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SUBJECT: Hazardous Condition Complaints and Right to Request Inspections

Scope

Coal mine operators, metal and nonmetal mine operators, miners and miners' representatives, independent contractors, Mine Safety and Health Administration (MSHA) enforcement personnel, and other interested parties should have this information.

Purpose

This Program Information Bulletin (PIB) informs the mining community of the right to make a hazardous condition complaint under the Federal Mine Safety and Health Act of 1977 (Mine Act), and the necessary procedure and contact information.

Information

Section 103(g)(1) of the Mine Act provides that a miner or a miners' representative has the right to obtain an immediate MSHA inspection if he has reasonable grounds to believe that an imminent danger, a violation of the Mine Act, or a violation of a mandatory safety or health standard exists. Requests for an inspection under § 103(g)(1) must be given to MSHA in writing and signed by the miner or miners' representative. As soon as possible after the receipt of the complaint, MSHA will conduct a special inspection to determine if a violation or danger exists. A copy of the § 103(g)(1) complaint is provided to the mine operator either before the start or during the inspection; however, MSHA will take all reasonable steps to maintain and assure the confidentiality of the complainant. Protecting the identity of a complainant is of the utmost concern to MSHA and is a statutory requirement under in § 103(g)(1) of the Mine Act. In addition to the removal of the name of a complainant, MSHA may rewrite

the complaint to remove references to a specific work area, equipment, or work shift that would otherwise make the identity of the complainant obvious.

If MSHA conducts a special inspection under § 103(g)(1) and finds a violation or imminent danger, MSHA will issue a citation or withdrawal order, as appropriate. If MSHA determines that neither a citation nor a withdrawal order is warranted, the inspector will issue a notice of negative finding to the miner or the miners' representative and serve a copy of such finding to the operator. A miner or miners' representative to whom a notice of negative finding has been issued may request a review of such finding under MSHA regulations at 30 C.F.R. § 43.7(b)-(d).

Section 103(g)(2) of the Mine Act provides that prior to or during an inspection, a miner or a miners' representative may notify MSHA, in writing, of a violation of the Act or any imminent danger which the miner or miners' representative has reason to believe exists in the mine. If the MSHA inspector does not issue a citation or order regarding the alleged violation or imminent danger, the miner or the miners' representative may request a review of such finding under 30 C.F.R. §§ 43.7(b)-(d).

In addition to hazard complaints made under § 103(g)(1) or (g)(2), any person may notify MSHA of a potentially hazardous condition, imminent danger, violation of the Mine Act, or a violation of a mandatory safety or health standard exists either by contacting any MSHA inspector in the nearest district office, or by using the MSHA hotline, "One Call Does It All" at 1-800-746-1553, or online complaint system accessed through the [MSHA website](#). The MSHA hotline and online complaint system are available on a 24-hour basis, 7 days a week, 365 days a year. Regardless of who makes the complaint or how MSHA receives it, any complaint about a safety and health concern that is clearly within MSHA's jurisdiction will be taken seriously. If the complaint provides sufficient information to identify the location and hazard, it will be promptly investigated, and MSHA will issue a citation or a withdrawal order as appropriate.

Background

On April 21, 2010, MSHA launched inspections at 57 coal mines whose enforcement history indicated a significant number of violations related to methane accumulations, ventilation, rock dusting and mine examinations. These impact inspections followed the April 5, 2010, explosion at the Upper Big Branch Mine in Montcoal, West Virginia, and focused on mine ventilation, rock dusting, methane monitoring, and mine examinations.

On May 24, 2010, the House Education and Labor Committee conducted a hearing on the Upper Big Branch explosion. The Committee heard testimony from deceased miners' families. The testimony addressed issues regarding safety conditions in existence prior to the explosion including inadequate ventilation, intentional changes to ventilation systems, high levels of methane, excessive coal float dust, "bridging out"

methane monitors on mining equipment, advance notice of MSHA inspections, and retaliation for miners who raised safety and health issues.

This PIB re-emphasizes MSHA's intent that mine operators fully comply with the Mine Act and MSHA's regulatory requirements.

Authority

The Federal Mine Safety and Health Act of 1977, as amended, 30 U.S.C. § 801 et seq., and 30 C.F.R. Part 43.

Internet Availability

This PIB may be viewed on the Internet by accessing the [MSHA home page](#) and selecting "Compliance Assistance" and "Program Information Bulletins."

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