Because a safeguard is not a citation or order, until 2014, there was no provision for an operator to object or contest to receiving such a notice. However, in September 2014, MSHA issued a policy letter, P14-V-02, that set forth procedures for issuing "Technical Citations for Safeguards" when an underground coal mine operator sought to challenge a safeguard notice before the Federal Mine Safety and Health Review Commission.

Sample Section 314(b): Notice to Provide Safeguard(s)

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| . Date | Mo Da Yr | 2. Time (24 Hr. Clock) | | | Ĩ | 3. Citation/ | | |
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| Serveu | Jane Doe, 1 | Mine Manager | 5. | C 2016 A COLON OLON ACCOUNTS | cademy : | Mining Compa | nv, In | .c. |
| Mine | | * 920 S. | 7. | Mine ID | | | * * | (Contractor) |
| Condition | Blue F | Falcon #2 Mine | | 76-0 | 01254 | | a Writton | Notice (103g) |
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Section 104(a): Citation - Violation of an Existing Safeguard

A safeguard issued at an underground coal mine becomes a standard for that mine; if violated, MSHA can cite the mine. A best practice is to carry a list of the issued safeguard(s) for easy reference while inspecting.

If an inspector finds a violation of a safeguard, the inspector will need that safeguard number and must follow the prescribed guidelines for issuing a § 104(a) citation or § 104(d) citation or order.

Form 7000-3 Guidance: Violation of an Existing Safeguard

Item 8. When issuing a citation or order for violating a safeguard previously issued to the mine, the narrative of the citation or order must address the hazard identified in that safeguard notice.

Example: The original safeguard mandated reducing the speed of mantrips and prescribed a maximum speed limit. The violation narrative should note that the inspector is citing the mine for violating the maximum speed limit mandated in the original safeguard.

Item 9C. Enter "75.1403."

Items 14C., 14E., and 14F. Reference the original safeguard.

Item 14E. Select the safeguard notice number.

Item 14F. IAS will autofill.

Sample Section 104(a) Citation - Violation of an Existing Safeguard

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| 3. Mine | | 7. Mine ID | emy Mining Com | (Contractor) |
| Blue Fal | con #2 Mine | 76-012 | 54 | |
| Condition or Practice | carrier, #25 was obser | | | 8a. Written Notice (103g) |
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CHAPTER 3 – HEALTH VIOLATIONS

This chapter provides guidance for completing MSHA Forms 7000-3, Mine Citation/Order, and 7000-3a, Mine Citation/Order Continuation for health-related violations. The chapter also describes procedures for citing health violations and includes form completion guidance for selected and commonly used health-related Mine Act provisions. As part of this guidance, the chapter includes examples of completed forms for the named provisions. However, as noted in the Disclaimer, the examples might not exactly duplicate the actual forms.

Documenting Health Violations

When health sample results show an overexposure to dust, chemical contaminants, etc., the inspector will document the following information:

- Contaminant type;
- Amount of exposure as compared to what is allowed;
- Error factor used;
- Length of the miner's exposure;
- PPE program (or lack of) the operator implemented;
- Type of (or lack of) PPE worn when the overexposure occurred;
- Training provided to the miner for using PPE (if appropriate);
- Controls used and their condition; and
- Feasible controls available.

Contaminants with Ceiling Designations

When there is overexposure to an airborne contaminant that has a ceiling designation, it is appropriate to issue a § 104(a) citation with an abatement time reflecting the time needed to remove miners. Miners shall not reenter the area until the hazardous condition(s) is corrected, except for those working to establish the necessary engineering controls. These miners must wear appropriate PPE.

Note: Inspectors should consider 30 C.F.R. §§ 56.5001(c) and 56.5005 as one standard, along with 30 C.F.R. §§ 57.5001(c) and 57.5005. Enter the standard in Item 9C of the Mine Citation/Order Form as 56.5001(c)/56.5005 and 57.5001(c)/57.5005, respectively.

The above situation may support a § 107(a) imminent danger order only if the work condition(s) and concentration(s) measured create a situation that is immediately dangerous to the exposed miners.

Imminent Danger Situations – Chemical Hazards

IDLH Levels

MSHA considers the atmosphere "immediately harmful to life" whenever a contaminant's Immediate Danger to Life or Health (IDLH) limit is exceeded. The IDLH limits for various contaminants are available in the "National Institute for Occupational Safety and Health (NIOSH) Pocket Guide to Chemical Hazards" (also available as a mobile web app). However, imminent danger situations can exist below IDLH levels depending on a miner's length of exposure, work activity, or time to escape.

Whenever a contaminant's IDLH limit, plus the sampling factor, is exceeded, an inspector shall issue a § 107(a) order of withdrawal with contributing citations and/or orders, noting the contaminant levels and the conditions supporting the imminent danger situation. (See: Chapter 2, Section 104(a) Citation in Conjunction with a Section 107(a) Order of Withdrawal.) The order requires that the operator immediately withdraw all miners from the contaminated atmosphere.

The order should note that only those miners wearing appropriate PPE and working to establish engineering controls are permitted to reenter the affected area. Additionally, as §§ 56/57.5005(c) requires, the order shall mandate the presence of at least one other person with backup equipment and rescue capability before any unprotected miners may reenter an "immediately harmful to life" atmosphere.

Other Imminent Danger Situations

In some cases, an imminent danger may exist even though a contaminant's IDLH limit is not exceeded. Continual exposure at high levels and absorption through all routes of exposure can result in similar harm to miners. An inspector can issue an imminent danger order if miners report experiencing probable exposure-related complaints such as dizziness, headaches, slowed reflexes, lack of coordination, or other serious symptoms. Consider all routes of exposure, including direct contact, along with the work environment, and whether serious physical harm or death may occur.

In the case of an exposure that may cause serious physical harm or death, an inspector shall issue a § 107(a) order of withdrawal with contributing citations and/or orders and note the contaminant levels and the conditions supporting the imminent danger situation. The order requires that the operator immediately withdraw miners from the contaminated atmosphere. Note on the order that only those miners wearing appropriate PPE and working to establish engineering controls are permitted to reenter the affected area (reference the miners as §

104(c) personnel). Additionally, as §§ 56/57.5005(c) requires, the order shall mandate the presence of at least one other person with backup equipment and rescue capability before any unprotected miners may reenter an "immediately harmful to life" atmosphere.

Example: A miner has been exposed to 700 parts per million (ppm) of carbon monoxide while drilling in the same area for the last four hours. The miner complains of dizziness, headache, and nausea, and is uncoordinated or showing severe mental confusion. The miner's partner reports similar symptoms. Further investigation reveals that the drill has fallen on both miners three times in the last hour due to their lack of concentration and inability to coordinate drilling activities. Ventilation in the area is inadequate; the vent tubing that supplies air into the area has holes and blockages.

Due to the high exposure to a contaminant, length of exposure time, miners' symptoms, safety hazards associated with incorrectly operating equipment, and the hazardous workplace environment, an imminent danger situation exists.

Solution: Issue a § 107(a) imminent danger order and withdraw affected miners from the workplace.

Negligence and Gravity Evaluations - Health Violations

The following instructions apply to Section II of the Mine Citation/Order Form 7000-3 unless otherwise specified.

Negligence

The degree of negligence depends on the mine operator's actions **before** MSHA collected the samples that established the violation. The inspector should consider factors such as:

- Whether the mine operator knew or had been told of the high contaminant level(s);
- The condition of engineering control systems;
- The amounts and accuracy of dust, fume, and gas surveys;
- Whether the operator provided engineering control systems;
- Whether the operator provided:
 - Appropriate PPE;
 - Any fit-testing (if appropriate);
 - o Training in PPE use and limitations (if appropriate); and

o Whether personnel properly wore, maintained, and cleaned PPE.

Gravity

Likelihood

Consider "Reasonably Likely" or "Highly Likely" if: the operator failed to provide respiratory or hearing protection; the respiratory or hearing protection was not adequately maintained; the miner was not respirator fit-tested; the miner had not received training in the use or limitations of the respirator; or the protection was not suitable for the hazard. Also, consider "Reasonably Likely" or "Highly Likely" if deficiencies in the respiratory or hearing protection program meant that the PPE was inadequate.

Note: For nuisance particulates and silver metal overexposures between 0.01 mg/m³ and 0.1 mg/m³, operators must use engineering controls to reduce exposure to the permissible limit and comply with the respiratory protection requirements of standard 56/57.5005. However, if issuing .5001(a)/.5005 citations for overexposure to nuisance particulates and silver metals, an inspector cannot evaluate readings in the above concentration range as "S&S." Overexposures to soluble compounds of silver, such as silver nitrate, above 0.01 mg/m³ can be evaluated as "S&S" if miners were not wearing adequate respiratory protection.

Designate the occurrence as "Unlikely" if the miner wore appropriate respiratory protection, the protection was appropriate to the hazard, the miner had been respirator fit-tested, and the mine operator had a respiratory protection program consistent with the American National Standards Institute (ANSI) Z88.2-1969.

Severity

Determine overexposure to airborne contaminants and physical agents according to the severity of the potential disease result. For example, respirable crystalline silica exposure causes silicosis, which is permanently disabling and sometimes fatal; radon daughter (radon progeny) exposure can cause lung cancer, which can be fatal; and excessive noise causes hearing loss, which can be permanently disabling.

Number of Persons Affected

For most situations, indicate the number of miners sampled in Item 10D of the Mine Citation/Order Form. However, if for example, other miners perform the same job on different shifts or several miners rotate during the same shift and perform the identical job, enter that total number.

Example: A day-shift crusher operator is overexposed to respirable crystalline silica. Two other miners operate the crusher on the evening shift.

Solution: Enter "3" in Item 10D for Persons Affected.

Significant and Substantial Violations

 Select "Yes" in Item 10C if it is reasonably likely that one or more miners will or could suffer at least "Lost Workdays" or "Restricted Duty" due to exposure to the contaminant.

Select "No" in Item 10C if it is not reasonably likely that one or more miners will
or could suffer at least "Lost Workdays" or "Restricted Duty" as a result of
exposure to the contaminant.

Note: Since all overexposure limits have a likelihood of health impairment, the S&S evaluation depends on the miner's use of adequate PPE.

Documenting Airborne Contaminant Violations

As part of Item 8's narrative, include the: Threshold Limit Value (TLV) or exposure limit, error factor, contaminant, concentration, job title of the miner sampled, equipment and area where the person was working, and the reason for the overexposure. Always specify whether the miner was wearing approved respiratory protection, had received adequate training and fit-testing, and followed a maintenance program. Include a statement noting the sample date – i.e., the occurrence date in IAS.

When there is an overexposure to airborne contaminants (except asbestos or those with ceiling limits), the inspector should consider §§ 56.5001(a) and 56.5005 and §§ 57.5001(a) and 57.5005 as single standards. Therefore, enter the standard in Item 9C of the Mine Citation/Order Form as 56.5001(a)/56.5005 and 57.5001(a)/57.5005, respectively.

Similarly, when overexposures are for asbestos, the inspector should consider §§ 56.5001(b) and 56.5005 and §§ 57.5001(b) and 57.5005 as single standards. Therefore, enter the standard in Item 9C of the Mine Citation/Order Form as 56.5001(b)/56.5005 and 57.5001(b)/57.5005, respectively.

An inspector can use §§ 56.5005 and 57.5005 as single standards **only** where MSHA requires a respiratory protection program for compliance and the mine operator fails to follow the program's requirements, or the overexposed miner is not wearing a respirator where required. The inspector can cite §§ 56.5005 and 57.5005 without resampling if:

- The inspector saw the area or equipment in question operating without miner(s) complying with the respiratory protection program mandated by an outstanding citation for dust overexposure; or
- The inspector allowed the mine operator to operate because all feasible engineering or administrative controls had been implemented, but MSHA still

required a respiratory protection program to achieve compliance.

The inspector should evaluate the citation as "S&S" if the miner was not wearing a respirator; the miner sampled had not been properly fit-tested with the respirator worn; the respirator was not properly maintained; or the respirator was not selected in accordance with ANSI Z88.2-1969. There may be other circumstances where the inspector should evaluate the citation as "S&S." The inspector should review ANSI requirements and the circumstances of each case to determine whether to evaluate the citation as "S&S."

Note: For nuisance particulates and silver metal overexposures between 0.01 mg/m³ and 0.1 mg/m³, operators must use engineering or administrative controls to reduce exposure to the permissible limit and comply with the respiratory protection requirements of standard 56/57.5005. However, if issuing .5001(a)/.5005 citations for overexposure to nuisance particulates and silver metal, an inspector cannot evaluate readings in the above concentration range as "S&S." Overexposures to soluble compounds of silver, such as silver nitrate, above 0.01 mg/m³ should be evaluated as "S&S" if miners were not wearing adequate respiratory protection.

If miners were not wearing approved PPE, the initial termination due date will be the time necessary for the operator to provide appropriate respirators and develop a respiratory protection program in accordance with ANSI Z88.2-1969.

The inspector should also include a statement that after the mine operator implements a respiratory protection program in accordance with ANSI Z88.2-1969, the inspector will extend the citation to allow the operator time to implement engineering or administrative controls.

- If the inspector issues an abatement extension, the extension should state what items the operator must accomplish by the abatement due date.
- If resampling is complete but results have not been received, issue a time extension only if the termination time is past due.
- When a time extension is required because MSHA sampling indicated that the operator needs to complete additional work, the inspector will issue an extension.
- When resampling results show that contaminant levels are in compliance, enter the date and time of termination in Item 12 of Form 7000-3a.

Orders of Withdrawal – Airborne Contaminant Violations

If miners are wearing appropriate PPE but the operator has made no progress towards compliance, the inspector must resample to determine if an overexposure still exists before issuing a § 104(b) order of withdrawal.

If the due date and time have passed, and the operator or contractor has failed to provide appropriate respiratory protection, implement an appropriate respiratory protection program, or if the miner was not wearing an appropriate respirator, the inspector must issue a § 104(b) order of withdrawal. Once the operator implements an appropriate respiratory protection program, provides an appropriate respirator, and/or the miner wears an appropriate respirator, the inspector can modify the § 104(b) order to allow work to continue until the operator implements feasible engineering or administrative controls.

Note: If the operator or contractor can install feasible engineering or administrative controls more quickly than it can acquire respiratory protection, then the inspector should require the quicker means of abatement.

The inspector must also issue a § 104(b) order if the operator or contractor has failed to implement feasible engineering or administrative controls within the established abatement time and there is no reason to extend that time. Once the operator implements appropriate engineering controls, the inspector can modify the § 104(b) order to allow work to continue until after receiving the resampling results, and can terminate the order if resampling indicates that the operator is in compliance.

When an inspector issues a § 104(b) order of withdrawal, Item 8 of Form 7000-3 should include a detailed description of the reasons for the operator's failure to abate the citation and actions necessary to achieve abatement of the condition or practice. If applicable, the inspector should note that the failure to abate the violation involved a PPE deficiency (e.g., respirators).

When an operator continues production in violation of a § 104(b) order or neglects to abide by the conditions of the § 104(b) order modification, the inspector must issue a § 104(a) citation to the operator for a violation of § 104(b) of the Mine Act and require, as an abatement condition, that the operator implement a respiratory protection program to achieve compliance.

Chemical Contaminant or Dust Citation – Boilerplate Text

Include language in Form 7000-3's Item 8 about the possible sources of the contaminant and any obvious deficiencies of the control systems; the type and condition of any PPE; and, if the miner used a respirator, whether a respirator program consistent with ANSI Z88.2-1969 was in place. When a respiratory protection program is nonexistent or deficient, state that MSHA will extend the abatement time, if necessary, after the operator implements or modifies a respiratory protection program consistent with ANSI Z88.2-1969 and allow a reasonable period for installing controls.

"The <job description> <location description> was exposed to a (shift or time-weighted average) of <contaminant> on <sampling date>. This exceeded the TLV times the error factor of <factor>. The analytical results were received, and the citation was issued on <date citation issued>."

Selected Health Citations

Form 7000-3 Guidance: Section 104(a) Citation – Welding Fume S&S

Item 1. Enter the citation issuance date. In most cases, this is also the date the inspector received the sample results and determined that a violation occurred.

Note: The occurrence date in IAS is the sample date. If the inspector receives sample results on the same date, the issue date and occurrence date may be the same.

Item 2. Enter the citation issue time.

Item 8. List the metal fume and/or metal dust concentration. List all TLVs for the metal fume and/or metal dust. List the error factor for each metal fume and/or metal dust. The Pittsburgh Safety and Health Technology Center laboratory will provide the concentration, TLV, and error factor. List the mechanism that produced the fume (hot process) or dust (mechanical).

Note: When issuing an extension, use the Continuation Form 7000-3a. In Section II – Justification for Action, note the operator's actions that support the extension, along with a statement explaining that the extension will allow the operator to install engineering and/or implement administrative controls.

Note: When terminating any citation, use the Continuation Form 7000-3a. For any citation where the operator has installed engineering and/or implemented administrative controls to reduce exposure, list all controls in the Continuation Form's Section II – Justification for Action.

Sample Section 104(a) Citation – Welding Fumes S&S

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Sample Section 104(a) Citation – Welding Fumes S&S Extension

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| E01 | 1234567 | | | | | |
| 11. AR Name Copper Pot | | AR Number 12345 | 12. Date 04/07/202 | Mo Da Yr | 13. Time (24 Hr. C 11:47 | lock) |
| MSHA Form 7000-3a, Mar 85 (revised) | | 12343 | 104/07/20 | 43 | 111.47 | |

Sample Section 104(a) Citation – Welding Fumes S&S Termination

| Mine Citation/Order Continuation | | | | | 14. m | | | | |
|--|----------------------------------|---------------------|-------------------|---------------------|----------------------------|--------------------|-------------------|---------------|--------|
| Section I-Subsequent Action/Continuation | | | | | | | | | |
| Subsequent Action 1a. Continuation | | | Mo D | | 3. Citation/ Order Nur | mber 7654 | 354 - 02 | | |
| 4. Served To Nancy Doe, Mine Ma | | | 03/31/20 | 5. Oper | | | | | |
| | | | | Acad | emy Mining | Compan | У | | |
| 6. Mine Blue Falcon Sand and G | ravel Mine | | | 7. Mine | | | | (Contract | or) |
| Section I!-Justification for Action | | - | | 76-54 | 312 | | | | |
| The Repair Shop Welder was mg/m3 of copper fume. This (1.14 mg/m3). The mine oper Repair Shop Welder's exposure. | amount is less ator installed | than the a portable | 1973 Ao weldin | CGIH TI g fume e | V exposure xtractor and | limit of has train | 1.0 mg/m3 tii | nes the error | factor |
| | | | | | | | | | |
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| Section III-Subsequent Action Taken | | | | | | | | | |
| 8. Extended To A. Date Mo Da | Yr B. Time (2 | 4 Hr. Clock |) | | C. Va | cated 🗸 | D. Terminated | E. Modif | ied |
| Section IV-Inspection Data | | | | | | | | | |
| 9. Type of Inspection | 10. Event Numb | er | | | | | | | |
| E01 11. AR Name | 1234567 | AR Numb | er | 12. Date | Mo Da | Yr 13 | 3. Time (24 Hr. 0 | Clock) | |
| Copper Pot | | 12345 | | 04/20/2 | | 0.87 | 4:01 | | |
| | | | | | | | | | W |

Section 104(a): Citation - Total Dust Non-S&S

Form 7000-3 Guidance: Section 104(a) Citation - Total Dust Non-S&S

Item 1. Enter the citation issuance date. In most cases, this is also the date the inspector received the sample results and determined that a violation occurred.

Note: The occurrence date in IAS is the sample date. If the inspector receives sample results on the same date, the issue date and occurrence date may be the same.

Item 8. List the metal fume and/or metal dust concentration. List all TLVs for the metal fume and/or metal dust. List the error factor for each metal fume and/or metal dust. The Pittsburgh Safety and Health Technology Center laboratory will provide the concentration, TLV, and error factor. List the mechanism that produced the fume (hot process) or dust (mechanical).

Item 10A. Select "Unlikely."

Item 10B. The illness will depend on the material and the exposure.

Item 10C. Per MSHA policy, an inspector cannot issue a citation for overexposure for a listed nuisance dust as S&S.

Note: For nuisance particulates and silver metal overexposures between 0.01 mg/m³ and 0.1 mg/m³, operators must use engineering controls to reduce exposure to the permissible limit and comply with the respiratory protection requirements of standard 56/57.5005. However, if issuing, .5001(a)/.5005 citations for overexposure to nuisance particulates and silver metals, an inspector cannot evaluate readings in the above concentration range as "S&S." Overexposures to soluble compounds of silver, such as silver nitrate, above 0.01 mg/m³ can be evaluated as "S&S" if miners were not wearing adequate respiratory protection.

Note: When issuing an extension, use the Continuation Form 7000-3a. In Section II – Justification for Action, note the operator's actions that support the extension, along with a statement explaining that the extension will allow the operator to install engineering and/or implement administrative controls.

Note: When terminating any citation, use the Continuation Form 7000-3a. For any citation where the operator has installed engineering and/or implemented administrative controls to reduce exposure, list all controls in the Continuation Form's Section II – Justification for Action.

Sample Section 104(a) Citation – Total Dust Non-S&S

| Section I-Viola | tion Data | | | | | HAIT O | afety and Health | ammou c | |
|---|---|---|--|-----------------------------------|--|-----------------------|--|--------------------------------|-------------------------|
| . Date | Mo Da Yr | 2. Time | (24 Hr. Clock) | | T | | 3. Citation/ | | |
| | 3/21/2023 | 100000000000000000000000000000000000000 | 1030 | | - | | Order Number | r 7 | 654355 |
| . Served To | Nancy Doe, | Mine M | Manager | | 5. Operator | Aca | demy Mining | Company | |
| Mine | MATERIA MININ | ×2 ×3 | Me vocaron de vo | | 7. Mine ID | means menorara | | | (Contractor |
| Condition of | Blue Falcon | Sand ar | nd Gravel N | fine fine | | 76-54312 | | 0- 10/- | Nation (100a) |
| | | | | | | | of 29.0 mg/m | 5309 100000 | Notice (103g) |
| Z88.2-1 to enro | 968 was not 11 all effe r must esta | in pla | ce. The o ners in a | riginal ab compliant | atement h respirato | nas been ory prote | ng the requi set to allow ction progra mestone dust | the ope | erator time mine |
| Violation | A. Health | B. Section | ו | | Part/Section of | f | See Continuati | on Form (MSH | A Form 7000-3a) |
| | Safety Other | of Act | | | Title 30 CFR | | 56.5001(a) | /56.500 | 5 |
| ection II—Insp 0. Gravity: | ector's Evaluation | | | | | | | | |
| | or Illness (has) (is): | No Likelih | nood 🗌 U | Jnlikely 🗹 | Reasonably | Likely | Highly Likely | Occur | red 🗆 |
| | or Iliness could rea- | | st Workdays 🗆 | Lost Work | days Or Restric | sted Duty | Permanently Dis | eabling [7] | Fatal |
| 1990 NASS 109-02 | be expected to be | : 140 LO. | at Workdays L | LOSI TTOIN | daya Or Heating | led Duty | i dililaliding Di | aching in | Teles |
| | and and Oubstands | i | | | | | D. Niverbay of Days | | i. |
| C. Signific | ant and Substantia | al: Ye | ss □ No 🗹 |] | | | D. Number of Pers | sons Affected | i: 001 |
| | cant and Substantia | A. None | | | loderate ✓ | D. High | The same of the sa | sons Affected | 001 |
| 1. Negligend | ce (check one) | 16 | B. Lov | | 12195 # # # | D. High Citation ✓ | E. Rec | | ard 🗌 |
| Negligence Type of A Initial Acti | ce (check one) | A. None | B. Lov | C. N. | e (check one) | Citation 7 | E. Rec | kless Disreg | ard 🗌 |
| Negligence Type of A Initial Acti A. Citation | ce (check one) Action ion B. Order | A. None | B. Lov | v ☐ C. N | e (check one) | Citation 7 | E. Rec | kless Disrega feguard | ard Written Notice |
| 1. Negligence 2. Type of A 4. Initial Act A. Citation 5. Area or E | ce (check one) Action ion B. Order cquipment | A. None 104 (a) | B. Low | C. N. | e (check one) | Citation 7 | E. Rec | kless Disrega feguard | ard Written Notice |
| 1. Negligence 2. Type of A 4. Initial Act A. Citation 5. Area or E | ce (check one) Action ion B. Order cquipment | A. None 104 (a) C. Safegu | B. Low 13. Property of the second of the se | C. N. | e (check one) | Citation 7 | E. Rec | kless Disrega feguard | ard Written Notice |
| 1. Negligena 2. Type of A 4. Initial Act A. Citation 5. Area or E 6. Terminati section III-Ten | ce (check one) Action ion B. Order Equipment ion Due A. Date mination Action | A. None 104 (a) C. Safegu Mo Da | B. Low 13. Property of the second of the se | Type of Issuance | e (check one) E. Citation/ Order Nun | Citation 7 | E. Rec | kless Disrega feguard | ard Written Notice |
| 1. Negligena 2. Type of A 4. Initial Act A. Citation 5. Area or E 6. Terminati | ce (check one) Action ion B. Order Equipment ion Due A. Date mination Action | A. None 104 (a) C. Safegu Mo Da | B. Low 13. Property of the second of the se | Type of Issuance | e (check one) E. Citation/ Order Nun | Citation 7 | E. Rec | kless Disrega feguard | ard Written Notice |
| 1. Negligeno 2. Type of A 4. Initial Act A. Citation 5. Area or E 6. Terminati ection III-Ten 7. Action to | ce (check one) Action B. Order cquipment Con Due A. Date Termination Action | A. None 104 (a) C. Safegu Mo Da | B. Low 13. Property of the second of the se | Type of Issuance | e (check one) E. Citation/ Order Nun | Citation 7 | E. Rec | kless Disrega feguard | ard Written Notice |
| 1. Negligeno 2. Type of A 4. Initial Act A. Citation 5. Area or E 6. Terminati 7. Action to 8. Terminate | ce (check one) Action B. Order Equipment Con Due A. Date A. | A. None 104 (a) C. Safegu Mo Da 3/30/ | B. Low 13. iard D. Writt Yr 2023 B. Time | Type of Issuance | e (check one) E. Citation/ Order Nun | Citation 7 | E. Rec | kless Disrega feguard | ard Written Notice |
| 1. Negligena 2. Type of A 4. Initial Act A. Citation 5. Area or E 6. Terminati ection III—Ten 7. Action to 8. Terminate ection IV—Aut 9. Type of Ir | ce (check one) Action B. Order Guipment A. Date Mo A. Date Mo A. Date Mo Description A. Date Mo Description A. Date Mo Description A. Date | A. None 104 (a) C. Safegu Mo Da 3/30/ | B. Low 13. Pared D. Writt Tr 2023 B. Time B. Time (24 Hr. | C. M. Type of Issuance ten Notice | e (check one) E. Citation/ Order Nun 1230 | Citation | E. Rec | kless Disrega feguard | ard Written Notice |
| 1. Negligena 2. Type of A 4. Initial Act A. Citation 5. Area or E 6. Terminati ection III-Ten 7. Action to 8. Terminate 9. Type of Ir (activity c | ce (check one) Action B. Order cquipment A. Date Mo A. Date Mo A. Date Domaited System Data anspection code) E01 | A. None 104 (a) C. Safegu Mo Da 3/30/ | B. Low 13. Yr 2023 B. Time B. Time (24 Hr. 1234 | C. M. Type of Issuance ten Notice | e (check one) E. Citation/ Order Nun 1230 | Citation 📝 | E. Rec | kless Disregate Guard F. Dated | Written Notice Mo Da Yr |
| 1. Negligena 2. Type of A 4. Initial Act A. Citation 15. Area or E 6. Terminati 6. Terminati 7. Action to 18. Terminate 9. Type of Ir (activity of | ce (check one) Action B. Order cquipment A. Date Mo A. Date Mo A. Date Domaited System Data anspection code) E01 | A. None 104 (a) C. Safegu Mo Da 3/30/ | B. Low 13. Yr 2023 B. Time B. Time (24 Hr. It Number 1234 Copper | C. M. Type of Issuance ten Notice | e (check one) E. Citation/ Order Nun 1230 | Citation inber | E. Rec | kless Disregate Guard F. Dated | Written Notice Mo Da Yr |

Sample Section 104(a) Citation – Total Dust Non-S&S Extension

| Continuation | | | | | | |
|---|----------------------------------|--------------------------------------|-----------------------------|------------------------------|------------------------------|------------------------|
| Section I-Subsequent Action/Continuation 1. Subsequent Action 1a. Continuation | n Data tion 2. Dated | l Mo | Da Yr | 3 Citation/ | | |
| | (Origi | | /2023 | 3. Citation/ Order Number | 654355 - 01 | |
| 4. Served To Nancy Doe, Mine M | lanager | | 5. Operat | | | |
| 6. Mine Blue Falcon Sand and 6 | Cassel Miss | | Acader 7. Mine II | ny Mining Com | pany | (0-1-1-) |
| o. while blue raicon saild and c | Bravei Mine | | 76-543 | | | (Contractor) |
| Section II-Justification for Action | | **** | | | | |
| The mine operator has enroll is being extended to allow the | ed effected mi e mine operato | ners in an ANS or time to install | I Z88.2 1969 engineering | complaint resp controls. | iratory protection | program. This citation |
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| Section III-Subsequent Action Taken | | | | | | |
| 9 Extended To Mo Do | Yr _ | | | T | | |
| A. Date 04/06/20 | | 24 Hr. Clock) 12:00 | 0 | C. Vacated | D. Terminated | E. Modified |
| Section IV-Inspection Data | | | | | | |
| 9. Type of Inspection | 10. Event Numb | er | | | | |
| E01 11. AR Name | 1234567 | TABLE I | 140.5.4 | | 140 75 (041101 | |
| Copper Pot | | AR Number 12345 | 12. Date 03/30/202 | Mo Da Yr | 13. Time (24 Hr. Cl 13:00 | ock) |
| Copperior | | 14373 | 03/30/202 | | 13.00 | |

Sample Section 104(a) Citation – Total Dust Non-S&S Termination

| Section I-Subsequent Action/Continuation | n Data | | | | | |
|---|-------------------------------------|----------------------------------|---------------------------------|--------------------------------------|-------------------------------------|-----------------------------------|
| Subsequent Action 1a. Continua | tion 2. Dated | 1110 | Da Yr 1/2023 | 3. Citation/ Order Number | 7654355 - 02 | |
| 4. Served To Nancy Doe, Mine M | lanager | | 5. Opera | or ny Mining Com | nany | |
| 6. Mine Blue Falcon Sand and 6 | Gravel Mine | | 7. Mine li |) | рапу | (Contractor) |
| Section II-Justification for Action | | | 76-543 | 12 | | |
| and implemented engineerin Installing ventilation hoods a implemented a job rotation s Operator halfway through th 6 hours. | at product trans chedule that re | fer points and quires the Dry | installed vent Plant Operato | ilation hoods or or to exchange j | the screens. The obs with the prima | mine operator ry Crusher Plant |
| | | | | * , | | |
| Section III—Subsequent Action Taken B. Extended To A. Date Mo Da Section IV—Inspection Data | Yr B. Time (| 24 Hr. Clock) | | C. Vacated | ✓ D. Terminated | ☐ E. Modified |
| D. Type of Inspection E01 | 10. Event Numb | er | | | | |
| 1. AR Name | | AR Number | 12. Date | Mo Da Yr | 13. Time (24 Hr. Cld | ock) |
| Copper Pot | | 12345 | 04/06/202 | 23 | 11:23 | |

Section 104(a): Citation - Respirable Dust Non-S&S

Form 7000-3 Guidance: Section 104(a) Citation - Respirable Dust Non-S&S

Item 1. Enter the citation issuance date. In most cases, this is also the date the inspector received the sample results and determined that a violation occurred.

Note: The occurrence date in IAS is the sample date. If the inspector receives sample results on the same date, the issue date and occurrence date may be the same.

Item 8. List the respirable dust concentration, TLV, and error factor for each dust. The Pittsburgh Safety and Health Technology Center laboratory will provide the concentration, TLV, and error factor. List the mechanism that produced the dust (mechanical).

Item 10A. Select "Unlikely."

Item 10B. The illness will depend on the material and the exposure.

Item 10C. Per MSHA policy, an inspector cannot issue a citation for overexposure for a listed nuisance dust as S&S.

Note: When issuing an extension, use the Continuation Form 7000-3a. In Section II – Justification for Action, note the operator's actions that support the extension, along with a statement explaining that the extension will allow the operator to install engineering and/or implement administrative controls.

Note: When terminating any citation, use the Continuation Form 7000-3a. For any citation where the operator has installed engineering and/or implemented administrative controls to reduce exposure, list all controls in the Continuation Form's Section II – Justification for Action.

Sample Section 104(a) Citation – Respirable Dust Non-S&S

| | | | | | | | | Mir | ic care | ty and Health | Administr | |
|--|--|-----------------------|---|-----------------------------|---|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------|---------------------------------|-------------------------------|--------------------|
| ection I-Violation | on Data Mo Da N | /- | 2. Time (24 | 1 Ur C | Innis) | Ť | | | | 3. Citation/ | | |
| Date | 3/13/20 | | 2. Time (2. | 4 m. C | 1230 | | | | | Order Numbe | r o | 7654356 |
| Served To | Nancy l | Doe, | Mine Ma | nage | r | 5. | . Operato | | Acade | my Mining | Company | |
| Mine | | | 20 10 | | 70 VORTE | 7. | . Mine ID | (1270AD) (1270A) | 0.477.752.77 | | | (Contractor) |
| B1 Condition or | | con S | and and | Gra | vel Mine | | | 76-54 | 312 | | On Writin | n Notice (103g) |
| 16 | 77 | mera | tor was | AVD | osed to a sh | ift_w | eighte | d auer | 200 0 | f 0 35 mg/ | 0 16 | 5. PER/AM |
| (1.20 fo ANSI Z88 respirat controls | or respi .2 1969 or. The needed | irable compande ab | e free : pliant : atement reduce : | sili resp data the | ca dust samp iratory prot a has been s exposure to | ling a ection et to less t | and and and programmed allow than t | alysis ram ar the c he TLV | i). T id was perat | The miner wearing a cor time to | as enro in appro instal | |
| Violation | A. Health Safety | | B. Section of Act | | | | t/Section o | of. | | See Continual | ion Form (MS) | HA Form 7000-3a) 🔲 |
| | Other | | OTAG | | | THE | - OU OI II | | | 56.5001(| a)/.500! | 5 |
| ction II-Inspec | ctor's Evaluati | ion | | | | | | | | | | |
| | Illness (has | s) (is): | No Likelihoo | od 🗆 | Unlikely 🗹 | Re | easonably | Likely [|] H | lighly Likely | Occu | ırred 🗌 |
| B. Injury or | | d rea- | No Lost | | lays D Lost V | Vorkdays | or Restr | icted Duty | | Permanently Di | sabling 🗹 | Fatal |
| C. Significa | 97 977 977 978 | 63 636600 | Yes | | No ₹ | | | | I |). Number of Per | sons Affecte | d: 001 |
| . Negligence | (check on | e) , | A. None | | B. Low | C. Mode | erate 🗸 | D. | High [| E. Re | kless Disreç | |
| . Type of Act | tion | 1 | 04(a) | | 13. Type of Issu | ance (ch | heck one) | Citatio | on 🔽 | Order Sa | feguard [| Written Notice |
| Type of Ac | | - | | | - | 1 | | | | | F. Dated | |
| 4. Initial Actio | | 1500 | C. Safeguar | a 🗆 | D. Written Notice | | Citation/ Order Nu | mber | | | r. Daled | Mo Da Yr |
| . Initial Actio | B. Orde | er 🗌 | C. Safeguar Mo Da Y | | | | | mber | | | r. Daled | Mo Da Yr |
| . Initial Actio A. Citation . Area or Equal . Termination | B. Orde | er 🗌 | | 'r | D. Written Notice | | | | | | r. Daled | Mo Da Yr |
| . Initial Actio A. Citation . Area or Equ . Termination | B. Orde uipment n Due | er 🗌 | Mo Da Y | 'r | | | Order Nu | | | | r. Dated | Mo Da Yr |
| . Initial Actio A. Citation i. Area or Equ | B. Orde uipment n Due | er 🗌 | Mo Da Y | 'r | | | Order Nu | | | | r. Dates | Mo Da Yr |
| . Initial Actio A. Citation . Area or Equal . Termination | B. Orde | er 🗌 | Mo Da Y 4/6/20 | ′r)23 | | | Order Nu | | | | r. Dates | Mo Da Yr |
| . Initial Action A. Citation C. Area or Equ Termination Cition III—Termi Action to To Terminated | B. Order uipment n Due A ination Action ferminate | A. Date | Mo Da Y 4/6/20 | ′r)23 3. Time | B. ⊤Ime (24 Hr. Clo e (24 Hr. Clock) | | 1230 |) | | | r. Dates | Mo Da Yr |
| . Initial Action A. Citation C. Area or Equ Termination Cition III—Termi Action to To Terminated | B. Order uipment n Due Adition ferminate A. Date mated System spection | A. Date Mo D | Mo Da Y 4/6/20 | ′r)23 3. Time | B. ⊤Ime (24 Hr. Clock) e (24 Hr. Clock) r | | 1230 |) | Mill | | r. Dates | Mo De Yr |
| . Initial Action A. Citation A. Citation G. Area or Equation G. Termination G. Action to To G. Terminated G. Terminated G. Terminated G. Type of Ins | B. Order uipment n Due Adition ferminate A. Date mated System spection | A. Date | Mo Da Y 4/6/20 | r 223 B. Time | B. ⊤Ime (24 Hr. Clo e (24 Hr. Clock) | | 1230 |) | Mill | 23. AR Nun | | |

Sample Section 104(a) Citation – Respirable Dust Non-S&S Termination

| ection I-Subsequent Action/Continuation | | | | |
|---|--|------------------------------|--|-----------------------------------|
| . Subsequent Action 1a. Continuatio | n 2. Dated Mo (Original Issue) 03/13/2 | Da Yr 2023 | 3. Citation/ Order Number 7654356 - 01 | |
| . Served To Nancy Doe, Mine Ma | | 5. Opera | | |
| . Mine Blue Falcon Sand and Gr | avel Mine | 7. Mine | ID . | (Contractor) |
| ection IIJustification for Action | | 76-543 | 312 | |
| be Dwy Blant Overstay year was was any | ld on 04/00/2022 and the skift weigh | tad avanaga t | a waaninahla siliaa haanina duut waa | datamain ad to be |
| 44 mg/m3. This shift-weighted aver llowing engineering controls by ins | d on 04/09/2023 and the shift-weigh age is less than the Threshold Limit talling upgraded seals on the Dry Pla the Dry Plant Operator's exposure to | Value (TLV) int Operator? | of 0.59 mg/m3. The operator has in scontrol booth and installing ventila | nplemented the ation hoods on the |
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| | | | | See Continuation Form |
| Extended To A. Date | Yr B. Time (24 Hr. Clock) | | C. Vacated D. Termin | nated E. Modified |
| ection IVInspection Data | B. Time (24 Til. Globby | | C. Vacage | ilated E. Wiodilled |
| . Type of Inspection E01 | 10. Event Number 1234567 | | | |
| 1. AR Name Copper Pot | AR Number 12345 | 12. Date 04/13/20 | Mo Da Yr 13. Time (24 023 14:18 | 4 Hr. Clock) |
| opper i or | 12575 | 07/13/20 | 17.10 | |

Section 104(a): Citation - Respirable Dust S&S

Form 7000-3 Guidance: Section 104(a) Citation – Respirable Dust S&S

Item 1. Enter the citation issuance date. In most cases, this is also the date the inspector received the sample results and determined that a violation occurred.

Note: The occurrence date in IAS is the sample date. If the inspector receives sample results on the same date, the issue date and occurrence date may be the same.

Item 8. List the respirable dust concentration, TLV, and error factor for dust. The Pittsburgh Safety and Health Technology Center laboratory will provide the concentration, TLV, and error factor. List the mechanism that produced the dust (mechanical).

Note: When issuing an extension, use the Continuation Form 7000-3a. In Section II – Justification for Action, note the operator's actions that support the extension, along with a statement explaining that the extension will allow the operator to install engineering and/or implement administrative controls.

Note: When terminating any citation, use the Continuation Form 7000-3a. For any citation where the operator has installed engineering and/or implemented administrative controls to reduce exposure, list all controls in the Continuation Form's Section II – Justification for Action.

Section 104(b): Order of Withdrawal – Respirable Dust Failure to Abate

Consult the District prior to issuing a § 104(b) order for failing to install engineering and/or implement administrative controls.

Section 104(a): Citation – Respirable Dust Working in the Face of the Section 104(b) Order

Consult the District prior to issuing a § 104(b) order for failing to install engineering and/or implement administrative controls.

Sample Section 104(a) Citation - Respirable Dust S&S

| | | | rtment of Labo ty and Health Ad | ((X) |
|--|---|---|--|--|
| ection I-Violation Data | | | | |
| Date Mo Da Yr 3/27/2023 | 2. Time (24 Hr. Clock) 1100 | | 3. Citation/ Order Number | 7654357 |
| Served To Nancy Doe, I | Mine Manager | 5. Operator Acade: | my Mining Co | mpany |
| Mine | | 7. Mine ID | | (Contractor) |
| Blue Falcon S. Condition or Practice | and and Gravel Mine | 76-54312 | .8 | a. Written Notice (103g) |
| silica-bearing dust 0.25 mg/m3 times the A Respiratory Protec The abatement date h compliant respirator | cor was exposed to a shift on 03/20/2023 when worki e error factor (1.2 for re- ction Program meeting the has been set to allow the ry protection program. The silica-bearing dust en | ng in the screener a espirable free silic requirements of ANS operator time to en the mine operator mus | rea. This e a dust sampl I Z88.2 1969 roll all eff t establish | xceeded the TLV or ing and analysis) was not in place ected miners in a |
| Violation A. Health ☐ E Safety ☐ | 3. Section C | i. Part/Section of Title 30 CFR | See Continuation I | Form (MSHA Form 7000-3a) □ |
| Other D | 9/2NS (594) | 0.150.760.65289677000.0.14 | 56.5001(a)/ | 56.5005 |
| . Gravity: | 95 Viv. 18-13 | 25N | Pr.——40 | 905-VA |
| | No Likelihood 🗆 Unlikely 🗌 | Reasonably Likely 🗸 🛚 🖽 | ighly Likely 🗆 | Occurred |
| B. Injury or illness could rea- sonably be expected to be: | No Lost Workdays Lost Workdays | kdays Or Restricted Duty | Permanently Disab | ling 🗹 Fatal 🗌 |
| C. Significant and Substantial: | Yes ✓ No 🗌 | p | . Number of Person | s Affected: 001 |
| . Negligence (check one) | A. None B. Low C. | Moderate ✓ D. High ☐ | E. Reckle | ss Disregard |
| . Type of Action 10 |)4 (a) 13. Type of Issuan | nce (check one) Citation 🔽 | Order 🗌 Safeg | uard Written Notice |
| . Initial Action A. Citation ☐ B. Order ☐ 0 | C. Safeguard ☐ D. Written Notice ☐ | E. Citation/ Order Number | F | Dated Mo Da Yr |
| 5. Area or Equipment 5. Termination Due A. Date sction III-Termination Action 7. Action to Terminate | Mo Da Yr 4/10/2023 B. Time (24 Hr. Clock) | 1100 | | |
| | a Yr B. Time (24 Hr. Clock) | | | |
| A. Date | - 16 111 | | | |
| A. Date ction IV-Automated System Data . Type of Inspection | 20. Event Number | 21. Primary or Mill | | |
| A. Date Mo D A. | 20. Event Number 1234567 | 21. Primary or Mill P | 23. AR Number | |

Sample Section 104(a) Citation – Respirable Dust S&S Extension

| ection I-Subsequent Action/Continuation Data | | | | | | | |
|--|------------------------------|-------------------|----------------------------|-----------------------------|--------------------|-----------------------|--|
| Subsequent Action 1a. Continuation | 2. Dated (Original Issue) | Mo Da 03/27/20 | Yr 3 . 23 | Citation/ 7 Order Number | 654357 - 01 | | |
| . Served To Nancy Doe, Mine Manage | er | | Operator | Mining Com | | | |
| . Mine Blue Falcon Sand and Gravel | Mine | | 7. Mine ID 76-54312 | | | (Contractor) | |
| ection II-Justification for Action | | | | | | | |
| low the operator time to install engineer the Dry Plant until engineering controls e Threshold Limit Value (TLV) times the Threshold Limit Value (TLV) times the time of time of the time of the time of the time of t | shave been implemen | | | | | | |
| ection III-Subsequent Action Taken Extended To A. Date Mo Da Y 04/19/2023 ection IV-inspection Data | r B. Time (24 Hr. Cl | ock) 11:00 | | C. Vacated | ☐ D. Terminated | See Continuation Form | |
| . Type of Inspection 10. | Event Number 234567 | | | | | | |
| 1. AR Name | AR Nu 1234 | | | Wo Da Yr | 13. Time (24 Hr. C | lock) | |
| Copper Pot | 1234 | J | 04/10/2023 | | 11:05 | | |

Sample Section 104(a) Citation – Respirable Dust S&S Termination

| ction I—Subsequent Action/Continuation Da | te | | | | | |
|--|--|--------------------------|------------------------------|---------------------------------|-----------------------|--|
| Subsequent Action 1a. Continuation | 2. Dated Mo (Original Issue) 03, | Da Yr /27/2023 | 3. Citation/ Order Number | 654357 - 02 | | |
| Served To Nancy Doe, Mine Mana | ger | | erator demy Mining Com | | | |
| Mine Blue Falcon Sand and Grav | rel Mine | 7. Mir | | - · · · | (Contractor) | |
| ction II-Justification for Action | | , 0 3 | 1315 | | | |
| eens. The Dry Plant Operator's expo | The state of the s | | | | | |
| | | | | | See Continuation Form | |
| ction III—Subsequent Action Taken Extended To A. Date | Yr R Time (24 Hr Clock) | | C. Vacated | ✓ D. Terminated | □ E Mandifferd | |
| ction IV-Inspection Data | B. Time (24 Hr. Clock) | | C. vacated | U. Terminated | E. Modified | |
| Type of Inspection 1 | 0. Event Number 1234567 | | | | | |
| . AR Name | AR Number 12345 | 12. Dat | e Mo Da Yr /2023 | 13. Time (24 Hr. C 09:34 | lock) | |

Sample Section 104(b) Order of Withdrawal – Respirable Dust Failure to Abate

| ection IViola | ation Data | | | | Witte Sai | ецу апо пе | alth Administra | auon *// |
|---|--|---|---|---|---|--|--|---|
| . Date | Mo Da Yr | 2. Time (24 Hr. | | | | 3. Citation/ | | 3654385 |
| Served To | 4/11/2023 Nancy Doe, | Mine Manag | 0800 | 5. Operator | | Order Nu | mber | 7654375 |
| | Namey Doe, | milie manay | G1 | 1000 100 • 000 • 000 000 000 000 000 000 | Acad | lemy Mini | ng Company | |
| Mine E | Blue Falcon S | Sand and Gr | avel Mine | 7. Mine ID 7. | 5-54312 | | | (Contractor) |
| | or Practice | | | | | | 8a. Writte | n Notice (103g) |
| attempt Operato Operato Nuties The Dry And adm | to install or's exposure or occupation of the Dry P Plant Opera | engineering to respiration are removed lant Operations' expose means, this | further extend g controls in table silica-bea able silica-bea ed from the are tor. When the sure to respiras order may be | the screen and ring dust. The and miners mine operators of the silica-h | rea that Miners s are no or can d pearing | would r performi tallowedemonstrated | educe the I ng the Dry d to perfo te efforts engineering | Ory Plant Plant rm the to reduce g controls |
| Violation | A. Health | B. Section of Act | | C. Part/Section of Title 30 CFR | | 89 200 100 100 100 100 100 100 100 100 100 | inuation Form (MSF | HA Form 7000-3a) 🗖 |
| . Gravity: | ector's Evaluation | | | | | | and the second | |
| OR PROPERTY AND ADDRESS OF | or Illness (has) (is): or illness could rea- | No Likelihood | Unlikely 🗌 | Reasonably Like | ely 🗌 | Highly Likely | Occu | rred |
| | | | | | | | | 5000000 2456 |
| | y be expected to be: | No Lost Wor | kdays 🔲 🛮 Lost Wo | rkdays Or Restricted | Duty 🗌 | Permanent | ly Disabling 🔲 | Fatal 🗌 |
| sonably | | | kdays □ Lost Wo | rkdays Or Restricted | d Duty 🗌 | | ly Disabling Persons Affected | 10-10 |
| sonably C. Signific | y be expected to be: cant and Substantial: | | No 🗆 | rkdays Or Restricted | D. High | D. Number of | | d: |
| sonably C. Signific . Negligeno | y be expected to be: cant and Substantial: ce (check one) | Yes 🗌 | No 🗆 | Moderate | | D. Number of | Persons Affected | d: |
| sonably C. Signific 1. Negligenc 2. Type of A 4. Initial Acti | y be expected to be: cant and Substantial: ce (check one) Action 1 | Yes A. None 04 (b) | No B. Low C. 13. Type of Issuar | Moderate nce (check one) E. Citation/ | D. High | D. Number of E. Order 🗸 | Persons Affected Reckless Disreg | d: Jard Written Notice Mo Da Yr |
| sonably C. Signific Negligence Type of A Initial Act A. Citation Area or E Dry pla | y be expected to be: cant and Substantial: ce (check one) Action 1 idion B. Order Equipment art screen ar | Yes A. None 04 (b) C. Safeguard | No B. Low C. | Moderate nce (check one) E. Citation/ Order Number | D. High | D. Number of | Persons Affected Reckless Disreg Safeguard | d: jard Written Notice Mo Da Yr |
| sonably C. Signific Negligence Type of A Initial Act A. Citation Area or E Dry pla Terminati | y be expected to be: cant and Substantial: ce (check one) Action 1 ion B. Order Equipment ant screen ar | Yes A. None 04 (b) C. Safeguard ea | No B. Low C. 13. Type of Issuar D. Written Notice | Moderate nce (check one) E. Citation/ Order Number | D. High | D. Number of E. Order 🗸 | Persons Affected Reckless Disreg Safeguard | d: gard Written Notice |
| sonably C. Signific . Negligenc . Type of A . Initial Act A. Citation . Area or E Dry pla . Terminati | y be expected to be: cant and Substantial: ce (check one) Action 1 ition | Yes A. None 04 (b) C. Safeguard ea | No B. Low C. 13. Type of Issuar D. Written Notice | Moderate nce (check one) E. Citation/ Order Number | D. High | D. Number of E. Order 🗸 | Persons Affected Reckless Disreg Safeguard | d: Jard Written Notice Mo Da Yr |
| sonably C. Signific Negligenc Type of A Initial Act A. Citation Area or E Cry pla Terminati | y be expected to be: cant and Substantial: ce (check one) Action 1 ition B. Order Equipment ant screen ar ion Due A. Date mination Action Terminate | Yes A. None 04 (b) C. Safeguard ea Mo Da Yr | No B. Low C. 13. Type of Issuar D. Written Notice | Moderate nce (check one) E. Citation/ Order Number | D. High | D. Number of E. Order 🗸 | Persons Affected Reckless Disreg Safeguard | d: jard Written Notice Mo Da Yr |
| sonably C. Signific Negligenc Type of A Initial Act A. Citation Area or E Dry pla Terminati Citon IIITern Action to Terminate Citon IVAut | y be expected to be: cant and Substantial: ce (check one) Action 1 ion B. Order Equipment ant screen ar ion Due A. Date mination Action Terminate ed A. Date Mo E tomated System Data | Yes A. None 04 (b) C. Safeguard ea Mo Da Yr | No B. Low C. 13. Type of Issuar D. Written Notice B. Time (24 Hr. Clock) | Moderate nce (check one) E. Citation/ Order Number | D. High Citation | D. Number of E. Order 🗸 | Persons Affected Reckless Disreg Safeguard | d: Jard Written Notice Mo Da Yr |
| sonably C. Signific Negligenc Type of A Initial Act A. Citation Area or E Dry pla Terminati Citon IIITern Action to Terminate Citon IVAut | y be expected to be: cant and Substantial: ce (check one) Action 1 ion B. Order Equipment ant screen ar ion Due A. Date mination Action Terminate ed A. Date tomated System Data inspection | Yes A. None 04 (b) C. Safeguard ea Mo Da Yr | No B. Low C. 13. Type of Issuar D. Written Notice B. Time (24 Hr. Clock) | Moderate nce (check one) E. Citation/ Order Number | D. High | D. Number of E. Order 🗸 | Persons Affected Reckless Disreg Safeguard | d: Jard Written Notice Mo Da Yr |
| sonably C. Signific 1. Negligenc 2. Type of A 4. Initial Act A. Citation 5. Area or E Dry pla 6. Terminati 6 citon III-Ten 7. Action to 6. Terminate 6 citon IV-Aut 6. Type of Ir | y be expected to be: cant and Substantial: ce (check one) Action 1 ion B. Order Equipment Int screen ar ion Due A. Date mination Action Terminate ed A. Date tomated System Data inspection ion Due Equipment Item Due Equipment Item Due Equipment Item Due Equipment Int screen ar ion Due A. Date mination Action Terminate Edulary Mo Date Item Due Equipment Item Due E | Yes ☐ A. None ☐ 04 (b) C. Safeguard ☐ ea Mo Da Yr Da Yr B. Tir | No B. Low C. 13. Type of Issuar D. Written Notice B. Time (24 Hr. Clock) | Moderate nce (check one) E. Citation/ Order Number | D. High Citation | D. Number of E. Order 7 | Persons Affected Reckless Disreg Safeguard | d: yard Written Notice Mo Da Yr 3/28/2023 |

Sample Section 104(a) Citation – Respirable Dust Working in the Face of the Section 104(b) Order

| | on/Order | | | | | | oartment of lifety and Heal | | ation 🐇 |
|--|--|---------------------|---|-------------------------|---------------------------|---------------|-----------------------------|------------------|---------------------------|
| ection IViolat | SECULIA PER CONTRACT | 1 | | | | | 1 | | |
| . Date | Mo Da Yr 5/1/2023 | 2. Time (| 24 Hr. Clock) 0830 | | | | 3. Citation/ Order Num | ıber | 7654376 |
| Served To | Nancy Doe, | Mine M | anager | | 5. Operator | Acad | lemy Minin | g Company | |
| . Mine | lue Falcon | Sand an | d Gravel Mi | ne | 7. Mine ID | 76-54312 | 2 | | (Contractor |
| . Condition o | | | | | | | | 8a. Writte | n Notice (103g) |
| miners o were obs | conducting served cond | the Dry ucting : | ued a 104(b) Plant Operr Dry Plant Op Order of w | ators' dut perators' | ies from | n the scre | een area o | n 4/11/20 | 23. Miners |
| . Violation | A. Health □ Safety □ | B. Section of Act | | | art/Section of | | See Contin | uation Form (MSI | HA Form 7000-3a) □ |
| N - 41 11 1 | Other ector's Evaluation | | 104 (b) | | | | | | |
| o. Gravity: | COI'S EVAIDATION | | | | | | | | |
| | r Illness (has) (is): | No Likelih | ood 🗸 Unli | ikely 🗌 | Reasonably | Likely 🗌 | Highly Likely | Occu | rred 🗌 |
| | r illness could rea- be expected to be | | st Workdays 🗹 | Lost Workd | ays Or Restric | cted Duty | Permanently | Disabling | Fatal 🗌 |
| | ant and Substantia | d. | s ⊓ No 🗸 | | | 5 10-10 | D. Number of F | Persons Affecte | d: 001 |
| 1. Negligenc | e (check one) | A. None | S S S S | C. Mo | oderate \square | D. High | <u> </u> | Reckless Disreç | |
| 2. Type of A | ction | 104(a) | | pe of Issuance | 10-10 | Citation 🗸 | | Safeguard [| Written Notice |
| Initial Action A. Citation | on | C. Safegu | ard D D Writton | n Notice □ | E. Citation/ Order Nur | abor | 92. W. | F. Dated | Mo Da Yr |
| 5. Area or Ed | 10 % | <u> </u> | | | 1010011101 | | | ! | |
| | | | | | | | | | |
| 6. Termination | A. Date | Mo Da 5/1/2 | IR Time (| 24 Hr. Clock) | 0835 | | | | |
| Section IIITerm 7. Action to 1 | | | | | | | | | |
| 7. Action to | i erminate | | | | | | | | |
| | | | î . | laald | I | | | | |
| 8. Terminate | A. Date | Da Yr | B. Time (24 Hr. C | iock) | | | | | |
| 6 N.C. (2013) 13. (2014) 13. (2014) 1444 175. (2014) 1444 175. (2014) 1444 175. (2014) 1444 175. (2014) 1444 1 | A. Date Mo | Da Yr | B. Time (24 Hr. C | lock) | | | | | |
| ection IVAuto | A. Date omated System Data spection | | t Number | | 21. Pr | imary or Mill | Ī | | |
| 9. Type of In | A. Date omated System Data spection ode) E01 | | • | 67 | 21. Pr | imary or Mill | 23. AR N | umber | 1 5 |

Section 104(a): Citation – Radon S&S

Form 7000-3 Guidance: Section 104(a) Citation – Radon S&S

Item 1. Enter the citation issuance date. In most cases, this is also the date the inspector received the sample results and determined that a violation occurred.

Note: The occurrence date in IAS is the sample date. If the inspector receives sample results on the same date, the issue date and occurrence date may be the same.

Item 8. As part of the narrative, specify whether the sampled miner wore appropriate respiratory protection and was enrolled in a compliant Respiratory Protection Program.

Item 10A. "Unlikely" versus "Reasonably Likely" depends on whether the miner wore appropriate respiratory protection.

Item 10B. Radon is a known cause of lung cancer, which can lead to permanent disability and is often fatal.

Note: When terminating any citation, use the Continuation Form 7000-3a. For any citation where the operator has installed engineering and/or implemented administrative controls to reduce exposure, list all controls in the Continuation Form's Section II – Justification for Action.

Sample Section 104(a) Citation – Radon S&S

| | ion Data | | | | Mine S | | • |
|--|--|--|---|--|--|--|-------------------------------|
| Date | Mo Da Yr | 2. Time (24 Hr. C | lack) | | | 3. Citation/ | |
| =-200723 | 4/27/2023 | | 1500 | | | Order Number | 7654360 |
| Served To | Joanna Doe, | Mine Super | intendent | 5. Operator | | ademy Mining | Company |
| Mine | lue Falcon # | 10 Undergro | und Mine | 7. Mine ID | 76-0120 | 0 | (Contracto |
| Condition o | | TO GRAFIE | did Hille | | 70-0120 | | 8a. Written Notice (103g) |
| WL of Ra 1.00 WL ventilat vearing Section | adon Daughte times the e tion tubing a respirato | rs on 4/27/2 rror factor were damaged r. The mind atory proted | 2023. This ex (1.20) for Ra d, and the #8 e operator mus ction and enro | ceeded th don Daugh booster f st ensure | e maximum ter samp an was no that all | m permissible ling. Severa ot on. The m miners worki: | iner was not ng in the #5 |
| Violation | Safety Other | B. Section of Act | C | C. Part/Section of Title 30 CFR | ſ | See Continuati | on Form (MSHA Form 7000-3a) [|
| ction II-Inspe). Gravity: | ector's Evaluation | | | | | | |
| | r Illness (has) (is): | No Likelihood 🗌 | Unlikely | Reasonably | Likely 🗹 | Highly Likely | Occurred |
| | Illness could rea- | No Lost Workd | lavs D Lost Wo | rkdays Or Restri | cted Duty | Permanently Dis | sabling ☐ Fatal 🗸 |
| 2000 - 10 | be expected to be: ant and Substantial: | | # 1 | | | D. Number of Pers | one Affortad: |
| Self- | | 195 🔻 | No 🗌 | | 40.000.000.000 | | 001 |
| . Negligeno | e (check one) | A. None | B. Low 🗸 C. | Moderate | D. Hig | h 🗌 E. Rec | kless Disregard |
| 2. Type of A | ction 1 | 04(a) | 13. Type of Issuar | nce (check one) | Citation . | ☑ Order 🗌 Sai | feguard Written Notice [|
| . Type of A | | | | | | | |
| I. Initial Action | on . | 0.0000000000000000000000000000000000000 | D. Weitter Netice | E. Citation/ | | | F. Dated Mo Da Yr |
| . Initial Action | on B. Order | C. Safeguard | D. Written Notice | E. Citation/ Order Nu | mber | | F. Dated Mo Da Yr |
| 4. Initial Action A. Citation 5. Area or Ed | on B. Order I quipment | • | D. Written Notice | | mber | | F. Dated Mo Da Yr |
| 4. Initial Action A. Citation 5. Area or Ed | on B. Order I quipment | Mo Da Yr | D. Written Notice | Order Nu | | | F. Dated Mo Da Yr |
| 4. Initial Action A. Citation 5. Area or Ed 6. Termination | on B. Order C | • | | Order Nu | | | F. Dated Mo Da Yr |
| 4. Initial Action A. Citation 5. Area or Edition 6. Termination | on B. Order Cquipment On Due A. Date | Mo Da Yr | | Order Nu | | | F. Dated Mo Da Yr |
| 4. Initial Actic A. Citation 5. Area or Ed 6. Termination 7. Action to 1 | on B. Order Quipment On Due A. Date Ininiation Action Terminate A. Date Mo D | Mo Da Yr 5/1/2023 | | Order Nu | | | F. Dated Mo Da Yr |
| Initial Action A. Citation A. Citation A. Citation Area or Edition Terminated Cition III—Terminated Action to Terminated B. Terminated | on B. Order Quipment On Due A. Date Initiation Action Terminate A. Date Mo Description Action | Mo Da Yr 5/1/2023 | B. Time (24 Hr. Clock) | Order Nu | | | F. Dated Mo Da Yr |
| Initial Action A. Citation A. Citation A. Citation Area or Edition Terminated Cition III—Terminated Action to Terminated B. Terminated | on B. Order Quipment On Due A. Date Initiation Action Ferminate A. Date Mo Description Mo Description | Mo Da Yr 5/1/2023 | B. Time (24 Hr. Clock) | Order Nu | rimary or Mill | | F. Dated Mo Da Yr |
| 4. Initial Action A. Citation 5. Area or Ed 6. Termination 6. Termination 7. Action to 1 7. Action to 1 8. Terminate 9. Type of In (activity or | on B. Order Quipment On Due A. Date Inination Action Terminate A. Date Mo Description Mo Description Mo Description A. Date Mo Description A. Date Mo Description A. Date Mo Description A. Date Mo Description Mo Description | Mo Da Yr 5/1/2023 Da Yr B. Time | B. Time (24 Hr. Clock) 9 (24 Hr. Clock) 1 1234574 | Order Nu | | 23. AR Num | ber |
| 4. Initial Action 5. Area or Ed 6. Terminate ection III—Term 7. Action to 7 8. Terminate ection IV—Auto 9. Type of in (activity co | on B. Order Quipment On Due A. Date Inination Action Terminate A. Date Mo Description Mo Description Mo Description A. Date Mo Description A. Date Mo Description A. Date Mo Description A. Date Mo Description Mo Description | Mo Da Yr 5/1/2023 Da Yr B. Time | B. Time (24 Hr. Clock) e (24 Hr. Clock) r 1234574 pper Pot | Order Nu | rimary or Mill P | | |

Sample Section 104(a) Citation – Radon S&S Termination

| Section I—Subsequent Action/Continuation 1. Subsequent Action 1a. Continuation | tion 2. Dated | | Da Yr | 3. Citation/ Order Number | 654360 - 01 | |
|---|---------------------------------|-------------------------------------|--------------------|------------------------------|--------------------|---------------------|
| 4. Served To Joanna Doe, Mine S | | 04/2 | 7/2023 5. Opera | or | | |
| 6. Mine Blue Falcon #10 Under | ground Mine | | 7. Mine II | ny Mining Com | pany | (Contractor) |
| Section II—Justification for Action | | | 76-012 | 00 | | |
| of Radon Daughter under the 0.10 WL of Radon Daughter respirator that had been fit-te factor of (1.20) for Radon Daughter respirator that had been fit-te factor of (1.20) for Radon Daughter respirator that had been fit-te | s when resamp ested. The amo | led on 4/29/20: unt is less than | 23. During th | ne resampling, a | ll the miners were | wearing an approved |
| | | | | | | |

Section 104(a): Citation – Drill Dust Control Non-S&S

Form 7000-3 Guidance: Section 104(a) Citation – Drill Dust Control Non-S&S

Item 8. Describe the dust condition that led to the determination that drill dust controls were ineffective. Include details on the material being drilled (soluble or non-water soluble); why current dust controls were ineffective; whether the miner sampled wore appropriate respiratory protection; and whether the miner was enrolled in a compliant Respiratory Protection Program.

Note: The inspector's observations determine the effectiveness of drill dust controls.

Item 10A. "Unlikely" versus "Reasonably Likely" depends on whether the material being drilled could contain respirable crystalline silica-bearing dust. Check the sampling history for the mine and the geology of the material being drilled. The determination will be "Unlikely" if the miner is wearing appropriate respiratory protection.

Item 10B. If respirable crystalline silica-bearing dust is present, then silicosis is a possibility. Silicosis is a permanent disability and is often fatal.

Note: When terminating any citation, use the Continuation Form 7000-3a. For any citation where the operator has installed engineering and/or implemented administrative controls to reduce exposure, list all controls in the Continuation Form's Section II – Justification for Action.

Sample Section 104(a) Citation – Drill Dust Control Non-S&S

| ection I-Violat | tion Data | | | | | | | | | | h Administ | | |
|--|--|--|--|--|----------------------|---|------------------------|-----------------------------|---------------|---|---|--|--------------------|
| . Date | Mo Da Yr 4/15/2023 | 2. Time (| 24 Hr. Clo | ck) .530 | | | | | | itation/ order Numb | uor | 765430 | 51 |
| . Served To | | Mine M | | .530 | | 5. Operator | • | | | ZIOGI INUITIO | roi | /6543 |) T |
| | Namey Doe, | MINE M | anager | | | 1.5 | | Acad | demy | Mining | Company | 7 | |
| Mine | lue Falcon | Cand an | d Grav | al Mina | | 7. Mine ID | 76-5 | 4212 | | | | (0 | Contractor |
| Condition o | | band an | u Grav | er Mille | | | 76-5 | 4312 | | | 8a. Writt | en Notice | (103g) |
| excession of the control of the cont | /2023 the d ve dust. T isting system ssing, and a respirat ve dust dur | he dust em was i the dri: or. Th: | exhaus not bei lling m is cond | st system of ing used. mist system dition expo | Seve: was | e Furuka ral pied out of | awa 1 ces o wate | 017 d f the r. T | dril: e du | l was n st coll irillin | ot effec ector co g operat | ctive. ollar a cor was | The apron |
| Violation | A. Health Safety Cother Cother | B. Section of Act | I | | | rt/Section of e 30 CFR | of | | | | ation Form (MS | SHA Form 7 | 7000-3a) 🗖 |
| | ector's Evaluation | | | | * | | | | | | | | |
|). Gravity: A. Injury of | r Illness (has) (is): | No Likelih | nood 🗆 | Unlikely 🗹 | i | Reasonably | . I Stantan I | | | | 0 | urred 🗆 | |
| | | | | | | | LIKERY | | Highi | v I ikalv | UG | :urreci | |
| | r Iliness could rea- | | nt Markelon | .n. ∏ lent | | | | | | y Likely L | | | |
| sonably | be expected to be | : No Los | st Workday | ys 🗆 Lost | | ys Or Restri | | | Pe | rmanently [| Disabling 🗹 | Fata | al 🗌 |
| sonably | | : No Los | | ys □ Lost | | | | | Pe | rmanently [| | Fata | |
| sonably C. Signific | be expected to be | : No Los | s 🗌 🔝 | | Workday | | icted Dui | | Pe D. Nu | rmanently I | Disabling 🗹 | Fata ed: | al 🗌 |
| sonably C. Significa 1. Negligeno | be expected to be ant and Substantia ce (check one) | e: No Los al: Ye | s 🗌 🔝 | No 🗹 | Workday | ys Or Restric | icted Dut | ty 🗆 | Pe D. Nu | rmanently I imber of Pe E. Ro | Disabling Orsons Affect | Fata ed: egard | al 🗌 |
| sonably C. Significant 1. Negligeno 2. Type of A 4. Initial Acti | be expected to be ant and Substantia ce (check one) action | a: No Los A: Yes A. None [| s | No ☑ 3. Low ☐ 13. Type of Iss | C. Moosuance (| ys Or Restric | Citat | ly 🗆 | Pe D. Nu | rmanently I imber of Pe E. Ro | Disabling orsons Affect eckless Disre | Fata ed: egard Writte | o02 |
| sonably C. Significa 1. Negligeno 2. Type of A 4. Initial Acti A. Citation 5. Area or Ed | r be expected to be cant and Substantia de (check one) action B. Order quipment | 2: No Los 2: Ye A. None [104 (a) C. Safegui | s D | No 🗹 | C. Moosuance (| ys Or Restric | Citat | ly 🗆 | Pe D. Nu | rmanently I imber of Pe E. Ro | Disabling ersons Affect eckless Disre | Fata ed: egard Writte | 002 |
| sonably C. Significa 1. Negligeno 2. Type of A 4. Initial Acti A. Citation 5. Area or E 6. Termination | r be expected to be ant and Substantia be (check one) action B. Order quipment A. Date | A. None [104 (a) C. Safegur | ard D | No ☑ 3. Low ☐ 13. Type of Iss | C. Mocsuance (| ys Or Restric | Citat | ly 🗆 | Pe D. Nu | rmanently I imber of Pe E. Ro | Disabling ersons Affect eckless Disre | Fata ed: egard Writte | 002 |
| sonably C. Signification C. Signification C. Type of A. Initial Action A. Citation C. Area or Education C. Termination | r be expected to be ant and Substantia be (check one) action B. Order quipment On Due A. Date minimation Action | A. None [104 (a) C. Safegue | ard D | No B. Low 13. Type of Iss Written Notice | C. Mocsuance (| derate check one) E. Citation/ Order Nur | Citat | ly 🗆 | Pe D. Nu | rmanently I imber of Pe E. Ro | Disabling ersons Affect eckless Disre | Fata ed: egard Writte | 002 |
| sonably C. Signification 1. Negligence 2. Type of A. 4. Initial Action A. Citation 5. Area or Education III—Tem 7. Action to 7. The dust tank and | r be expected to be ant and Substantia be (check one) action B. Order quipment On Due A. Date minimation Action | A. None [104(a) C. Safegua Mo Da 4/15/; | Yr 2023 | No 3. Low 13. Type of Iss Written Notice 3. Time (24 Hr. C | C. Moosuance (| derate check one) E. Citation/ Order Nur 2230 | Citat | iy □ D. High tion airec | Pe D. Nu | rmanently I | Disabling ersons Affect eckless Disre | Fats ed: ogard Writte Mo | on Notice Do Da Yr |
| sonably C. Signification 1. Negligence 2. Type of A. 4. Initial Action 5. Area or Education 6. Terminate exciton III—Tem The dust tank and the dri | r be expected to be ant and Substantia ce (check one) ction on B. Order quipment on Due A. Date mination Action Terminate t exhaust s d the drill 11 are now ad A. Date Mo | A. None [104(a) C. Safegue Mo Da 4/15/2 ystem or mist sy effective Da Yr | yr D | No 3. Low 13. Type of Iss Written Notice 3. Time (24 Hr. C | C. Mocsuance (| derate check one) Citation/ Order Nur 2230 rill was | Citat | iy □ D. High tion airec | Pe D. Nu | rmanently I | Disabling | Fats ed: ogard Writte Mo | n Notice |
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| sonably C. Significa 1. Negligence 2. Type of A 4. Initial Activation 5. Area or Ea 6. Termination 7. Action to The dust tank and the drift 8. Terminate 9. Type of In (activity co | ce (check one) cition Due A. Date miniation Action Terminate t exhaust s d the drill 11 are now A. Date 4/1 comated System Data dispection ode) E01 | A. None [104(a) C. Safegur Mo Da 4/15/: ystem or mist sy effective Da Yr 15/2023 | ard D Yr 2023 n the I ystem vve. B. Time (| No 🗹 3. Low 🗆 13. Type of Iss . Written Notice 3. Time (24 Hr. C | C. Mocsuance (| derate check one) Citation/ Order Nur 2230 rill was and functions | Citat mber | aired | Pe D. Nu | rmanently I | Disabling | Fats ed: writte Mo added tontrols | on Notice Do Da Yr |
| sonably C. Significa 1. Negligence 2. Type of A 4. Initial Activation 5. Area or Ed 6. Termination 6. Termination 7. Action to The dust tank and the drift 8. Terminate 9. Type of In (activity of 2. AR Name | ce (check one) cition Due A. Date miniation Action Terminate t exhaust s d the drill 11 are now A. Date 4/1 comated System Data dispection ode) E01 | A. None [104(a) C. Safegue Mo Da 4/15/: ystem or mist syeffective Da Yr 15/2023 | ard D Yr 2023 In the I yystem v ve. B. Time (| No In the second secon | C. Moosuance (color) | derate check one) Citation/ Order Nur 2230 rill was nd funct | Citat mber s reption | aired | Pa D. Nu | rmanently I Imber of Pe E. Re er S Frhe wat 7. The | Disabling | Fats ed: ogard Writte Mo added tontrol: | on Notice Do Da Yr |

Section 104(a): Citation - Diesel Particulate Matter (DPM) Non-S&S

Form 7000-3 Guidance: Section 104(a) Citation – DPM Non-S&S

Item 1. Enter the citation issuance date. In most cases, this is also the date the inspector received the sample results and determined that a violation occurred.

Note: The occurrence date in IAS is the sample date. If the inspector receives sample results on the same date, the issue date and occurrence date may be the same.

Item 8. As part of the narrative, specify whether the sampled miner wore appropriate respiratory protection and was enrolled in a compliant Respiratory Protection Program.

Item 10A. "Unlikely" versus "Reasonably Likely" depends on whether the miner wore appropriate respiratory protection; wearing appropriate respiratory protection should assess as "Unlikely."

Item 10B. DPM is a known cause of lung cancer, which can lead to permanent disability and is often fatal.

Note: When terminating any citation, use the Continuation Form 7000-3a. For any citation where the operator has installed engineering and/or implemented administrative controls to reduce exposure, list all controls in the Continuation Form's Section II – Justification for Action.

Sample Section 104(a) Citation – DPM Non-S&S

| | ion Data | | | | Willie Sa | fety and Health | Aummsu | auon 🦏 |
|---|--|--|--|---|---------------------------------|--|----------------------------------|--|
| Date | Mo Da Yr | 2. Time (24 Hr. Cl | ock) | | | 3. Citation/ | | |
| | 4/24/2023 | | 1535 | | | Order Number | r 5 | 7654362 |
| Served To | Joanna Doe, | Mine Superi | intendent | 5. Operator | Acad | demy Mining | Company | |
| /line | lus Palson # | 10 Undoraro | und Mino | 7. Mine ID | 5-01200 | | | (Contractor) |
| E. Condition or | lue Falcon # r Practice | IV Ulldergro | und Mine | 7.5 | 5-01200 | | 8a. Writte | n Notice (103g) |
| lementa f 160 u earing he requ | al Carbon) of ug/m3 time th an approved | f 293 ug/m3. ne sampling respirator 30 CFR 57.5 | This expos and analytic that was fit | d to an equivure exceeded al error faci- t-t-ested. Al n place. Al | the Die tor of : Respirat | esel Particu 176 ug/m3. ' tory Protect | late Mat The mine ion Prog | tter TC PEL er was gram meeting |
| /iolation | Safety ☐ Other ☐ | B. Section of Act | | C. Part/Section of Title 30 CFR | | See Continuati 57.5060 | | HA Form 7000-3a) 🗖 |
| | ector's Evaluation | | | | | | | |
| Gravity: A. Injury or | · Illness (has) (is): | No Likelihood 🗌 | Unlikely ✓ | Reasonably Lik | ely 🗌 | Highly Likely | Occu | rred |
| B. Injury or | illness could rea- | | Carrie Send Callety (Sender | | | | DOMESTICAL STREET | COMPRES DE DE |
| | | No Lost Workd | avs D Lost We | orkdays Or Bestricter | d Duty | Permanently Dis | abling \square | Fatal 🗸 |
| sonably | be expected to be: | No Lost Workd | S | orkdays Or Restricted | d Duty 🗌 | Permanently Dis | | Fatal ✓ |
| sonably C. Significa | be expected to be: ant and Substantial: | No Lost Workd: | ays □ Lost We | orkdays Or Restricted | d Duty 🗌 | Permanently Dis | | 10-01 |
| sonably C. Significa | be expected to be: ant and Substantial: | | No 🗹 | orkdays Or Restricted | d Duty 🗌 D. High | D. Number of Pers | | d: 001 |
| sonably C. Significa Negligence | be expected to be: ant and Substantial: e (check one) | Yes 🗌 | No ☑ B. Low □ C | C. Moderate 🗸 | . 23 | D. Number of Pers | ons Affected | d: 001 |
| sonably C. Significa Negligence Type of Ac | be expected to be: ant and Substantial: e (check one) A ction 1 | Yes A. None D4 (a) | No ✓ B. Low ☐ C 13. Type of Issue | C. Moderate ance (check one) E. Citation/ | D. High | D. Number of Pers | ons Affected | d: 001 |
| sonably C. Significa Negligence Type of Ac Initial Actic | be expected to be: ant and Substantial: e (check one) ction B. Order | Yes A. None D4 (a) | No ☑ B. Low □ C | C. Moderate ance (check one) E. Citation/ | D. High | D. Number of Pers | ons Affected kless Disreg | d: 001 ard Written Notice |
| sonably C. Significa Negligence Type of Ac Initial Actic C. Citation A. Crea or Ec | be expected to be: ant and Substantial: e (check one) ction B. Order (quipment) | Yes A. None O4 (a) C. Safeguard Mo Da Yr | No B. Low C 13. Type of Issue D. Written Notice | C. Moderate ance (check one) E. Citation/ Order Number | D. High | D. Number of Pers | ons Affected kless Disreg | d: 001 pard Written Notice |
| sonably C. Significa Negligence Type of Ac Initial Actic A. Citation (Area or Ec | be expected to be: ant and Substantial: e (check one) Ction B. Order Quipment A. Date | Yes A. None O4 (a) C. Safeguard I | No ✓ B. Low ☐ C 13. Type of Issue | C. Moderate ance (check one) E. Citation/ Order Number | D. High | D. Number of Pers | ons Affected kless Disreg | d: 001 ard Written Notice |
| sonably C. Significa Negligence Type of Ac Initial Actic A. Citation Area or Ec Terminatic | be expected to be: ant and Substantial: e (check one) Ction B. Order Cquipment On Due A. Date hination Action | Yes A. None O4 (a) C. Safeguard Mo Da Yr | No B. Low C 13. Type of Issue D. Written Notice | C. Moderate ance (check one) E. Citation/ Order Number | D. High | D. Number of Pers | ons Affected kless Disreg | d: 001 ard Written Notice |
| sonably C. Significa Negligence Type of Ac Initial Actic A. Citation Area or Ec Terminatic | be expected to be: ant and Substantial: e (check one) Ction B. Order Cquipment On Due A. Date hination Action | Yes A. None O4 (a) C. Safeguard Mo Da Yr | No B. Low C 13. Type of Issue D. Written Notice | C. Moderate ance (check one) E. Citation/ Order Number | D. High | D. Number of Pers | ons Affected kless Disreg | d: 001 ard Written Notice |
| sonably C. Significa Negligence Type of Ac Initial Actic A. Citation [Area or Ec Terminatio | be expected to be: ant and Substantial: e (check one) B. Order Quipment A. Date nination Action Ferminate | Yes A. None O4 (a) C. Safeguard Mo Da Yr 4/28/2023 | No B. Low C 13. Type of Issue D. Written Notice | C. Moderate ance (check one) E. Citation/ Order Number | D. High | D. Number of Pers | ons Affected kless Disreg | d: 001 ard Written Notice |
| sonably C. Significa Negligence Type of Ac Initial Actic A. Citation [Area or Ec Terminatio | be expected to be: ant and Substantial: e (check one) B. Order Quipment A. Date nination Action Ferminate | Yes A. None O4 (a) C. Safeguard Mo Da Yr 4/28/2023 | No B. Low C 13. Type of Issue D. Written Notice | C. Moderate ance (check one) E. Citation/ Order Number | D. High | D. Number of Pers | ons Affected kless Disreg | d: 001 ard Written Notice |
| sonably C. Significa Negligence Type of Ac Initial Actic A. Citation [Area or Ec Terminatio Action to T Terminate | be expected to be: ant and Substantial: e (check one) Cotion B. Order Quipment A. Date Initiation Action Ferminate | Yes A. None O4 (a) C. Safeguard Mo Da Yr 4/28/2023 | No B. Low C 13. Type of Issue D. Written Notice B. Time (24 Hr. Clock | C. Moderate ance (check one) E. Citation/ Order Number | D. High | D. Number of Pers | ons Affected kless Disreg | d: 001 ard Written Notice |
| sonably C. Significa Negligence Type of Ac Initial Actic A. Citation Area or Ec Terminatio tion IIITerm Action to T Terminate tion IVAuto Type of In: | be expected to be: ant and Substantial: e (check one) B. Order Quipment A. Date | Yes A. None O4 (a) C. Safeguard Mo Da Yr 4/28/2023 | No B. Low C B. Low C C C C C C C C C C C C C C C C C C C | C. Moderate ance (check one) E. Citation/ Order Number ck) 1500 | D. High Citation ✓ | D. Number of Pers | ons Affected kless Disreg | d: 001 ard Written Notice |
| sonably C. Significa Negligence Type of Ac Initial Actic A. Citation [Area or Ec Terminatio Cition III-Term Action to T Terminate Cition IVAuto Type of In: (activity co | be expected to be: ant and Substantial: e (check one) B. Order Quipment A. Date A. Date | Yes A. None O4 (a) C. Safeguard Mo Da Yr 4/28/2023 | No B. Low C. C | C. Moderate ance (check one) E. Citation/ Order Number ck) 1500 | D. High Citation ✓ | D. Number of Pers E. Rec Order Sat | kless Disreg | d: 001 ard Written Notice |
| sonably C. Significa Negligence Type of Ac Initial Actic A. Citation [Area or Ec Terminatio Cition IIITerm Action to T | be expected to be: ant and Substantial: e (check one) B. Order Quipment A. Date A. Date | Yes A. None 04 (a) C. Safeguard Mo Da Yr 4/28/2023 A Yr B. Time | No B. Low C B. Low C C C C C C C C C C C C C C C C C C C | C. Moderate ance (check one) E. Citation/ Order Number ck) 1500 | D. High Citation ✓ | D. Number of Pers | kless Disreg | d: 001 pard Written Notice Mo Da Yr |

Sample Section 104(a) Citation – DPM Non-S&S Termination

| Section I-Subs | equent Action/Continuati | on Data | | | | | | | |
|---|--------------------------|-----------|----------------------|---------------------|-----------------|------------------------------|--------------------|--------------|--|
| 1. Subseque | nt Action 1a. Continua | ition | 2. Dated (Origina | Mo I Issue) 04/2 | Da Yr 4/2023 | 3. Citation/ Order Number | 7654362 - 01 | | |
| 4. Served To | Joanna Doe, Mine | Superinte | ndent | 04/2 | 5. Opera | ntor my Mining Con | | | |
| 6. Mine B | lue Falcon #10 Unde | rground | Mine | | 7. Mine | ID | грапу | (Contractor) | |
| Section II-Justi | fication for Action | | | ***** | 76-012 | 200 | | | |
| exposure l | evel is now below | the Di | esel Partio | culate Matter | TC PEL. | | | | |
| | | | | | | | | | |
| | | | | | | | | | |
| Section III-Subs | equent Action Taken | ı Yr | | | | | | | |
| Part of Allertane | A. Date | . !! | B. Time (24 | Hr. Clock) | | C. Vacated | D. Terminated | E. Modified | |
| Section IV-Inspersion IV-Inspersion III | | | ent Number | | | | | | |
| E01 I1. AR Name | | 1234 | | AR Number | 12. Date | Mo Da Yr | 13. Time (24 Hr. C | lock) | |
| Copper Pot | | | | 12345 | 05/01/20 | | 11:25 | | |

Section 104(a): Citation - Diesel Particulate Matter (DPM) S&S

Form 7000-3 Guidance: Section 104(a) Citation – DPM S&S

Item 1. Enter the citation issuance date. In most cases, this is also the date the inspector received the sample results and determined that a violation occurred.

Note: The occurrence date in IAS is the sample date. If the inspector receives sample results on the same date, the issue date and occurrence date may be the same.

Item 8. As part of the narrative, specify whether the sampled miner wore appropriate respiratory protection and was enrolled in a compliant Respiratory Protection Program.

Item 10A. "Unlikely" versus "Reasonably Likely" depends on whether the miner wore appropriate respiratory protection; lack of appropriate respiratory protection should assess as "Reasonably Likely."

Item 10B. DPM is a known cause of lung cancer, which can lead to permanent disability and is often fatal.

Note: When issuing an extension, use the Continuation Form 7000-3a. In Section II – Justification for Action, note the operator's actions that support the extension, along with a statement explaining that the extension will allow the operator to install engineering and/or implement administrative controls.

Note: When terminating any citation, use the Continuation Form 7000-3a. For any citation where the operator has installed engineering and/or implemented administrative controls to reduce exposure, list all controls in the Continuation Form's Section II – Justification for Action.

Sample Section 104(a) Citation – DPM S&S

| ection IViola | ation Data | | | | | Safety and Health | | |
|--|--|--|---|--|--|--|---|---|
| Date | Mo Da Yr 4/25/2023 | 2. Time (24 | Hr. Clock) 1448 | | | 3. Citation/ Order Numbe | r " | 7654363 |
| Served To | | , Mine Su | uperintendent | 5. Operato | | | | , |
| Vline | | | | 7. Mine ID | | ademy Mining | Company | (Contracto |
| Е | | #10 Under | rground Mine | 7. 11 | 76-0120 | 0 | | 45 |
| | or Practice | construction of the second | loader operato: | Arrest Fresh Str | | THE SECTIONS RECEIVED SUBSTICATION | | n Notice (103g) |
| Matter or 202 meeting not in Protect | TC PEL of 1 ug/m3. Res the requir use to cont | 60 ug/m3 piratory ements of rol the e is in pl | 9 ug/m3. This times the samp: protection was 30 CFR 57.506 mployee's dies ace the abatem | ling and an not being O(d) was no el particul | alytical used and t in plac ate expos | error factor a Respiratory e. All feasi ure. When a | for one Protect ble cont Respirat | area sampl tion Progra trols were tory |
| Violation | A. Health Safety Other O | B. Section of Act | | C. Part/Section Title 30 CFR | | See Continuat | NO. 181 187 | HA Form 7000-3a) 🕻 |
| ation IIInsp | ector's Evaluation | | | | | 37.3000 | (10) (3) | |
| Gravity: | or Illness (has) (is): | No Likalihaa | d 🗌 Unlikely 🗌 | Passanah | dy Lileabe 🖂 | 7 B. E. J. St. 1 . | 0001 | |
| | | | | | | | | |
| | or illness (nas) (is). or illness could rea- | | | | ly Likely 🔽 | Highly Likely L | | irred |
| B. Injury o sonably | or illness could rea- y be expected to be | No Lost \ | | Workdays Or Res | | Permanently Di | sabling 🗖 | Fatal 🗸 |
| B. Injury o sonably | or illness could rea- | No Lost \ | Workdays Lost | | | | sabling 🗖 | Fatal 🗸 |
| B. Injury o sonably C. Signific | or illness could rea- y be expected to be | No Lost \ | Workdays Lost | | tricted Duty | Permanently Di | sabling 🗖 | Fatal 🗹 |
| B. Injury o sonably C. Signific . Negligeno | or illness could rea- y be expected to be cant and Substantia ce (check one) | No Lost \ | Workdays Lost No B. Low | Workdays Or Res | tricted Duty D. Hig | Permanently Di D. Number of Pers E. Rec | sabling 🔲 sons Affecte | Fatal d: 001 |
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| B. Injury of sonably C. Signific Negligeno . Type of A . Initial Act A. Citation | or illness could rea- by be expected to be cant and Substantia ce (check one) Action B. Order | No Lost No. 11: Yes A. None | Workdays Lost No B. Low | C. Moderate suance (check one E. Citation | D. Hig | Permanently Di D. Number of Pers E. Rec | sabling sons Affecter kless Disreg | Fatal ☑ d: 001 gard ☐ Written Notice |
| B. Injury of sonably C. Signific Negligeno . Type of A . Initial Act A. Citation | or illness could rea- by be expected to be cant and Substantia ce (check one) Action B. Order | No Lost No. 11: Yes A. None | Workdays Lost No B. Low B. Low 13. Type of Is | C. Moderate suance (check one E. Citation | D. Hig | Permanently Di D. Number of Pers E. Rec | sabling sons Affecter kless Disreg | Fatal ☑ d: 001 gard □ Written Notice |
| B. Injury of sonably C. Signific . Negligeno . Type of A . Initial Act A. Citation . Area or E | or illness could rea- y be expected to be cant and Substantia ce (check one) Action B. Order | No Lost No Los | No D. Written Notice | C. Moderate suance (check one E. Citation | D. Hig | Permanently Di D. Number of Pers E. Rec | sabling sons Affecter kless Disreg | Fatal ☑ d: 001 gard ☐ Written Notice |
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| B. Injury of sonably C. Signific Negligenc Type of A Initial Act A. Citation Area or E Termination III-Ten Action to Termination III-Ten Citation IV-Aut Type of In | or illness could ready be expected to be cant and Substantia ce (check one) Action B. Order Equipment A. Date Mo Terminate A. Date Mo Terminate A. Date Mo Terminate | No Lost No. I: Yes [A. None 104 (a) C. Safeguard Mo Da Yr 4/28/20 | No B. Low D. Written Notice B. Time (24 Hr. Clock) | C. Moderate C. Moderate Suance (check one Order N | tricted Duty D. Hig D. Hig Ocitation (| Permanently Di D. Number of Pers E. Rec | sabling sons Affecter kless Disreg | Fatal ☑ d: 001 gard ☐ Written Notice |
| B. Injury of sonably C. Signific D. Negligenc D. Negligenc D. Type of A D. Initial Act A. Citation D. Area or E D. Area or E D. Termination D. Type of In Cactivity of Control D. Type of In Ca | or illness could ready be expected to be cant and Substantial ce (check one) Action B. Order Equipment A. Date mination Action Terminate A. Date tomated System Data inspection code) Equipment Equi | No Lost V II: Yes [A. None 104 (a) C. Safeguard Mo Da Yr 4/28/20 | No B. Low D. Written Notice B. Time (24 Hr. Clock) | C. Moderate C. Moderate Suance (check one Order N | tricted Duty D. Hig | Permanently Di D. Number of Peri E. Rec Order Sa | sabling sons Affecter kless Disreg feguard F. Dated | Fatal ☑ d: 001 gard □ Written Notice Mo Da Yr |
| B. Injury of sonably C. Signific D. Negligence Type of A D. Initial Act A. Citation D. Area or E D. Termination D. Termination D. Termination D. Type of In Cactivity of D. AR Name | or illness could ready be expected to be cant and Substantial ce (check one) Action B. Order Equipment A. Date mination Action Terminate A. Date tomated System Data inspection code) Equipment Equi | No Lost No. | No B. Low D. Written Notice B. Time (24 Hr. Clock) | C. Moderate suance (check one Order N C. Check one | tricted Duty D. Hig D. Citation (s) Unimber | Permanently Di D. Number of Peri E. Rec Order Sa | sabling sons Affecter ckless Disreg feguard F. Dated | Fatal d: 001 pard Written Notice Mo Da Yr |

Sample Section 104(a) Citation – DPM S&S Extension

| Section I_Subsecue | nt Action/Continuation Da | ata | | | | | | W// |
|--|---|---------------|---------------------|----------------|---------------|-----------------------------|-----------------|--------------|
| 1. Subsequent Ac | tion 1a. Continuation Da | 2. Dated | Мо | Da Yr | 3. Citation/ | MCC1000 - | 1 | |
| V | | (Origin | | 25/2023 | | _{nber} 7654363 - 0 | 1 | |
| Served To Joa | nna Doe, Mine Supe | rintendent | | 5. Opera | | 0 | | |
| 6. Mine Blue F | alcon #10 Undergro | und Mine | | 7. Mine | my Mining | Company | (Con | tractor) |
| William | _ | | | 76-012 | | | (0011 | a dolory |
| Section II-Justificatio | | | | | | | | |
| The citation is | ator has enrolled being extended t ate Matter TC PE | allow the r | nine operator | time to instal | l controls th | at will reduce th | ne exposure lev | el below the |
| | | | | | | | | |
| | | | | | | | | |
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| | | | | | | | | w. |
| | | | | | | | | |
| ection III-Subsequen | t Action Taken | | | | | | | |
| Extended To | No Da ` | r B Time /2 | 4 Hr. Clock) 07:0 | nn | Пом | atod D. D. Tarri | insted Co | |
| | 05/01/2023 | B. Time (2 | т нь. Oldck) U / :(| JV | C. Vac | ated 🗌 D. Termi | inated 🗌 E. M | oaitiea |
| ection IV-Inspection . Type of Inspectio | | . Event Numbe | er | | | | | |
| E01 | CO. | 234574 | | | | | | |
| 1. AR Name | | | AR Number | 12, Date | Mo Da | | 4 Hr. Clock) | |
| Copper Pot | | | 12345 | 04/28/202 | 23 | 07:00 | | |

Sample Section 104(a) Citation – DPM S&S Termination

| | on | | | | | 7000 W. W. W. W. W. | | |
|--|---|-----------|------------|-------------------------------------|-----------------------|---------------------|---|----------------------------|
| 1. Subseque | sequent Action/Continuation ont Action 1a. Continua | | 2. Dated | Mo | Da Yr | 3. Citation/ | _r 7654363 - 02 | |
| 4. Served To | Joanna Doe, Mine S | Superinte | | al Issue) 04/25 | 5/2023 5. Opera | tor | | |
| 6. Mine | Blue Falcon #10 Under | ground | Mine | | A cades 7. Mine I | ny Mining Co | mpany | (Contractor) |
| | tification for Action | | | | 76-012 | 00 | | |
| The mine operator's | operator has upgra | ided the | e underg | round ventilati Diesel Particula | on and has st | arted using 80 | /20 biodiesel fuel. itation is terminate | The front end-loader d. |
| | | | | | | | | |
| | | | | | | | | |
| Section III-Subs 8. Extended T | sequent Action Taken O Mo Da | Yr | | | | | | |
| | A. Date | '' | B. Time (2 | 4 Hr. Clock) | | C. Vacate | d 🗸 D. Terminated | E. Modified |
| Section IV—Insp 9. Type of Ins E01 | | 10. Ev | ent Numbe | er . | | - | | |
| | | 1237 | 317 | AR Number 12345 | 12. Date 05/01/202 | Mo Da Yr | 13. Time (24 Hr. C | clock) |

Section 104(a): Citation – Dust, Gas, Mist, and Fume Surveys Underground (.5002) S&S

Form 7000-3 Guidance: Section 104(a) Citation – DPM S&S

Item 8. Describe the area and/or miner sampled and the sampling method. List the sample concentration, the sample method error factor, and TLV for the contaminant. If applicable, note whether the miner wore appropriate respiratory protection and was enrolled in a compliant Respiratory Protection Program.

Item 10A. "Unlikely" versus "Reasonably Likely" depends on the miner's potential exposure (length and/or concentration) to the contaminant.

Item 10B. The degree of injury or illness depends on the potential health effect of the contaminant at the sampled level of exposure.

Sample Section 104(a) Citation – Dust, Gas, Mist, and Fume Surveys Underground (.5002) S&S

| | | | | | | | nent of Lat and Health <i>i</i> | 10 7000 man on so | ition 🦃 |
|---|--|--|--|---|--|---------------------|---|-----------------------------|---|
| ection I-Violat | tion Data | | | | | | | | |
| . Date | Mo Da Yr 4/19/2023 | 2. Time (24 Hr. C | lock) 0648 | | | | Citation/ Order Number | 7 | 654364 |
| . Served To | Joanna Doe | , Mine Super | intendent | 5. Operator | | ademy | Mining (| Company | |
| . Mine B | lue Falcon | #10 Undergro | und Mine | 7. Mine ID | 76-0120 | 0 | | | (Contractor |
| . Condition o | | | | <u> </u> | | | | 8a. Written | Notice (103g) |
| that pro | ovided vent. | ilation cont: were measure | ucting dust, g rols were adeq ed in the Sout | mate to p | revent e | exposu | re to min | ne gases | . Elevate |
| | | | | | | | | | |
| | | | | | | | See Continuation | on Form (MSH/ | A Form 7000-3a) |
|). Violation | A. Health Safety Other | B. Section of Act | C | . Part/Section of Title 30 CFR | of | | 57.5 | | |
| ection II-Inspe | ector's Evaluation | | | | | | 57.5 | 002 | |
| 0. Gravity: | Activity activity that have been | 900 9000 9000 90 | 200 040 20 | 5249 - 52.0 | STOR SE SES | 2027 W.F \$20 | a mous mos — | Marie: | · — |
| 222 | r Illness (has) (is): | No Likelihood L | Unlikely 🗌 | Reasonably | Likely 🔽 | High | ly Likely 🗀 | Occur | red 🗆 |
| | r Iliness could rea- be expected to be | . No Lost Worke | days 🔲 Lost Wor | kdays Or Restr | icted Duty | Pe | rmanently Dis | abling 🔲 | Fatal 🗸 |
| C. Significa | ant and Substantia | d: Yes ✓ | No 🗌 | | | D. N | umber of Pers | ons Affected | l: 001 |
| 4 Noolioooo | | SEC CONTRACTOR - | and the second s | COLUMN TO THE TAXABLE PROPERTY OF THE PARTY | | | and and and | | |
| i. Negligeric | e (check one) | A. None | B. Low C. | Moderate ✓ | D. Hig | gh 🗌 | E. Reci | dess Disrega | ard 🗌 |
| 5 (5) 30 - N 3803 | | A. None | B. Low C. | | D. Hig Citation | - A - SA | 100 200 M | dess Disrega eguard | ard Written Notice _ |
| Type of A Initial Action A. Citation | ction | 104(a) | | | Citation | - A - SA | 100 200 M | 9 90000-01 | 2000 100 10 |
| Type of Action A. Citation | on B. Order | 104(a) | 13. Type of Issuar | E. Citation/ | Citation | - A - SA | 100 200 M | eguard 🗌 | Written Notice |
| Type of Action A. Citation | on B. Order | 104(a) | 13. Type of Issuar | E. Citation/ | Citation | - A - SA | 100 200 M | eguard 🗌 | Written Notice |
| 2. Type of Ad 4. Initial Action A. Citation 5. Area or Ed | ction on B. Order | C. Safeguard | 13. Type of Issuar | E. Citation/ Order Nu | Citation | - A - SA | 100 200 M | eguard 🗌 | Written Notice |
| 2. Type of Ad 4. Initial Action A. Citation 5. Area or Ed 6. Termination | on B. Order quipment On Due A. Date | 104 (a) C. Safeguard | 13. Type of Issuar D. Written Notice | E. Citation/ Order Nu | Citation | - A - SA | 100 200 M | eguard 🗌 | Written Notice |
| 2. Type of Ad 4. Initial Action A. Citation 5. Area or Ed 6. Termination 6. Termination 7. Action to The mine ventilation | on Due A. Date nination Action Terminate e operator tion contro | C. Safeguard Mo Da Yr 4/20/2023 has establish devices mir | D. Written Notice B. Time (24 Hr. Clock | E. Citation/ Order Nu | Citation mber | y On | gases to | F. Dated | Written Notice [Mo Da Yr |
| 2. Type of Ad 4. Initial Action A. Citation 5. Area or Ed 6. Termination ection III—Term 7. Action to The mination yentilating ases at | on Due A. Date nination Action Terminate e operator tion control re diluted, ad A. Date Mo | C. Safeguard Mo Da Yr 4/20/2023 has establish devices min rendered had to be a firm of the control of the co | D. Written Notice | E. Citation/ Order Nu | Citation mber | y On | gases to | F. Dated | Written Notice Mo Da Yr |
| 2. Type of Ad 4. Initial Action 5. Area or Ed 6. Termination 7. Action to The mine 7. Action to The mine 8. Terminate 8. Terminate | on Due A. Date nination Action Terminate e operator tion control re diluted, ad A. Date Mo | C. Safeguard Mo Da Yr 4/20/2023 has establisl devices mir rendered har | D. Written Notice B. Time (24 Hr. Clock thed a sampling nimize miners) rmless, and ca | E. Citation/ Order Nu | Citation mber | y On | gases to | F. Dated | Written Notice Mo Da Yr |
| 2. Type of Ad 4. Initial Action A. Citation 5. Area or Ed 6. Termination cetion III—Term 7. Action to The mine gases at gases at 8. Terminate ection IV-Auto | on Due A. Date nination Action Terminate e operator ire diluted, add A. Date Mo 4/1 mated System Data espection | C. Safeguard Mo Da Yr 4/20/2023 has establish devices min rendered had to be a firm of the control of the co | 13. Type of Issuar D. Written Notice B. Time (24 Hr. Clock) hed a sampling nimize miners' rmless, and ca | E. Citation/ Order Nu 3 Schedule exposure exprosure awa | Citation mber | e mine ir consafe m | gases to | F. Dated | Written Notice Mo Da Yr |
| 2. Type of Ad 4. Initial Action 4. Initial Action 5. Area or Ed 6. Terminate 6. Terminate 7. Action to The mine ventilate gases and 8. Terminate 9. Type of In 9. Type of In | on Due A. Date nination Action Terminate e operator tion control re diluted, ad A. Date Mo 4/1 mated System Data espection ode) K01 | C. Safeguard Mo Da Yr 4/20/2023 has establish devices mirrendered has: Da Yr 9/2023 B. Time | 13. Type of Issuar D. Written Notice B. Time (24 Hr. Clock) hed a sampling nimize miners remless, and case (24 Hr. Clock) | E. Citation/ Order Nu 3 Schedule exposure exprosure awa | Citation mber for the to their y in a serimary or Mill | e mine ir consafe m | gases to | F. Dated or ensure gases a | Written Notice Mo Da Yr Mo Da Yr that and that |

Section 104(a): Citation - Hazardous Gas (Carbon Monoxide (CO) Mine Gas) S&S

Form 7000-3 Guidance: Section 104(a) Citation – Hazardous Gas (CO Mine Gas) S&S

Item 1. Enter the citation issuance date. In most cases, this is also the date the inspector received the sample results and determined that a violation occurred.

Note: The occurrence date in IAS is the sample date. If the inspector receives sample results on the same date, the issue date and occurrence date may be the same.

Item 8. Describe the area and/or miner sampled and the sampling method. List the sample concentration, the sample method error factor, and TLV for the contaminant. If applicable, note whether the miner wore appropriate respiratory protection and was enrolled in a compliant Respiratory Protection Program.

Item 10A. "Unlikely" versus "Reasonably Likely" depends on the miner's potential exposure (length and/or concentration) to the contaminant.

Item 10B. The degree of injury or illness depends on the potential health effect of the contaminant at the sampled level of exposure.

Sample Section 104(a) Citation – Hazardous Gas (CO Mine Gas) S&S

| ection IViolation Data | E. | | | | 10 | | - |
|--|--|---|--|---------------------------------------|--|---|--|
| . Date Mo Da Yr 4/17/2023 | 2. Time (24 Hr. Cl | ock) 1500 | | | 3. Citation/ Order Numbe | r ' | 7654365 |
| 2000000 | ., Mine Superi | | 5. Operator | | Older Hambe | | , 03 13 03 |
| | | | 7 LF 15 | Acad | demy Mining | Company | |
| Mine Blue Falcon | #10 Undergrou | und Mine | 7. Mine ID | 6-01200 | | | (Contractor) |
| Condition or Practice | 1000 | | | | | 8a. Writte | n Notice (103g) 🗌 |
| the sampling with a operator in this d 15-minute sampling loading operation v | rift to CO le period. The | evels over the e mechanical v | e Permissibl rentilation | le Excurs | sion limit c | f 400 p | om for a |
| Violation A. Health Safety Other | B. Section of Act | C | C. Part/Section of Title 30 CFR | | See Continuat 57 . 5 0 0 1 (| 40 Ma | HA Form 7000-3a) 🗖 |
| ection IIInspector's Evaluation | | | | | 2,120,121 | .,, | |
|). Gravity: | | | | | | | |
| | No Likelihood | Unlikely 🗌 | Reasonably Li | kelv 🗸 | Highly Likely | Occu | rred 🗆 |
| A. Injury or Illness (has) (is): B. Injury or illness could rea- | No Less Wester | Unlikely 🗌 | Reasonably Li | | Highly Likely | 1000000000 80000 | Fatal 🗸 |
| A. Injury or Illness (has) (is): B. Injury or illness could reasonably be expected to be | No Lost Workd | ays D Lost Wor | Reasonably Li | | Permanently Di | sabling 🗖 | Fatal ☑ |
| A. Injury or Illness (has) (is): B. Injury or illness could reasonably be expected to be C. Significant and Substantia | No Lost Workd | ays Lost Wor | rkdays Or Restricte | ed Duty 🗌 | Permanently Di | sabling sons Affecte | Fatal ✓ d: 001 |
| A. Injury or Illness (has) (is): B. Injury or illness could reasonably be expected to be C. Significant and Substantia Negligence (check one) | No Lost Workdal: Yes ✓ | ays Lost Wor | rkdays Or Restrict | ed Duty D. High | Permanently Di D. Number of Per E. Rec | sabling sons Affected kless Disreg | Fatal d: 001 |
| A. Injury or Illness (has) (is): B. Injury or illness could reasonably be expected to be C. Significant and Substantia Negligence (check one) Type of Action | No Lost Workd | ays Lost Wor | Moderate ce (check one) | ed Duty 🗌 | Permanently Di D. Number of Per E. Rec | sabling sons Affecter kless Disreg feguard | Fatal 🗸 d: 001 gard 🗆 Written Notice |
| A. Injury or Illness (has) (is): B. Injury or illness could reasonably be expected to be C. Significant and Substantia 1. Negligence (check one) | No Lost Workdadd: Yes A. None □ | ays Lost Wor | rkdays Or Restrict | D. High | Permanently Di D. Number of Per E. Rec | sabling sons Affected kless Disreg | Fatal d: 001 |
| A. Injury or Illness (has) (is): B. Injury or illness could reasonably be expected to be C. Significant and Substantia 1. Negligence (check one) 2. Type of Action 4. Initial Action A. Citation B. Order 5. Area or Equipment | No Lost Workd. Yes A. None 104 (a) C. Safeguard Mo Da Vr. | No B. Low C. 13. Type of Issuar | Moderate Moderate | D. High | Permanently Di D. Number of Per E. Rec | sabling sons Affecter kless Disreg feguard | Fatal 🗸 d: 001 gard 🗆 Written Notice |
| A. Injury or Illness (has) (is): B. Injury or illness could reasonably be expected to be C. Significant and Substantia I. Negligence (check one) 2. Type of Action 4. Initial Action A. Citation B. Order 5. Area or Equipment 6. Termination Due A. Date ection III-Termination Action | No Lost Workd. No Lost Workd. Yes A. None □ 104 (a) C. Safeguard □ Mo Da Yr | Ays Lost Wol No B. Low C. 13. Type of Issuar D. Written Notice | Moderate Moderate | D. High | Permanently Di D. Number of Per E. Rec | sabling sons Affecter kless Disreg feguard | Fatal 🗸 d: 001 gard 🗍 Written Notice |
| A. Injury or Illness (has) (is): B. Injury or illness could reasonably be expected to be C. Significant and Substantia I. Negligence (check one) 2. Type of Action 4. Initial Action A. Citation B. Order 5. Area or Equipment 3. Termination Due A. Date action Ill-Termination Action 7. Action to Terminate The mine operator illevel below the TL' | No Lost Workd. A. None 104 (a) C. Safeguard Mo Da Yr 4/17/2023 improved the V. Also, the | B. Low C. 13. Type of Issuar D. Written Notice B. Time (24 Hr. Clock | Moderate Moderate E. Citation/ Order Numb | D. High Citation on the bo | Permanently Di D. Number of Per E. Rec Order Sa | sabling sons Affecter kless Disreg feguard F. Dated | Fatal d: 001 pard Written Notice Mo Da Yr |
| A. Injury or Illness (has) (is): B. Injury or illness could reasonably be expected to be C. Significant and Substantia I. Negligence (check one) 2. Type of Action 4. Initial Action A. Citation B. Order 5. Area or Equipment B. Termination Due A. Date Bedion Illi-Termination Action 7. Action to Terminate The mine operator: I evel below the TU- Commencing loading B. Terminated A. Date Mo | No Lost Workd. Yes A. None 104(a) C. Safeguard Mo Da Yr 4/17/2023 improved the V. Also, the operations. Da Yr | B. Low C. 13. Type of Issuar D. Written Notice B. Time (24 Hr. Clock | Moderate Moderate E. Citation/ Order Numb | D. High Citation on the bo | Permanently Di D. Number of Per E. Rec Order Sa | sabling sons Affecter kless Disreg feguard F. Dated | Fatal d: 001 pard Written Notice Mo Da Yr |
| A. Injury or Illness (has) (is): B. Injury or illness could reasonably be expected to be C. Significant and Substantia I. Negligence (check one) 2. Type of Action 4. Initial Action A. Citation B. Order 5. Area or Equipment 6. Termination Due A. Date action Illi-Termination Action 7. Action to Terminate The wine operator: 1. Action to Terminate The wine operator: 2. Action to Terminate The wine operator: 3. Terminated A. Date Mo 4/1 action IV-Automated System Data | No Lost Workd. Yes A. None 104(a) C. Safeguard Mo Da Yr 4/17/2023 improved the V. Also, the operations. Da Yr 7/2023 B. Time | B. Low C. 13. Type of Issuar D. Written Notice B. Time (24 Hr. Clock) | Moderate Moderate | D. High Citation on the boarn on the | Permanently Di D. Number of Per E. Rec Order Sa | sabling sons Affecter kless Disreg feguard F. Dated | Fatal d: 001 pard Written Notice Mo Da Yr |
| A. Injury or Illness (has) (is): B. Injury or illness could reasonably be expected to be C. Significant and Substantia I. Negligence (check one) 2. Type of Action 4. Initial Action A. Citation B. Order 5. Area or Equipment 6. Termination Due A. Date action Ill-Terminate The mine operator: 1. evel below the TLT 1. evel below the TLT 2. Terminated A. Date Mo 4/1 2. Type of Inspection | No Lost Workd. Yes A. None 104(a) C. Safeguard Mo Da Yr 4/17/2023 improved the V. Also, the operations. Da Yr | B. Low C. 13. Type of Issuar D. Written Notice B. Time (24 Hr. Clock) | Moderate Moderate | D. High Citation on the boarn on the | Permanently Di D. Number of Per E. Rec Order Sa | sabling sons Affecter kless Disreg feguard F. Dated | Fatal d: 001 pard Written Notice Mo Da Yr |
| A. Injury or Illness (has) (is): B. Injury or illness could reasonably be expected to be C. Significant and Substantia 1. Negligence (check one) 2. Type of Action 4. Initial Action A. Citation B. Order 5. Area or Equipment 6. Termination Due A. Date extion III-Termination Action 7. Action to Terminate The mine operator: level below the TL' commencing loading 8. Terminated A. Date Mo | No Lost Workd. No Lost Workd. Yes A. None 104 (a) C. Safeguard Mo Da Yr 4/17/2023 improved the V. Also, the operations. Da Yr 7/2023 B. Time 20. Event Number | B. Low C. 13. Type of Issuar D. Written Notice B. Time (24 Hr. Clock) | Moderate Moderate | D. High Citation on the boarn on the | Permanently Di D. Number of Per E. Rec Order Sa | sabling sons Affecter kless Disreg feguard F. Dated and dilutan before | Fatal d: 001 gard Written Notice Mo Da Yr |

Section 104(a): S&S Citation with a Section 107(a) Order of Withdrawal – Hydrogen Chloride (HCI) Levels

Form 7000-3 Guidance: Section 104(a) S&S Citation with a Section 107(a) Order of Withdrawal – HCI Levels

Item 1. Enter the citation issuance date. In most cases, this is also the date the inspector received the sample results and determined that a violation occurred.

Note: The occurrence date in IAS is the sample date. If the inspector receives sample results on the same date, the issue date and occurrence date may be the same.

Item 8. Describe the area and/or miner sampled and the sampling method. List the sample concentration, the sample method error factor, and TLV for the contaminant. If applicable, note whether the miner wore appropriate respiratory protection and was enrolled in a compliant Respiratory Protection Program.

Item 10A. "Unlikely" versus "Reasonably Likely" depends on the miner's potential exposure (length and/or concentration) to the contaminant.

Item 10B. The degree of injury or illness depends on the potential health effect of the contaminant at the sampled level of exposure.

Sample Section 107(a) Order of Withdrawal – HCI Levels

| 1. Date | | | | |
|---|--|--|---|--|
| Served To Becky Mill, Laboratory Supervisor | | 3. Citation/ Order Num | ber 7 | 654366 |
| | 5. Operator | andomir Mining | Composit | |
| . Mine | 7. Mine ID | cademy Mining | , company | (Contractor |
| Blue Falcon #10 Underground Mine 3. Condition or Practice | 76-0120 | 10 | 0- 14(=:+ | Nation (400m) |
| An oral 107(a) imminent danger order was issu | D Mill | | 1800-11-00-11 | Notice (103g) |
| the Assay laboratory at 08:28 AM on this date | | | acory sup | ervisor ac |
| A laboratory technician was handling hot acid hydrogen chloride levels were 35 ppm (parts p Dangerous to Life and Health (IDLH) level of work area for an hour with a Drager Diffusion the fatal levels. The ceiling limit for hydremoved from the lab when levels exceeded the wearing respiratory protection and complained Citation No. 7654367 is being issued in contraction. | per million), whi 50 ppm. A sampl n Tube. The meas rogen chloride is e ceiling limit of d of eye and thro | ch is almost e was taken sured exposur 5 5 ppm. The of 5 ppm. The oat irritatio | t at the I in the op se was appet technicine technicon. | mmediately erator's roaching an was ian was no |
| condition or practice is an imminent danger. | | | | |
| | | See Continu | uation Form (MSHA | \ Form 7000-3a) [|
| Safety of Act | Part/Section of Title 30 CFR | | | |
| Other D Section IIInspector's Evaluation | | | | |
| 0. Gravity: | | 200000000000000000000000000000000000000 | - | . = |
| A. Injury or Illness (has) (is): No Likelihood Unlikely Unlikely | Reasonably Likely | Highly Likely L | _ Occurr | red 🗌 |
| | | | | |
| B. Injury or illness could reasonably be expected to be: No Lost Workdays □ Lost Work | days Or Restricted Duty | Permanently | Disabling 🗖 | Fatal 🗌 |
| | days Or Restricted Duty | 1 | Disabling ersons Affected: | 10-10 |
| sonably be expected to be: No Lost Workdays L Lost Work C. Significant and Substantial: Yes No | | D. Number of P | | |
| sonably be expected to be: No Lost Workdays L Lost Work C. Significant and Substantial: Yes No 11. Negligence (check one) A. None B. Low C. No. | Moderate ☐ D. Hi | D. Number of P | ersons Affected | ırd 🗌 |
| sonably be expected to be: No Lost Workdays L Lost Work C. Significant and Substantial: Yes No 11. Negligence (check one) A. None B. Low C. No. 12. Type of Action 107 (a) 13. Type of Issuand 14. Initial Action | Moderate D. Higher (check one) Citation E. Citation/ | D. Number of P | ersons Affected deckless Disrega | ırd 🗌 |
| sonably be expected to be: No Lost Workdays Lost Work C. Significant and Substantial: Yes No 11. Negligence (check one) A. None B. Low C. No 12. Type of Action 107 (a) 13. Type of Issuand 14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice | Moderate ☐ D. Hi | D. Number of P | ersons Affected deckless Disrega Safeguard | urd Written Notice |
| sonably be expected to be: No Lost Workdays Lost Work C. Significant and Substantial: Yes No □ I1. Negligence (check one) A. None B. Low □ C. Note I2. Type of Action 107 (a) 13. Type of Issuand Issua | Moderate D. Higher (check one) Citation E. Citation/ Order Number | D. Number of P | ersons Affected deckless Disrega Safeguard | urd Written Notice |
| sonably be expected to be: C. Significant and Substantial: Yes No 11. Negligence (check one) A. None B. Low C. No. 12. Type of Action 107 (a) 13. Type of Issuand 14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice | Moderate D. Higher (check one) Citation E. Citation/ Order Number | D. Number of P | ersons Affected deckless Disrega Safeguard | urd Written Notice |
| sonably be expected to be: C. Significant and Substantial: Yes No 11. Negligence (check one) A. None B. Low C. M. 12. Type of Action 107 (a) 13. Type of Issuance 14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice 15. Area or Equipment Nancy Doe, Laboratory Technician was removed | Moderate D. History Citation E. Citation/ Order Number from the lab. | D. Number of P | ersons Affected deckless Disrega Safeguard | urd Written Notice |
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Sample Section 104(a) S&S Citation in Conjunction with a Section 107(a) Order – HCI Levels

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Section 104(a): Citation – Highwall Drill Dust Collection Non-S&S

Form 7000-3 Guidance: Section 104(a) Citation – Highwall Drill Dust Collection Non-S&S

Item 8. Describe the dust condition that led to the determination that the highwall drill dust collection was ineffective. Include details on the material being drilled (soluble or non-water soluble); why the current dust collection was ineffective; whether the miner sampled wore appropriate respiratory protection; and whether the miner was enrolled in a compliant Respiratory Protection Program.

Note: The inspector's observations determine the effectiveness of drill dust controls.

Item 10A. "Unlikely" versus "Reasonably Likely" depends on whether the material being drilled could contain respirable crystalline silica-bearing dust. Check the sampling history for the mine and the geology of the material being drilled. The determination will be "Unlikely" if the miner is wearing appropriate respiratory protection.

Item 10B. If respirable crystalline silica-bearing dust is present, then silicosis is a possibility. Silicosis is a permanent disability and is often fatal.

Item 10C. Per MSHA policy, an inspector cannot issue a citation for overexposure for a listed nuisance dust as S&S.

Sample Section 104(a) Citation – Highwall Drill Dust Collection Non-S&S

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Section 104(a): Citation – Designated Work Position (DWP) [30 C.F.R. § 71.100(b)]
Form 7000-3 Guidance: Section 104(a) Citation – DWP [30 C.F.R. § 71.100(b)]

Item 8. Include complete details of the overexposure. Describe the DWP sampled and the sampling method. Use the lab analysis sheet for information within the citation and include it as an attachment.

Sample Section 104(a) Citation – DWP [30 C.F.R. § 71.100(b)]

| Section I-Violat | tion Data | | | | | | | | | | | |
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| sonably C. Significa 11. Negligence 12. Type of A 14. Initial Activation 15. Area or Ed 16. Terminate 16. Terminate 17. Action to | be expected ant and Substitute (check one cition on Due Dination Action A. Date on attending processing the cition A. Date on attending processing the cition Due D | d to be: stantial: a) A 10 er □ C Mo Date | Yes None 4 (a) Safeguard Mo Da Yr 5/11/2023 | No B. Low D. 13. Type of Iss D. Written Notice B. Time (24 Hr. Character) | C. Mod | erate check one) E. Citation/ Order Nul | Cital mber | D. High | D. Numbe | E. Reckl | ns Affecte ess Disreg | d: 002 gard 🔲 Written Notic |
| sonably C. Significa 11. Negligence 12. Type of A 14. Initial Activation 15. Area or Ed 16. Termination 17. Action to 1 18. Terminate Section IV—Auto 19. Type of Ir | ce (check one ction Due B. Orde quipment on Due Anination Action Terminate A. Date omated System spection ode) | d to be: stantial: 10 10 A COMMENT OF THE COMMEN | Yes None A (a) Safeguard Mo Da Yr 5/11/2023 | No B. Low 13. Type of Iss D. Written Notice B. Time (24 Hr. Charte (24 Hr. Charte)) | C. Mod | erate check one) E. Citation/ Order Nul | Cital mber | D. High | D. Numbe | E. Reckl | ns Affecte ess Disreg guard | d: 002 gard ☐ Written Notic |

Section 104(a): Citation – Designated Occupation (DO) & Non-designated Occupation (NDO) [30 C.F.R. § 70.100(a)(2)]

Form 7000-3 Guidance: Section 104(a) Citation – DO & NDO [30 C.F.R. § 70.100(a)(2)]

Item 8. Include complete details of the overexposure. Describe the DO/NDO sampled and the sampling method. Use the lab analysis sheet for information within the citation and include it as an attachment.

Note: When terminating any citation, use the Continuation Form 7000-3a. For any citation where the operator provides evidence of abatement, list all controls/implemented actions in the Continuation Form's Section II – Justification for Action.

Sample Section 104(a) Citation — DO & NDO [30 C.F.R. § 70.100(a)(2)]

| Section I-Violat | tion Data | | | | | | | | , | ealth Admir | | |
|---|--|---|--|------------------------------------|---|--|-------------------------------------|------------------------------------|---|---|--------------------------|--|
| . Date | Mo Da N | | Time (24 H | | | 1 | | | 3. Citation | | | |
| Sorrod To | 4/11/2 | | | 102 | 10 | 5.0 | perator | | Order N | umber | 76 | 54370 |
| Served To | Jane Doe | , Mine | Manage | r | | 0.0 | porator | Academy | Mining | Company | , Inc | ٤. |
| 3. Mine | | | 40 | M | | 7. M | line ID | 76 01054 | | | | (Contrac |
| 3. Condition o | duryw. | ue rai | con #2 | міпе | | | - 34 | 76-01254 | | 8a. V | Vritten N | Notice (103g) |
| date sa continu concent In acco submit, | mpled), ous min ration e | the co ing mac exceeds with 30 st 48 h | encentra chine op the 1. CFR 70 cours pr | tion operator 79 mg, 0.201(: | spirable of respir r (occupa /m3 ECV, f), the D o schedul . | able du tion 03 and exc istrict | ust in 36), o ceeds : Mana | the work n the 001 the 1.5 m | ting env 1-0 MMU ng/m3 st ests the | ironment was 1.94 andard. mine ope | of tmg/m | the n3. This |
|). Violation | A. Health Safety Other | | Section of Act | | | C. Part/Se Title 30 | | | | ntinuation Form | | Form 7000-3a) |
| Section IIInspe | ector's Evaluat | tion | | | | | | | | | | |
| Gravity: A. Injury o | r Illness (has | s) (is): No | Likelihood | | Unlikely [| Door | oonahbul | | Highly Likel | . – | Occurre | u 🗇 |
| D. Injunio | | | | | | neas | SULIADIY L | .ikely 🔽 | mighty Liker | | Occurre | 2 0 ∟ |
| | r illness coul | | No Lost W | orkdavs | ☐ Lost V | | | | 3 0 | | 200 | 2- |
| sonably | be expected | d to be: | No Lost W | . Son o | | | | ted Duty | Permanei | ntly Disabling | Ø | Fatal |
| sonably C. Signific | be expected ant and Sub | d to be: stantial: | Yes 🗹 | No | | Vorkdays O | r Restrict | | Permaner D. Number | ntly Disabling of Persons Af | ☑ fected: | Fatal 001 |
| sonably C. Signific | be expected ant and Sub | d to be: stantial: | National Organia | No | | | r Restrict | | Permaner D. Number | ntly Disabling | ☑ fected: | Fatal 001 |
| sonably C. Signific 1. Negligeno | be expected ant and Subs ce (check one | d to be: stantial: | Yes 🗸 | No B. L | | Vorkdays O | r Restrict | ted Duty | Permaner D. Number | ntly Disabling of Persons Af | ☑ fected: Disregar | Fatal 001 |
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| sonably C. Signific 11. Negligenc 12. Type of A 14. Initial Acti A. Citation 15. Area or E 16. Terminati | to expected and and Substitute (check one action and B. Order quipment and Due Annation Action Actio | d to be: stantial: e) A. ↑ 104 er □ C. \$ | Yes ✓ None □ (a) Safeguard [| No B. L 1 | .ow 📝 3. Type of Issu | C. Moderat uance (chec | te ck one) itation/ rder Num | D. High | Permaner D. Number | of Persons Af Reckless D Safeguard | fected: | Fatal 001 d 001 Written Notice |
| sonably C. Signific 11. Negligenc 12. Type of A 14. Initial Acti A. Citation 15. Area or E 16. Termination 17. Action to | be expected ant and Subsected (check one cition B. Order quipment on Due mination Action Terminate ad A. Date | d to be: stantial: e) A. N 1 04 er C. S Mo Da | Yes None (a) Safeguard [No Da Yr /25/202 | No B. L 1 D. W B. Ti | .ow 📝 3. Type of Issu | C. Moderat uance (chec | te ck one) itation/ rder Num | D. High | Permaner D. Number | of Persons Af Reckless D Safeguard | fected: | Fatal 001 d 001 Written Notice |
| sonably C. Signific 1. Negligenc 2. Type of A 4. Initial Acti A. Citation 5. Area or E 6. Terminati 6. Exection III-Term 7. Action to 8. Terminate 8. Terminate 8. Terminate | be expected ant and Substitute (check one cition B. Order quipment on Due Initiation Action Terminate A. Date omated System | Mo Da | Yes 🗹 None 🗆 (a) Safeguard [No Da Yr /25/202 Yr B.1 | No B. L 1 D. W Time (24 | .ow | C. Moderat uance (chec | te | D. High Citation ber | Permaner D. Number | of Persons Af Reckless D Safeguard | fected: | Fatal 001 d 001 Written Notice |
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| sonably C. Signific 11. Negligenc 12. Type of A 14. Initial Acti A. Citation 15. Area or E 16. Terminati Section IIITerm 17. Action to 1 18. Terminate Section IVAut 19. Type of Ir | be expected ant and Substitute (check one cition on Due | d to be: stantial: e) A. N 1 04 er □ C. S Mo Date Mo Da n Data | Yes 🗹 None 🗆 (a) Safeguard [No Da Yr /25/202 Yr B. 1 D. Event Nur | No B. L 1 D. W Time (24 I | .ow | C. Moderat uance (chec | te | D. High Citation ber | Permaner D. Number Order | ntly Disabling of Persons Af E. Reckless D Safeguard F. Da | fected: | Fatal 001 d Written Notice Mo Da Y |

Sample Section 104(a) Citation — DO & NDO [30 C.F.R. § 70.100(a)(2)] Termination

| ection I-Subsequent Action/Continuation Da | rta | | | | | | |
|---|--|--------------|-----------------------|---------------------------------|---|-----------------------|---|
| . Subsequent Action 1a. Continuation | 2. Dated (Original Issue) | Mo Da | | 3. Citation/ 76 Order Number | 554370 - 01 | | |
| . Served To Jane Doe, Mine Manage | The Contract of the Contract o | 04/11/202 | 5. Operato | | | | |
| Jane Doe, wine wanage | 1 | | Academ | y Mining Comp | any, Inc. | | |
| . Mine Blue Falcon #2 Mine | | | 7. Mine ID 76-0125 | 4 | | (Contractor) | |
| ection II—Justification for Action | | | 70-0123 | 4 | | | |
| | | | | | | | |
| ne operator has submitted a valid resp proved ventilation plan revision with | tradic dust sample in the corrective actions for the | working envi | ronment of | the continuous min | mg macnine operato | r and nas an | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | See Continuation Form | Ш |
| ection III-Subsequent Action Taken Extended To Mo Da | Yr | WEEK. | | Will but the | W-10 144.7 (44.7 14.7 14.7 14.7 14.7 14.7 14.7 14.7 | (1-22) | |
| A. Date | B. Time (24 Hr. Clo | ck) | | C. Vacated | ✓ D. Terminated | E. Modified | |
| ection IV-Inspection Data | | | | | | | |
| | 0. Event Number 1234572 | | | | | | |
| 1. AR Name Copper Pot | AR Nu | | 2. Date | Mo Da Yr | 13. Time (24 Hr. C | lock) | |
| | 1234: | 1 | 05/02/202 | 1.5 | 10:29 | | |

Section 104(a): Citation - Part 90 Miner [30 C.F.R. § 90.100(b)]

Form 7000-3 Guidance: Section 104(a) Citation – Part 90 Miner [30 C.F.R. § 90.100(b)]

Item 8. Include complete details of the overexposure. Describe the area/miner sampled and the sampling method. Use the lab analysis sheet for information within the citation and include it as an attachment.

Sample Section 104(a) Citation – Part 90 Miner [30 C.F.R. § 90.100(b)]

| ection IViolat | tion Data | | | | | | | | | • |
|--|--|--|--|--|--|--|--|--|--|--|
| . Date | Mo Da Yr 4/17/2023 | | (24 Hr. C | lock) 1051 | | | | 3. Citation/ Order Nun | ihar | 7654371 |
| Served To | | | anager | | 5. (| Operator | | Older Hall | 1001 | 7034371 |
| | | | | | | | Academ | y Mining C | ompany, I | nc. |
| Mine | Blue | Falcon | #2 Min | 1e | 7. N | ⁄line ID 7∈ | 5-01254 | | | (Contractor) |
| Condition of | or Practice | | | | | | | | 8a. Writte | en Notice (103g) 🗌 |
| environ mg/m3. standar affected dust to each co: | ment of th This samp d. The mi d miner, t the permi nsecutive | e Part 9 le excee ne opera ake imme ssible l producti | 00 Mineds the ator slediate imit of ships on ships of ships of ships of ships of ships of ships of ships on ships of shi | 2023, the cer, Occupation of the corrective of the correction of t | ion Code ECV the control of the con | e 101 wo nereby e e approv to lowe sample t samples | orking of exceeding ed respect the of the Partial | on the No. ng the 0.5 piratory e concentrat 5 90 miner ken. The | 1 beltli mg/m3 ap quipment ion of re , Occupat first of | ne was 1.5 plicable to the spirable ion Code 101 |
| Violation | A. Health ☑ Safety ☐ Other ☐ | B. Section of Act | n | | | Section of 0 CFR | | 300000 | uation Form (MS | HA Form 7000-3a) 🗖 |
| ection IIInspe | ector's Evaluation | | | | 1 | | | <i>5.00</i> . | 200 (20) | |
|). Gravity: | | | | Unlikely 🗌 | Pas | sonably Like | | | <u></u> | |
| A. Injury o | r Illness (has) (is | No Likeli | nooa III | | | | alv I√I | Highly Likely | Occi | urred |
| B. Injury o | r Illness (has) (is r illness could re | a- Nala | | | 9667775 | | 7 | Highly Likely | | urred Fatal |
| B. Injury o sonably | r illness could re be expected to | a- be: No Lo | st Worko | lays 🔲 Lost | 9667775 | Or Restricted | 7 | Permanently | Disabling 🗹 | Fatal 🗌 |
| B. Injury o sonably C. Signific | r illness could re be expected to ant and Substan | a- be: No Lo tial: Y | es 🗸 | days □ Lost | Workdays (| Or Restricted | I Duty □ | Permanently D. Number of I | Disabling 🗹 Persons Affecte | Fatal od: 001 |
| B. Injury o sonably C. Signific | r illness could re be expected to ant and Substan ce (check one) | a- be: No Lo | es 🗸 | lays Lost No B. Low | Workdays (C. Modera | Dr Restricted | D. High | Permanently D. Number of I | Disabling Persons Affecte Reckless Disre | Fatal |
| B. Injury o sonably C. Signific | r illness could re be expected to ant and Substan ce (check one) | a- be: No Lo tial: Y | es 🗸 | days □ Lost | Workdays (C. Modera suance (che | or Restricted | I Duty □ | Permanently D. Number of I | Disabling Persons Affecte Reckless Disreg Safeguard | Fatal |
| B. Injury o sonably C. Signific 1. Negligeno 2. Type of A 4. Initial Acti A. Citation | or illness could refer be expected to sant and Substance (check one) action B. Order | A. None | es 🗸 | lays Lost No B. Low | Workdays C C. Modera suance (che | Dr Restricted | D. High | Permanently D. Number of I | Disabling Persons Affecte Reckless Disre | Fatal |
| B. Injury o sonably C. Signific 1. Negligenc 2. Type of A 4. Initial Acti A. Citation 5. Area or E- | rillness could revise expected to expected | a- be: No Lo tial: γ; A. None 104 (a) | es V uard Yr | No B. Low 13. Type of ls: | C. Modera suance (che | or Restricted te ck one) | D. High | Permanently D. Number of I | Disabling Persons Affecte Reckless Disreg Safeguard | Fatal |
| B. Injury o sonably C. Signific 1. Negligenc 2. Type of A 4. Initial Acti A. Citation 5. Area or E 6. Termination 7. Action to 1 8. Terminate 8. Terminate | rillness could re be expected to expected | a- be: No Lo tial: Y A. None 104 (a) C. Safegu ate Mo Da 5/1/ | es V uard Yr 2023 | Alays Lost No B. Low 13. Type of Is: D. Written Notice | C. Modera suance (che | or Restricted te ck one) (citation/ order Number | D. High | Permanently D. Number of I | Disabling Persons Affecte Reckless Disreg Safeguard | Fatal |
| B. Injury o sonably C. Signific 1. Negligenc 2. Type of A 4. Initial Acti A. Citation 5. Area or E 6. Termination 7. Action to 1 8. Terminate 9. Type of Ir | rillness could refer be expected to earnt and Substance (check one) action B. Order Quipment On Due A. Demination Action Terminate A. Date onspection | a-be: No Lo tial: Y A. None 104 (a) C. Safegu Abo Da To Da | es V uard Yr 2023 | Alays Lost No B. Low 13. Type of Is: D. Written Notice B. Time (24 Hr. Cock) | C. Modera suance (che | or Restricted te ck one) (citation/ order Number | D. High Citation | Permanently D. Number of I | Disabling Persons Affecte Reckless Disreg Safeguard | Fatal |
| B. Injury o sonably C. Signific 1. Negligenc 2. Type of A 4. Initial Acti A. Citation 5. Area or E 6. Terminati ection IIITerm 7. Action to 8. Terminate ection IVAut 9. Type of Ir (activity or | rillness could re be expected to expected | a-be: No Lo tial: Y A. None 104 (a) C. Safegu ate Mo Da 5/1/ | yr 2023 | Alays Lost No B. Low 13. Type of Is: D. Written Notice B. Time (24 Hr. Cock) | C. Modera suance (che | or Restricted te ck one) citation/ order Number | D. High Citation | Permanently D. Number of I E. Order | Disabling Persons Affecte Reckless Disreg Safeguard F. Dated | Fatal |
| B. Injury o sonably C. Signific 1. Negligenc 2. Type of A 4. Initial Acti A. Citation 5. Area or E 6. Termination 7. Action to 1 8. Terminate ection IVAut 9. Type of Ir | rillness could re be expected to expected | a-be: No Lo tial: Y A. None 104 (a) C. Safegu ate Mo Da 5/1/ | yr 2023 | Alays Lost No B. Low 13. Type of Is: D. Written Notice B. Time (24 Hr. C | C. Modera suance (che | or Restricted te ck one) citation/ order Number | D. High Citation | Permanently D. Number of I | Disabling Persons Affecte Reckless Disreg Safeguard F. Dated | Fatal |

Noise Violations

When citing for excessive noise, use 30 C.F.R. Subchapter M, Part 62, Occupational Noise Exposure; the standard applies to both MNM and Coal.

Section 104(a) Citation - Noise Action Level (AL) Non-S&S

Form 7000-3 Guidance: Section 104(a) Citation – Noise AL Non-S&S

Item 1. Enter the citation issuance date. In most cases, this is also the date the inspector received the sample results and determined that a violation occurred.

Note: The occurrence date in IAS is the sample date. If the inspector receives sample results on the same date, the issue date and occurrence date may be the same.

Item 8. Describe the area and/or miner sampled and the sampling method. Provide the details of the noise AL violation. If applicable, specify whether the miner wore appropriate hearing protection and was enrolled in a compliant Hearing Conservation Program.

Item 10A. Select "Unlikely."

Item 10B. Noise-induced hearing loss is always "Permanently Disabling."

Item 10C. A citation for a violation of § 62.120 (Action Level) **cannot** be S&S.

Note: When terminating any citation, use the Continuation Form 7000-3a. For any citation where the operator implements a compliant hearing conservation program, provide that information in the Continuation Form's Section II – Justification for Action. Include details on enrolling the miner(s) in that compliant program.

Sample Section 104(a) Citation – Noise AL Non-S&S

| ection IViolation Data . Date Mo Da Yr | 2. Time (24 Hr. | Clock) | | | 3. Citation/ | | |
|---|--|--|---|---|--|--|--|
| 4/28/2023 | 2. Tillie (24 Fil. | 1500 | | | Order Numb | er 7 | 654372 |
| .ServedTo Nancy Doe, | Mine Manag | er | 5. Operator | Aca | demy Mining | Company | |
| Mine Blue Falcon | Cand and Cr | eastal Mina | 7. Mine ID | 76-54312 | | | (Contractor) |
| Condition or Practice | Sand and Gr | avel Fille | | 70 34312 | | 8a. Writter | Notice (103g) |
| The results of an New Holland skid s the action level d hearing conservati 30 CRF 120. Heari the sampling. The in a formal hearin | teer operato ose of 50% pon program t ng protection abatement t | or received an plus the error that meets all on was not bei time is set to | action lev factor (or the requiring used by allow the | rel noise (66%). ' cements of the skid mine ope | dose of 78 The miner w f 30 CFR 62 steer oper rator time | .36%. The same of | nis exceeds prolled in a required by the time of the miner |
| Violation A. Health ☐ Safety ☐ Other ☐ | B. Section of Act | | C. Part/Section of Title 30 CFR | t . | 8) 000000000000000000000000000000000000 | ation Form (MSH | A Form 7000-3a) 🗖 |
| ection IIInspector's Evaluation | | . | | | | | |
|). Gravity: A. Injury or Illness (has) (is): | No Likelihood | Unlikely 🗸 | Reasonably | | reservations = | 000 | |
| ,, \ | NO LINGIIIIOOU | | neasonably | LIKely | Highly Likely | Occui | red 🗌 |
| B. Injury or illness could rea- | No Lest West | | ************************************** | | | 51 (1000) | |
| B. Injury or illness could reasonably be expected to be | No Lost Worl | kdays 🗖 Lost Wo | orkdays Or Restric | | Permanently D. Number of Pe | Disabling 🗹 | Fatal 🗌 |
| B. Injury or illness could reasonably be expected to be C. Significant and Substantia | al: Yes □ | kdays ☐ Lost Wo | orkdays Or Restric | cted Duty | Permanently D. Number of Pe | Disabling 🔽 ersons Affected | Fatal i: 001 |
| B. Injury or illness could reasonably be expected to be C. Significant and Substantia Negligence (check one) | No Lost Worl | kdays Lost Wo | orkdays Or Restric | D. High | Permanently D. Number of Pe | Disabling prsons Affected pckless Disreg | Fatal O 01 |
| B. Injury or illness could reasonably be expected to be C. Significant and Substantia Negligence (check one) Type of Action | al: Yes □ | kdays ☐ Lost Wo | c. Moderate | cted Duty | Permanently D. Number of Pe | Disabling Prisons Affected Discrete Discrete Discrete | Fatal |
| B. Injury or illness could reasonably be expected to be C. Significant and Substantia Negligence (check one) Type of Action | No Lost Worl al: Yes A. None 104(a) | kdays Lost Wo | orkdays Or Restric | D. High | Permanently D. Number of Pe | Disabling prsons Affected pckless Disreg | Fatal i: 001 |
| B. Injury or illness could reasonably be expected to be C. Significant and Substantia 1. Negligence (check one) 2. Type of Action 4. Initial Action A. Citation B. Order 5. Area or Equipment 6. Termination Due A. Date ection III-Termination Action | A. None 104 (a) C. Safeguard | kdays Lost Wo | c. Moderate E. Citation/ Order Nur | D. High | Permanently D. Number of Pe | Disabling Prisons Affected Discrete Discrete Discrete | Fatal |
| B. Injury or illness could reasonably be expected to be C. Significant and Substantia 1. Negligence (check one) 2. Type of Action 4. Initial Action A. Citation B. Order 5. Area or Equipment 6. Termination Due A. Date extion III-Termination Action 7. Action to Terminate | A. None A. None 104 (a) C. Safeguard Mo Da Yr 5/1/2023 | kdays Lost Wo | Drkdays Or Restrict D. Moderate Dance (check one) E. Citation/ Order Nur | D. High | Permanently D. Number of Pe | Disabling Prisons Affected Discrete Discrete Discrete | Fatal |
| B. Injury or illness could reasonably be expected to be C. Significant and Substantia 1. Negligence (check one) 2. Type of Action 4. Initial Action A. Citation B. Order 5. Area or Equipment 6. Termination Due A. Date action Ill-Termination Action 7. Action to Terminate A. Date | A. None A. None 104 (a) C. Safeguard Mo Da Yr 5/1/2023 | kdays Lost Wo No B. Low 13. Type of Issua D. Written Notice | Drkdays Or Restrict D. Moderate Dance (check one) E. Citation/ Order Nur | D. High | Permanently D. Number of Pe | Disabling Prisons Affected Discrete Discrete Discrete | Fatal |
| B. Injury or illness could reasonably be expected to be C. Significant and Substantial . Negligence (check one) 2. Type of Action 3. Initial Action | A. None 104 (a) C. Safeguard Mo Da Yr 5/1/2023 | kdays Lost Wo No B. Low C 13. Type of Issua D. Written Notice B. Time (24 Hr. Clock) | c. Moderate | D. High Citation minutes | Permanently D. Number of Pe | Disabling Prisons Affected Discrete Discrete Discrete | Fatal |
| B. Injury or illness could reasonably be expected to be C. Significant and Substantial I. Negligence (check one) 2. Type of Action 4. Initial Action A. Citation B. Order 5. Area or Equipment 5. Area or Equipment A. Date action III-Termination Action 7. Action to Terminate 3. Terminated A. Date action IV-Automated System Data 9. Type of Inspection (activity code) | A. None A. None 104 (a) C. Safeguard Mo Da Yr 5/1/2023 | kdays Lost Wo No B. Low C 13. Type of Issua D. Written Notice B. Time (24 Hr. Clock) | c. Moderate | D. High | Permanently I | Disabling | Fatal |
| B. Injury or illness could reasonably be expected to be C. Significant and Substantia 1. Negligence (check one) 2. Type of Action 4. Initial Action A. Citation B. Order 5. Area or Equipment 6. Termination Due A. Date ection IV-Termination Action 7. Action to Terminate 8. Terminated A. Date ection IV-Automated System Data 9. Type of Inspection | A. None A. None C. Safeguard Mo Da Yr Solution Da Yr B. Tin | kdays Lost Wo No B. Low C 13. Type of Issua D. Written Notice B. Time (24 Hr. Clock) | c. Moderate | D. High Citation mber | Permanently D. Number of Pe | Disabling | Fatal |

Sample Section 104(a) Citation – Noise AL Non-S&S Termination

| Continuation Section I-Subse | quent Action/Continuation | Data | | | | | |
|--|--|--------------------------|--------------------------|---------------|------------------------------|--------------------|------------------|
| 1. Subsequent | t Action 1a. Continuati | | i Mo nal Issue) 04/28 | Da Yr | Citation/ Order Number | 7654372 - 01 | |
| | Nancy Doe, Mine Ma | | , 04/28. | 5. Opera | tor | | |
| 6. Mine BI | ue Falcon Sand and G | rovel Mine | | A cade | my Mining Cor | npany | (Contractor) |
| o. while bi | ue Pateon Sand and G | naver wille | | 76-543 | | | (Contractor) |
| Section II-Justifi | cation for Action | | | | | | |
| | or of the #121 Nev of 30 CFR 62.150 | | | enrolled in a | a formal hearin _i | g conservation pro | gram meeting all |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| Section III-Subse | equent Action Taken | | | | | | |
| 8. Extended To | | Yr B. Time | (24 Hr. Clock) | | C. Vacated | D. Terminated | E. Modified |
| Section IV—Inspe 9. Type of Insp E01 | | 10. Event Num 1234567 | ber | | | | |
| 11. AR Name | | - | AR Number | 12. Date | Mo Da Yr | 13. Time (24 Hr. C | llock) |
| Copper Pot | | | 12345 | 05/02/20 | 25 | 11:53 | |

Section 104(a): Citation – Noise Permissible Exposure Limit (PEL)

Form 7000-3 Guidance: Section 104(a) Citation - Noise PEL

Item 1. Enter the citation issuance date. In most cases, this is also the date the inspector received the sample results and determined that a violation occurred.

Note: The occurrence date in IAS is the sample date. If the inspector receives sample results on the same date, the issue date and occurrence date may be the same.

Item 8. Describe the area and/or miner sampled and the sampling method. Provide the details of the noise overexposure. If applicable, specify whether the miner wore appropriate hearing protection and was enrolled in a compliant Hearing Conservation Program.

Item 10A. "Unlikely" versus "Reasonably Likely" depends on whether the miner wore appropriate hearing protection.

Item 10B. Noise-induced hearing loss is always "Permanently Disabling."

Note: When terminating any citation, use the Continuation Form 7000-3a. For any citation where the operator installs engineering and/or administrative controls, such as a compliant hearing conservation program to reduce exposure, list all controls in the Continuation Form's Section II – Justification for Action.

Noise PEL P Code Termination

MSHA uses a "P Code" to designate that an overexposure condition remains despite implementing all feasible engineering and administrative controls. It is an administrative device that allows MSHA to track these special overexposure situations.

Note: The District must initiate and conduct a P Code review before terminating a citation where the noise exposure continues to exceed the PEL.

CAUTION

Terminating a citation with a P Code requires MSHA Headquarters approval.

When terminating any citation, use the Continuation Form 7000-3a. After MSHA Headquarters approval, document the completion of the P Code review and list the assigned P Code number. Outline the job duties and functions of the affected miner(s) and list all controls the operator implemented to reduce the noise exposure.

Sample Section 104(a) Citation - Noise PEL

| Section IViola | (T) ((((((((((((((((((| | | | | | | | | |
|---|---|--|--|---|--|--|--|--|--|--|
| I. Date | Mo Da Yr 4/13/2023 | 2. Time (24 | 4 Hr. Clock) 1516 | | | | 3. Citat Orde | on/ r Number | - | 7654373 |
| I. Served To | Nancy Doe, | Mine Ma | nager | | 5. Operator | | odomir Mi | ning do | | |
| 3. Mine | | | | | 7. Mine ID | AC | ademy Mi | illing co | шрапу | (Contracto |
| E. Condition | Blue Falcon | Sand and | Gravel I | Mine | | 76-5431 | 2 | | - JA(-: | n Notice (103g) |
| loader level d factor adminis that me protect FEL ope the ope operato conserv level. | sults of an Noperator of lose of 227.3 (or 132%). strative contracts all the cion was workerstor to postation progration progration progration | the Cate 3%. This The ope: trols. ' require by the ssible po to instal re contin | erpillar sexceeds rator has The loade ments of loader cermanentl lall feaued use | 966 front the perm the not inst r operato 30 CFR 62 operator d y disabli easible en of hearin e dose is | -end loade issible exituted all trains enroided in the uning the uning the gineering greatett reduced to the control of the co | er recei xposure I feasib Iled in equired: samplin es. The and adm ion and to or be | ved a pe level of le engir a hearir by 30 CF g. This abatemer inistrat enrollme low the | ermissib f 100% p leering g conse R 62.12 c condit it time ive con ant in a permiss | le explus the and rvation of the control of the con | posure nois ne error on program earing xposed the t to allow . The mine ing |
| . Violation | A. Health ☐ Safety ☐ Other ☐ | B. Section of Act | | C | . Part/Section of Title 30 CFR | f | | 62.130(| a) | |
| Section IIInsp 0. Gravity: | ector's Evaluation | | | | | | | | | |
| D Indiana | 91 | | | | | | Highly Lil | | | rred 🗌 |
| sonably C. Signific | or illness could rea- y be expected to be cant and Substantial ce (check one) | | 5 5000 |] | kdays Or Restric | cted Duty 🗌 D. Hig | Perma D. Numb | nently Disaber of Persons | s Affected | Fatal d: 001 |
| sonably C. Signific 1. Negligen | y be expected to be cant and Substantial ce (check one) | l: Yes A. None □ | □ No ☑ B. Lov |] w | Moderate ✓ | D. Hig | Perma D. Numb | er of Person: E. Reckle | s Affected | Fatal |
| sonably C. Signific 11. Negligen 12. Type of A 14. Initial Act A. Citation | y be expected to be: cant and Substantial ce (check one) Action tion B. Order | l: Yes A. None □ | □ No ☑ B. Lov |] w □ C. .Type of Issuan | Moderate ✓ | D. Hig | Perma D. Numb | er of Person: E. Reckle: Safegi | s Affected | Fatal d: 001 |
| sonably C. Signific 11. Negligent 12. Type of A 14. Initial Act A. Citation 15. Area or E | y be expected to be: cant and Substantial ce (check one) Action : B. Order : Equipment ion Due A. Date mination Action | A. None L04 (a) C. Safeguar | B. Low |] w □ C. .Type of Issuan | Moderate ☑ ce (check one) E. Citation/ Order Nur | D. Hig Citation (| Perma D. Numb | er of Person: E. Reckle: Safegi | s Affected ss Disreguard | Fatal |
| sonably C. Signific 11. Negligent 12. Type of A 4. Initial Act A. Citation 15. Area or E 16. Terminat 17. Action to 18. Terminat | y be expected to be cant and Substantial ce (check one) Action | A. None LO4 (a) C. Safeguar Mo Da Y 4/27/2 | B. Low | C. Type of Issuan ten Notice | Moderate ce (check one) E. Citation/ Order Nur | D. Hig Citation (| Perma D. Numb | er of Person: E. Reckle: Safegi | s Affected ss Disreguard | Fatal |
| sonably C. Signific 1. Negligent 2. Type of A 4. Initial Act A. Citation 5. Area or E 6. Terminat Section IIITen 7. Action to 8. Terminat | y be expected to be: cant and Substantial ce (check one) Action tion B. Order Equipment ion Due A. Date mination Action Terminate Mo A. Date tomated System Data | A. None LO4 (a) C. Safeguar Mo Da Y 4/27/2 | No | C. Type of Issuan ten Notice | Moderate ce (check one) E. Citation/ Order Nur | D. Hig Citation [| Perma D. Numb | er of Person: E. Reckle: Safegi | s Affected ss Disreguard | Fatal |
| sonably C. Signific 11. Negligene 12. Type of A 14. Initial Act A. Citation 15. Area or E 16. Terminat Section IIITen 17. Action to 18. Terminat Section IVAut 19. Type of In (activity of | y be expected to be: cant and Substantial ce (check one) Action : tion B. Order : Equipment A. Date mination Action Terminate Mo tomated System Data inspection code) E01 | A. None A. None C. Safeguar Mo Da Y 4/27/2 | No | C. Type of Issuan ten Notice | Moderate ce (check one) E. Citation/ Order Nur | D. Hig Citation (| Perma D. Numb Corder [| E. Reckle | ss Affected ss Disreguard Dated | Fatal |
| sonably C. Signific 11. Negligene 12. Type of A 14. Initial Act A. Citation 15. Area or E 16. Terminat Section IIITen 17. Action to 18. Terminat | y be expected to be: cant and Substantial ce (check one) Action : tion B. Order : Equipment A. Date mination Action Terminate Mo tomated System Data inspection code) E01 | A. None A. None C. Safeguar Mo Da Y 4/27/2 | B. Low B. Low D. Writt B. Time (24 Hr | C. Type of Issuan ten Notice | Moderate ce (check one) E. Citation/ Order Nur | D. Hig Citation (| Perma D. Numb Corder [| er of Person: E. Reckle: Safegi | ss Affected ss Disreguard Dated | Fatal |

Sample Section 104(a) Citation – Noise PEL Termination

| Continuation | | | | | | Magnetic Committee Co | |
|-----------------------------|--|---------------------------------|-------------------------------------|---------------------------------|------------------------------------|---|------------------------|
| | quent Action/Continuation Action 1a. Continuation | | Mo | Da Yr | 3. Citation/ | | |
| | | | | 3/2023 | 3. Citation/ Order Number 7 | 654373 - 01 | |
| 4. Served To | Nancy Doe, Mine Ma | nager | 7.11.21 | 5. Opera | | | |
| 6. Mine Ble | ue Falcon Sand and G | 134' | | | ny Mining Com | pany | (011-) |
| o. wille by | te raicon Sand and G | ravei ivime | | 7. Mine I 76-543 | | | (Contractor) |
| Section II-Justific | cation for Action | | | | | | |
| sample take the permissi | ble exposure leve hearing conserva | e FEL operate l of 100% plus | or received a p s the error fact | ermissible ex tor (or 132%). | posure level noi: The FEL opera | se dose of 76%. tor identified abo | This dose is less than |
| | | | | | | | |
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| | | | | | | | |
| | | | | | | | |
| Castian III. Cubaa | quent Action Taken | | | | | | |
| B. Extended To | A. Date | Yr D Time (| 24 Hr. Clock) | | T = 0 \(\frac{1}{2} \) | D Tambiated | □ E Madical |
| | | B. Time (2 | .4 FIT, Clock) | | C. Vacated | ✓ D. Terminated | E. Modified |
| Section IV—Inspec | | 10. Event Numb | or. | | | | |
| e. Type of mispe E01 | ection | 1234567 | 21 | | | | |
| 11. AR Name | ···· | 1201001 | AR Number | 12. Date | Mo Da Yr | 13. Time (24 Hr. C | lock) |
| Copper Pot | | | 12345 | 04/26/202 | 23 | 12:23 | |
| | | | | | | | |

CHAPTER 4 – GENERAL INFORMATION

Citation/Order Books/IAS Citation Numbers - Inspector Accountability

Inspectors are accountable for violation numbers issued through IAS. Upon receiving the violation numbers, the inspector must sign and date to acknowledge receipt by opening the IAS home page, selecting Forms, selecting Citation Disposition, then following the Citation Disposition Wizard.

Issuing Citations and Orders

It is not mandatory to give mine operators the citation or order form at the time the inspector observes the violation. However, the inspector will inform the operator or agent of violative conditions observed and provide information regarding exposure, negligence, severity, and the time permitted for abatement. The inspector shall issue citations and orders to the mine operator or its agent with reasonable promptness.

Note: The inspector might cite and deliver some citations or orders to the mine operator after the violation has occurred because of the time needed for analysis or other reasons. Examples of such delivery delay circumstances include, but are not limited to, certain Part 50 violations, certain health violations, violations cited because of accident investigations, and violations cited after reviewing accident forms.

Citations and Orders Involving Violations of Approved Plans or Granted Petitions for Modification

When issuing citations and orders for violating approved plans such as ventilation, roof control, or emergency response plans; or for violating the terms of a granted petition for modification, the inspector should list the following items in the body of the Item 8 narrative: the plan or petition's approval date, the page number, and the item number being cited. When citing violations of the terms of a petition for modification, the inspector should include the document or docket number of the petition and the page or item violated, as applicable.

Inspection or Investigation Closeout Conference

At the conclusion of any enforcement-related inspection or investigation, the inspector shall discuss the general findings and each violation issued with the mine operator and, if applicable, contractors and/or miners' representatives. During this conference, the inspector will inform and discuss with all parties whether MSHA plans to evaluate any citations or orders as possibly flagrant and/or recommend any for possible special assessment. MSHA applies special assessment review procedures as an enforcement tool to increase monetary penalties for specific types of violations. (See the sections on Special Assessment Review (SAR) Form (7000-32) and Designating a Violation as "Flagrant" for more information.)

MSHA informs all parties that they have 10 days from the date of issuance of the violation to submit additional information or request a safety and health conference with the District Manager or designee if any party disagrees with the inspector's actions during the inspection or investigation. Further, a request for a safety and health conference must be in writing and, as 30 C.F.R. § 100.6 requires, must include a brief statement of the reason(s) why each citation or order should be conferenced. It is within MSHA's sole discretion to grant requests for a conference.

Compliance Assistance Visit (CAV) Inspection Follow-Up for an MNM Mine (Program Policy Manual Volume IV, Reference IV.G-3), or a Reopening Inspection of a Coal Mine (Section 303(x) of the Mine Act)

Background

Section 502(b) of the Act directs the Secretary to, "...provide technical assistance to operators in meeting the requirements of this Act and in further improving the health and safety conditions and practices in coal or other mines." MSHA developed the CAV program in partial fulfillment of this requirement. Section 303(x) of the Act requires that, prior to reopening an abandoned or inactive mine, the operator shall notify MSHA so that an AR can inspect "the entire mine ... before mining operations commence."

MNM Mine Inspection Following a CAV

If, during a regular inspection at an MNM mine where MSHA previously performed a CAV, an inspector sees an unabated violation noted on a previous CAV inspection, the inspector will issue a § 104(a) citation without referencing the CAV notice in the narrative or negligence evaluation section of the citation. However, inspectors should remember that a § 104(a) citation is not the only action possible for unabated CAV notices. The hazard or miners' exposure to the hazard may have increased since the CAV inspection. If an imminent danger situation now exists, the inspector should issue a § 107(a) withdrawal order without referencing the CAV notice in the body or negligence evaluation section of the order.

Coal Mine Inspection Post-Reopening

Once MSHA has conducted a reopening inspection and the coal mine reopens and begins operating, MSHA must perform regular inspections of that mine: a minimum of four inspections a year for underground coal mines and a minimum of two inspections a year for surface mines. MSHA's policy interprets this requirement as an average of one inspection every quarter for underground mines and one inspection every six months for surface operations.

If, during a regular inspection at a coal mine where MSHA previously performed a reopening inspection, an inspector sees an unabated violation, the inspector will issue a § 104(a) citation without referencing the previous or unabated violation in the narrative or negligence evaluation section of the citation. However, inspectors should remember

that a §104(a) citation is not the only action possible. The hazard or miners' exposure to the hazard may have increased. If an imminent danger situation now exists, the inspector should issue a § 107(a) withdrawal order without referencing the previous or unabated violation in the body or negligence evaluation section of the order.

Field Notes

Inspectors' field notes are official records, whether handwritten or typed in the IAS Field Note application. The inspector must include any notes taken during an inspection, in whatever form, in the final report.

 For specific guidance on citation and order documentation, refer to the "General Inspection Procedures Handbook," available on MSHA's webpage at Home > Compliance and Enforcement > Compliance Assistance > Procedure Handbooks.

Contractor Citations and MSHA ID Numbers

Unless a contractor receives a citation, has a reportable accident, or is engaged in one of the nine types of construction or services listed in Volume III of the MSHA Program Policy Manual, an MSHA contractor ID number is not necessary. However, some mine operators require contractors to get numbers as a precondition for contract bidding.

MSHA will provide an ID number for any contractor that requests one, but a contractor does not need to apply except for the reasons listed in the Program Policy Manual. Contractors should be aware that MSHA will assign only one ID number; the contractor will use that ID for any and all job sites.

MSHA can use the mine operator's mine ID number to cite a contractor that does not have an MSHA ID number. However, an inspector cannot add contractor citations into IAS until the contractor ID is obtained and linked to the mine ID number. Also, once the contractor receives an ID number, MSHA can modify the issued citation or order to include the new contractor number and change the company name to that of the contractor.

Note: The contractor's name entered on the citation must be exactly as it was when the MSHA Contractor ID number was assigned.

Issuing Citations or Orders – Accident Investigations

The inspector will initiate a separate accident event code (E06, E07, and E08) for violations related to an accident. However, the inspector should cite violations not related to the accident under a different event code.

Termination (Abatement) Times for Citations

When establishing citation abatement times, inspectors shall give primary consideration to the health and safety of miners; setting abatement based on the mine operator's or inspector's convenience is forbidden. The termination time for a citation must be specific and provide a reasonable time for mine operators to abate the cited conditions, practices, or circumstances.

Contesting a citation or order with the Federal Mine Safety and Health Review Commission, or filing a petition for modification, does not relieve the operator or contractor of the responsibility for terminating or abating the violation by the specified due date.

Extending or Terminating Citations at an MSHA Office

While most citations and orders require an on-site inspection to verify appropriate abatement before MSHA issues a termination, the Agency may terminate some citations and orders, such as those relating to certain records that may be sent to MSHA, without conducting an on-site inspection. However, a Field Office Supervisor should review and approve any citations or orders that are terminated by inspectors without conducting an on-site inspection.

When an MSHA Field Office extends, terminates, or vacates a citation or order, do not initiate a "new" event number; use the appropriate enforcement activity code (See Appendix A – Enforcement Activity Codes) from the last on-site inspection.

Extending Citations - Operator Contest

Contesting a citation or order with the Federal Mine Safety and Health Review Commission, or filing a petition for modification, does not exempt the mine operator or contractor from complying with the cited mandatory standard by the specified due date. Unless directed otherwise, neither contesting the citation or order nor filing a modification petition is a basis for an inspector to extend any citation deadline.

Modifying or Correcting Citations/Orders/Subsequent Actions

The original Mine Citation/Order Form 7000-3, Mine Citation/Order Continuation Form 7000-3a, and all copies must be identical. The inspector must use a Mine Citation/Order Continuation Form 7000-3a to modify or correct any items written or entered in error on the original form. Inspectors must not make changes on MSHA copies nor ask mine operators to make the same changes on their copies.

Terminating Citations and Orders

An inspector can use either the Mine Citation/Order Form 7000-3 or a Mine Citation/Order Continuation Form 7000-3a to terminate citations and orders and provide

a copy(ies) to the mine operator or contractor.

Example: An inspector issued four citations or orders to a mine operator on Monday. The operator corrected all violative conditions by Thursday of the same week. The inspector shall terminate each of the four citations or orders individually on a Mine Citation/Order Continuation Form 7000-3a.

Terminating Citations and Orders - Specific Situations

MSHA shall terminate existing citations and orders when:

- MSHA classifies a mine as permanently abandoned and sealed;
- The operation or equipment, such as a portable crusher, moves to a location some distance from the original site; or
- The operator permanently removes from service or retires out-of-compliance equipment or permanently removes the equipment from the mine site.

Mine Reclassified as Permanently Abandoned and Sealed

The inspector shall make every reasonable attempt to determine if the operator complied with the cited standards. If the operator complied, terminate any outstanding citations or orders and hand deliver or mail the operator the terminations. Include a statement on the Mine Citation/Order Continuation Form 7000-3a termination(s) that the operator corrected the violative condition(s) or practice(s).

If the operator failed to comply before MSHA reclassified the mine as abandoned, then terminate any outstanding citations or orders and hand deliver or mail the operator the terminations. Include the following language on each Mine Citation/Order Continuation Form 7000-3a: "The basis for termination of this citation (or order) is the classification of the mine as permanently abandoned. The violative condition(s) or practice(s) was not corrected. The operator must comply with the provisions of the cited standard before resuming activities at this location or at another mine."

Operation or Equipment Moves Away from the Initial Mine Site

The inspector must make every reasonable attempt to determine if the operator complied with the cited standards.

- If the operator complied before moving, terminate all outstanding citations or orders and hand deliver or mail the operator the terminations. Include a statement on the termination(s) that the operator corrected the violative condition(s) or practice(s).
- If the operator failed to comply before moving, terminate all outstanding citations or orders and hand deliver or mail the operator all terminations. Include the following language on each Mine Citation/Order Continuation Form 7000-3a:

"The basis for termination of this citation (or order) is the moving of mining operations (or equipment). The violative condition(s) or practice(s) was not corrected prior to moving. The operator must comply with the provisions of the standard before resuming any activities at another mine. Failure to correct the cited condition(s) or practice(s) prior to resuming these activities will be considered more than ordinary negligence."

Equipment Removed from Service

"Removed from service" means the mine operator or contractor took action(s) to make equipment (e.g., front-end loader, truck) or mining units (e.g., portable crusher, screening unit) inoperable and thereby, eliminate a violation. "Removed from service" does not mean simply putting the equipment or unit to the side; the operator must render the equipment or unit so inoperable that, without corrections or repairs, it cannot restart and/or return to service.

The inspector should note on the Mine Citation/Order Continuation Form 7000-3a, the actions taken to render the equipment or unit unserviceable. The inspector should refer to any evidence supporting removing the equipment or unit from service, such as the mine operator's or agent's documentation and relevant statements.

Mine Ownership Changes with Outstanding Citations or Orders

When terminating a citation or order after ownership of a mine changes, issue the termination to the current operator at the time of termination. However, MSHA will assess any civil penalty to the mine operator that received the initial citation or order, even though the mine no longer belongs to that operator.

Note: Do not modify the outstanding citation(s) to reflect a change in mine ownership.

When an ownership change occurs after MSHA issues a citation, but before termination of that violation, and there is no justification to extend the abatement period, the inspector can issue a § 104(b) order of withdrawal to the new mine operator.

Example: On July 1, MSHA cites "Jane Doe Sand and Gravel" for an unguarded conveyor head pulley and allows one week to abate the condition. On July 7, "Tom Brown Crushing" purchases the mine and begins managing the operation. On July 10, an inspector returns to check on the outstanding guarding citation and finds that the head pulley still lacks a guard. Based on the presence or absence of mitigating circumstances, the inspector would:

 Mitigating Circumstances Present: Issue an extension to "Tom Brown Crushing" if the inspector finds and documents mitigating circumstances, such as the new mine operator was unaware of the violation. Note in Form 7000-3a's Section II – Justification for Action that "Tom Brown Crushing" purchased the operation on July 7 and is the new mine operator.

Or

• Mitigating Circumstances Absent: Issue a § 104(b) order of withdrawal to "Tom Brown Crushing" if the inspector found and documented that there were no mitigating circumstances to issue an extension (e.g., the new mine operator was aware of the violation but chose not to abate the cited condition). The § 104(b) order would be issued to "Tom Brown Crushing," noting in the Item 8 narrative that Tom Brown Crushing purchased the operation on July 7 and was the new mine operator.

Vacating Citations or Orders

Vacated citations and orders are part of the inspection record; include them with the inspection or investigation reports. If the inspector is still at the mine, do not reclaim the previous copies and mark the citation or order "Void." Instead, leave these copies with the mine operator and issue a "Vacate" action on Form 7000-3a, stating on that form the specific reason for vacating the citation or order. Forward copies of all vacated citations and orders to the District Office, separate from the inspection report. The appropriate District Manager must authorize vacating an imminent danger order prior to that action occurring.

Standard Subsections - Citations or Orders

When citing a violation, specify both the standard and the appropriate subsection.

Petitions for Modification (30 C.F.R. Part 44)

According to 30 C.F.R. § 44.4(c), "... Orders granting petitions for modification may contain special terms and conditions to assure adequate protection to miners. The modification, together with any conditions, shall have the same effect as a mandatory standard."

If an inspector finds that the operator has violated one or more of the conditions specified in a granted petition for modification, the inspector shall:

- Cite the safety standard for the granted petition for modification;
- Include the docket number of the granted petition for modification in the Item 8 narrative of the Mine Citation/Order Form;
- Note the specific condition violated in the Item 8 narrative of the Mine/Citation Order Form; and
- Notify the supervisor after citing this violation.

Depending on the circumstances present at the time of issuance, this citation may be the basis for initiating action to revoke the granted petition. However, the District must send any request to revoke a petition to MSHA Headquarters; revoking a petition is not a District-level decision.

Possible Knowing/Willful Violation Review Form (7000-20)

Inspectors must complete a Possible Knowing/Willful (PKW) Violation Review Form (MSHA Form 7000-20) for:

- § 107(a) orders with § 104(a) and § 104(d) citations;
- § 107(a) orders with § 104(d) orders;
- "S&S" § 104(d) citations and orders with an evaluation of at least "high" for negligence;
- § 104(e) orders of withdrawal with an evaluation of at least "high" for negligence;
- "S&S" § 104(g) orders of withdrawal with an evaluation of at least "high" for negligence;
- Flagrant violations; and
- Citations issued for working in violation of an order.

MSHA shall only review for possible further action a violation of a mandatory health and safety standard or order issued under the Mine Act: violations of 30 C.F.R. Parts 46, 47, 48, 49, 56, 57, 58, 62, 70, 71, 72, 75, 77, and 90 and 30 C.F.R. § 50.10.

Submit the PKW Violation Review Form (7000-20) electronically through IAS first using the following sequence:

- 1. Open the IAS home page.
- 2. Ensure the event number is correct and select the right event number.
- 3. Click the dark green FORMS tile.
- 4. Select the Possible Knowing/Willful Violation Review tab.
- 5. Follow the drop-down windows; select the correct citation/order number.
- 6. Proceed through the form, answering the guestions.

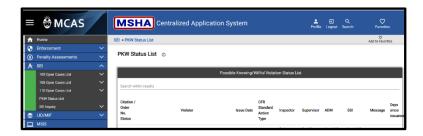
After finishing the PKW Violation Review Form in IAS, open the MSHA Centralized Application System (MCAS) and log in using the Username and Password for your computer:



After logging into MCAS, there are several drop-down menus available on the left-hand side of the screen.



Click on "SEI" (Special Enforcement Investigation), then select "PKW Status List."



On this screen, click on the "Citation/Order No. Status," which should display the citation/order in blue. Follow the instructions, answer the questions, and upload the required documentation in the drop-down windows. When finished, click the blue button to submit it to your supervisor.

Special Assessment Review (SAR) Form (7000-32)

Special assessment is the process for determining an appropriate civil penalty without using the penalty tables in 30 C.F.R. § 100.3. To determine the need for a SAR, use the following guidelines:

Mandatory Special Assessment

- Violations for which the daily penalty has been invoked under § 110(b) of the Mine Act;
- Violations cited to miners for smoking or carrying smoking materials under § 110(g) of the Mine Act;
- Flagrant violations as defined in § 110(b)(2) of the Mine Act;
- Violations involving discrimination under § 105(c) of the Mine Act; and
- Violations involving personal liability under § 110(c) of the Mine Act.

Note: District Managers may recommend other violations for special assessment.

Potential Special Assessment

MSHA must review the following types of violations for special assessment. For these violations, a special assessment is not mandatory since mitigating circumstances may exist; if MSHA finds mitigating circumstances, then the violation would not warrant a special assessment.

- Section 104(a) citations issued for violations of §§ 103(a), 103(f), 103(j), 103(k), 104(b), 104(d), 104(e), 104(g)(1), 107(a), and 110(j) of the Mine Act.
- Violations that contributed to a fatal or serious injury.
- Potentially flagrant violations.

Enforcement personnel should reference the following table to help determine whether a violation requires either a review or mandatory application of a special assessment. Completing a SAR Form (7000-32) is mandatory for each violation that is reviewed for special assessment. For more information, see Program Policy Manual Volume III, "100.5 Determination of Penalty; Special Assessment." Submit the SAR Form (7000-32) electronically in IAS using the following instructions:

- 1. Open the IAS home page.
- 2. Ensure the event number is correct and select the right event number.
- 3. Click the dark green FORMS tile.
- 4. Select the Special Assessment Review tile.
- 5. Follow the Special Assessment Review Wizard's directions.

Table: Violations Requiring Submission of an MSHA SAR Form (7000-32)

| Violation Category | Level | of Neg | ligence | | |
|--|-------|--------|----------|------|-----------------------|
| | None | Low | Moderate | High | Reckless Disregard |
| Fatality or Serious Injury | Yes | Yes | Yes | Yes | Yes |
| § 104(a) Citations issued for violations of Mine Act §§ 103(a), 103(f), 103(j), 103(k), 104(d), 104(b), 104(e), 104(g)(1), 107(a), and 110(j) | Yes | Yes | Yes | Yes | Yes |
| Flagrant Violation | N/A | N/A | N/A | Yes | Yes |
| § 110(b) Daily Penalty for failure to abate | Yes | Yes | Yes | Yes | Yes |
| § 110(g) Smoking or smoking material violations cited to miners | Yes | Yes | Yes | Yes | Yes |
| Any other violation involving circumstances warranting special assessment | Yes | Yes | Yes | Yes | Yes |

Designating a Violation as "Flagrant"

According to both § 110(b)(2) of the Mine Act and the MINER Act of 2006, a "flagrant" violation is, "a reckless or repeated failure to make reasonable efforts to eliminate a known violation of a mandatory health or safety standard that substantially and proximately caused, or reasonably could have been expected to cause, death or serious bodily injury." Violations that are deemed as "flagrant" may be assessed a civil monetary penalty.

The designation of a violation as "flagrant" is an MSHA assessment enforcement tool, and only applies to elevated enforcement actions meeting certain criteria. However, before considering whether a violation could be "flagrant," an inspector must first determine the proper level of enforcement action. The policies and procedures for deciding the appropriate enforcement action, such as issuing § 104(d)(1) citations, § 104(d)(1) orders, and § 104(d)(2) orders, are the same for all violations without regard to a 'flagrant' designation.

The District Office must evaluate for possible classification as "flagrant" any violation that meets **either** the reckless failure **or** the repeated failure screening criteria below.

Reckless Failure

Flagrant violations that arise from a mine operator's reckless failure must:

- Be significant and substantial (Form 7000-3, Item 10C);
- Be at least "Permanently Disabling" (Form 7000-3, Item 10B);
- Be an "unwarrantable failure"; and

Have a negligence level of "Reckless Disregard" (Form 7000-3, Item 11E).

Example: An inspector issued a § 104(d)(1) "S&S" citation for the mine operator's failure to install a guard on the tail pulley of a conveyor belt with miners working in the area. The inspector evaluated the probable injury or illness as "Permanently Disabling" and negligence as "Reckless Disregard" because the mine operator had been informed of the condition for several work shifts prior to receiving the citation and had instructed miners to continue operating the belt without providing a suitable guard. The inspector must complete a SAR Form (7000-32) and submit it to the District to evaluate the violation as both "flagrant" and an "unwarrantable failure."

Repeated Failure

Flagrant violations that arise from a mine operator's **repeated failure** must:

- Be significant and substantial (Form 7000-3, Item 10C);
- Be at least "Permanently Disabling" (Form 7000-3, Item 10B);
- Be an "unwarrantable failure"; and
- Consist of two prior "unwarrantable failure" S&S violations of the same safety or health standard cited within the past 15 months.

Note: The 15-month time period includes violations cited previously on the same day or during the same inspection as the flagrant violation.

To qualify as a repeated failure evaluation, previous citations or orders must be violations of the same safety or health standard that cite the same subsections, and have been either § 104(d)(1) or § 104(d)(2) enforcement actions. For example, citing §§ 56/57.14201(a) and 56/57.14201(b) would not meet the criteria for consideration as a flagrant repeated failure. However, even if there are differences in the condition or practice cited, the inspector should still submit for evaluation prior violations that cite the same subsection as the potential repeated flagrant violation. For instance, an order cites a violation of § 75.220(a)(1) because the entries were driven at widths exceeding the roof control plan minimum distance. There are two previous violations of § 75.220(a)(1) related to roof bolts not being inserted at distances specified in the roof control plan. Since all three instances involve violations of § 75.220(a)(1), the inspector should complete a SAR Form (7000-32) and submit the violation to the District for consideration as flagrant.

The following is an example of a violation required to be evaluated in the District as a possible repeated failure flagrant violation in conjunction with the unwarrantable failure violation.

Example: An inspector issued a § 104(d)(2) "S&S" order of withdrawal for a mine operator's failure to install a guard on the tail pulley of a conveyor belt with miners working in the area. The inspector evaluated the injury or illness as "permanently disabling," and the negligence as "high" because the operator had: (a) been informed

of the condition several work shifts prior to being cited; (b) instructed miners to continue operating the belt without providing a suitable guard; and (c) cautioned miners verbally to be careful in the area. The inspector determined that the operator had received three unwarrantable, S&S violations of the same subsection of the guarding standard, § 56.14107(a), within the past 15 months. The inspector must complete a SAR Form (7000-32) and submit it to the District to review the violations as both "flagrant" and an "unwarrantable failure."

"Flagrant" Violation Submission Procedures

Complete the relevant portions of a SAR Form (7000-32), select the "flagrant violation" box in section 10 of the Form, and initiate the District review procedure for every violation that meets the "reckless" and/or "repeated" flagrant screening criteria. The packet sent to the District Office must include:

- A completed PKW Violation Review Form;
- A copy of the Legal Identity Report;
- A copy of the relevant general field notes;
- A copy of the citation(s) or order(s), including associated violation notes;
- Diagrams and photographs, if available;
- Applicable portions of mine plans or records, if relevant;
- Accident investigation reports, data sheets, witness statements, prior associated citation(s) or order(s), and/or memoranda or other evidence, if relevant; and
- A copy of any modifications.

The inspector shall submit this packet to the Field Office Supervisor for review and evaluation before the Field Office sends the packet to the District Office in a timely manner or as directed by the District Manager.

If a violation meets the broader statutory definition of a "flagrant" violation, a District Manager can recommend for evaluation as "flagrant" pursuant to existing guidance, even if it does not meet the reckless or repeated failure flagrant violation screening criteria. Prior to a proposed flagrant assessment issuance, RSOL or SOL-MSH must be notified for review of the evaluation. For a more effective and efficient review, a District Manager should informally notify SOL of the violation(s) referred for evaluation.

Appendix A – Enforcement Activity Codes

| MSIS Code | Activity | Description |
|--------------|--|---|
| E01 | Regular Safety and Health Inspection | Mandatory safety and health inspection of an entire mine, surface facility, or other entity having a mine ID number. |
| E02 | Section 103(i) Spot Inspection | Mandatory spot inspection of a mine that qualifies under § 103(i) of the Act and is inspected for gases liberation, serious ignition or explosion hazards, or other especially hazardous conditions or problems. |
| E03 | Section 103(g) Written Notification Hazard Complaint Inspection | Special inspection that responds to a written notice filed pursuant to § 103(g) of the Act alleging a violation or imminent danger exists at a mine. |
| E04 | Verbal Hazard Complaint Inspection | Special inspection due to a complaint (verbal or written) alleging a violation or hazardous condition that is not a § 103(g) request or a code-a-phone complaint. |
| E05 | Section 108 Injunctive Action or Other Special Investigation Activity | Any investigative activity conducted pursuant to § 108 of the Act regarding an injunction or any other Special Investigation activity. |
| E06 | Fatal Accident Investigation | Investigation of an individual's death at a mine. |
| E07 | Non-Fatal Accident Investigation | Investigation of a serious non-fatal injury accident at a mine. |
| E08 | Non-Injury Accident Investigation | Investigation of a non-injury accident as defined in 30 C.F.R. § 50.2. |
| E09 | Mine Emergency Operations | All mine emergency response activities, and rescue and recovery operations. Includes time monitoring the mine environment during mine emergencies. Only related denial of entry issuances, §§ 103(j) or (k) orders, and related working in the face of orders should be issued against this type of activity. |
| E10 | Petition for Modification Investigation | Any investigative activity conducted pursuant to §§ 101(c) and 101(d) of the Act. |
| E11 | Section 105(c) Investigation (Discrimination) | Any investigative activity conducted pursuant to § 105(c) of the Act due to a complaint alleging discrimination. |
| E12 | Sections 110(c), 110(d) Investigation (Willful or Knowing Violations) | Any investigative activity conducted pursuant to § 110 of the Act regarding citations and orders where there is possible knowing and willful intent. |

| MSIS Code | Activity | Description |
|-----------------------|---|---|
| E13 (Coal Only) | Re-opening Inspection | A non-penalty inspection of an entire mine after having been abandoned or declared inactive. Note: This code is restricted to Coal mines. |
| E14 (MNM Only) | Compliance Assistance Visit | A visit to a new mine, a visit prior to re-opening a mine, a visit to inspect new facilities at an operating mine, or the installation of new equipment at an operating mine to point out potential violations without monetary civil penalties being proposed. Note: This code is restricted to MNM mines. |
| E15 | Compliance Follow-up | An inspection conducted to determine the abatement status of previously cited violations. |
| E16 | Spot Inspection | An inspection of a mine or part(s) of a mine to determine whether there is compliance with safety and health standards. |
| E17 | Special Emphasis Programs | Activity for a specialized purpose that may be unique for the Agency, coal mines, or MNM mines, such as the "Focus on Safe Work" outreach. Each activity may be assigned a unique identifier. |
| E18 | Shaft, Slope, or Major Construction Spot Inspection | An inspection of a shaft, slope, or major construction site to determine whether an imminent danger exists and compliance with safety and health standards, or any issued violations. |
| E19 | Electrical Technical Investigation | An investigation of all or part of a mine's electrical components and systems. Includes field changes on electrical face equipment, trolley surveys, circuit breaker studies, ground monitor checks, and other special electrical inspections or investigations. |
| E20 | Roof Control Technical Investigation | An investigation of a mine's roof conditions that may include engineering and in-depth studies of roof problems or potential problems, roof control surveys, and pull tests. |
| E21 | Ventilation Technical Investigation | An investigation of a mine's ventilation system that may include detailed engineering studies of current or potential problems, surveys, and waiver requests. |
| E22 | Health Technical Investigation | An investigation of a reported or potential problem with any toxic substance or harmful physical agent. Includes an investigation of an operator's sampling program where samples may or may not be collected, Part 90 miners and their occupations (coal only), and a free silica technical investigation dictating additional respirable dust samples for further analysis. |

| MSIS Code | Activity | Description |
|--------------|---|--|
| E23 | Impoundment Spot Inspection | An inspection of an impoundment to determine whether an imminent danger exists and compliance with approved plans and safety and health standards. |
| E24 | Other Technical Compliance Investigation | Technical investigation not described by any other code. |
| E25 | Part 50 Audit | Part 50 Audit of a mine's accident, injury, illness, and employment records. Includes all activities in pursuit of the audit. |
| E26 | Other Contacts | Includes industry assistance, technical assistance visits for plan evaluations, and other contacts not classified by the other codes. Note: Although this is a mine visit, this is not a mine |
| E27 | Attempted Inspection (Denial of Entry) | inspection or investigation. A mine visit specifically for conducting an enforcement activity, but that did not occur due to direct or indirect denial of entry. |
| E28 | Mine Idle Activity | A mine visit specifically for conducting an enforcement activity, but that did not occur because the mine was not operating. |
| E29 | Program in Accident Reduction/Compliance Analysis Program | A program aimed at injury reduction in selected mines with high accident and injury levels. Includes accident reduction surveys conducted by teams. In Coal, includes all time working in a non-AR capacity. |
| E30 | Accident Reduction Program | All field activities related to accident reduction and prevention programs, and formal walk and talk activities that are not part of any other event. |
| E31 | Training Plan Approval and Revisions (Field) | All field activities regarding the initial approval or revision of training plans. |
| E32 | On-site Training Program Evaluation (Field) | All field activities related to evaluating MSHA-approved instructors, training plans, course content, task outline, Forms 5000-23, records of certified and qualified persons, learning environment, etc., not conducted as part of another event. |
| E33 | Non-Chargeable Accident Investigation | Investigation of any death, serious non-fatal injury, or non-injury accident at a mine that is not charged to the mine, contractor, or the mining industry. |
| | | Note: If the accident is subsequently deemed chargeable, the activity may be changed to another event type. Citations or orders can be issued during an E33 event. |

| MSIS Code | Activity | Description |
|-----------------------|---|---|
| T01 | Investigative Case Review | Time spent in an MSHA office reviewing reports of investigations. |
| T02 (Coal only) | Office-Generated Violation Activity | All time associated with office-generated violations not coded under another code. |
| Т03 | Legal Hearing/Document | Time involved in legal hearings, MSHA hearings, or testifying in court. Includes the prep time for these activities unless covered by another activity code. Does not include time spent by the Conference/Litigation Representative (CLR). |
| Т04 | Safety and Health Conference | All time spent on operator or miners' representative- requested conferences related to cited violations of the Act or regulations and the subsequent assessment of civil penalties. Note: These are not inspectors' closeout conferences. |
| T05 | Contested Case Activities | All CLR activities (office, mine site, hearings, etc.) relating to Alternative Case Resolution Initiative case resolutions. |
| T06 | Plan Approvals and Reviews | Time spent in an MSHA office reviewing and approving plans. |
| Т07 | Technical Assistance to Industry/Union Personnel or Interested Parties | All time associated with providing technical assistance to company or union personnel or other interested parties. Includes groups requiring MSHA's technical expertise but that are not specifically under MSHA jurisdiction. |
| T08 | Instructor Approval | All activities, other than training instructors, required to produce approved instructors. |
| Т09 | Evaluating Cooperative Instructors | All time evaluating cooperative instructors in the office or field. |
| T10 | Qualification and Certification | All activities related to qualifying and certifying people. Includes noise, dust, methane, oxygen deficiency, impoundments, electrical, mine rescue, first aid instructors, etc. |
| T11 | Holmes Safety Association (Assistance to Chapters/Councils) | All activities of Holmes Safety Association (HSA) chapters. Includes all time spent forming and operating HSA chapters or councils, preparing for and delivering presentations at meetings, and time involving Joseph A. Holmes Awards. |
| T12 | State Grants Assistance and State Plans | Includes time spent attending State Grants meetings, as well as meetings with state and headquarters personnel regarding State Grant assistance and plans. |

| MSIS Code | Activity | Description |
|--------------|--|--|
| T13 | Training Field Activities | Includes work on non-mine-specific accident reduction and prevention programs, as well as other activities aiding the mining community that are not coded as an education and training event or not covered by another activity code. Note: These activities are at locations other than the MSHA office. |
| T14 | | All activities relating to training, demonstrations, meetings, seminars, conferences, association meetings, and informational meetings for industry (off-site meetings, excluding Holmes Safety). |
| T15 | Rescue and First Aid | All activities relating to mine rescue and first aid training, including team training, judges training, etc. Does not include mine rescue and first aid instructor training. |
| T16 | Supervisory Duties (Office) | All supervisory-related duties in an MSHA office. |
| T17 | National Committee Meetings and Assignments | Includes time spent attending national-level committee meetings and performing assignments from Headquarters, such as developing or revising standards and /or regulations. |
| T18 | Review of Documents/Laboratory Duties/Vehicle Maintenance | Time spent reviewing documents such as regulations, policy, accident investigations, conducting laboratory duties (not associated with an event), and performing vehicle maintenance. |
| T19 | Official Union Duties | Personnel participating in official union duties. |
| T20 | Staff Meetings | Personnel participating in staff or safety meetings in or outside of MSHA offices. |
| T21 | Instructing MSHA Personnel in Training Classes | Time MSHA personnel spent instructing classes, attending information meetings, seminars, etc. |
| T22 | | MSHA personnel receiving training other than mine rescue and first aid from both MSHA and outside sources. |
| T23 | Emergency Response | Includes time spent training and preparing for or participating in the national or regional contests. Also, includes time spent preparing for or participating in MERD exercises. |
| T24 | | Includes all time spent researching and responding to the request. |

| MSIS Code | Activity | Description |
|--------------|---|---|
| T25 | Medical Accommodation: On- the-Job Injury | Includes all time charged by those injured or incapacitated on the job and who are now performing meaningful work for MSHA in a capacity that meets their physician's prescribed limitations or restrictions. |
| | | Note: These assignments must be of limited duration. |
| T26 | Medical Accommodation: Personal Injury | Includes all time charged by those injured or incapacitated outside of Government time and who are now performing meaningful work for MSHA in a capacity that meets their physician's prescribed limitations or restrictions. |
| T07 | | Note: These assignments must be of limited duration. |
| T27 | Special and Miscellaneous Assignments | Temporary duties outside of regularly assigned job-related duties and any other activity not covered by other codes. |
| T28 | Annual Leave | Self-explanatory. |
| T29 | Administrative Leave | Self-explanatory. |
| T30 | Compensatory Leave | Self-explanatory. |
| T31 | Holiday | Self-explanatory. |
| T32 | LWOP | Leave Without Pay. |
| T33 | AWOL | Absent Without Leave. |
| T34 | Military Leave | Self-explanatory. |
| T35 | Sick Leave | Self-explanatory. |
| T36 | OWCP | Workers' Compensation. |
| T37 | Jury Duty | Self-explanatory. |
| T38 | Furlough (non-pay status) | Self-explanatory. |
| T39 | Suspension Without Pay | Self-explanatory. |
| T40 | Mine Emergency Unit (MEU) Training | Time spent in Mine Rescue/MERD training by the MEU members only. |

Appendix B – List of Acronyms and Abbreviations

AL: Action Level

ANSI: American National Standards Institute

AR: Authorized Representative

CAV: Compliance Assistance Visit

C.F.R.: Code of Federal Regulations

CLR: Conference/Litigation Representative

CO: Carbon Monoxide

DO: Designated Occupation

DPM: Diesel Particulate Matter

DWP: Designated Work Position

HCI: Hydrogen Chloride

HSA: Holmes Safety Association

IAS: Inspection Application System

ID: Identification

IDLH: Immediate Danger to Life or Health

MCAS: MSHA Centralized Application System

MERD: Mine Emergency Response Development

MEU: Mine Emergency Unit

Mine Act (or the Act): Federal Mine Safety and Health Act of 1977

Mine Operator: Operator

MINER Act: Mine Improvement and New Emergency Response Act of 2006

MMU: Mechanized Mining Unit

MNM: Metal and Nonmetal

MSHA: Mine Safety and Health Administration

MSIS: MSHA Standardized Information System

NDO: Non-designated Occupation

NIOSH: National Institute for Occupational Safety and Health

Non-S&S: Non-Significant and Substantial

Order: Order of Withdrawal

PEL: Permissible Exposure Limit

PH: Procedure Handbook

PKW: Possible Knowing/Willful

POV: Pattern of Violations

PPE: Personal Protective Equipment

RSOL: Regional Solicitor's Office S&S: Significant and Substantial SAR: Special Assessment Review

Secretary: Secretary of Labor

SHEIN: Standard, Hazard, Exposure, Injury, and Negligence

SOL: Office of the Solicitor

SOL-MSH: Office of the Solicitor's Division of Mine Safety and Health

TLV: Threshold Limit Value U.S.C.: United States Code