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PROGRAM POLICY LETTER NO. P14-V-02

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SUBJECT: Technical Citations for Safeguards

### **Scope**

This Program Policy Letter (PPL) is intended for underground coal mine operators, independent contractors, miners' representatives, Mine Safety and Health Administration (MSHA) personnel, and other interested parties.

### **Purpose**

This policy letter sets forth procedures for issuing technical citations when underground coal mine operators seek to challenge MSHA safeguard notices before the Federal Mine Safety and Health Review Commission (Commission).

### **Policy**

Under 30 C.F.R. § 75.1403-1(b), MSHA issues safeguard notices and sets a time within which the operator must provide the safeguard and thereafter maintain it. In order to discourage operators from failing to provide or maintain safeguards solely for the purpose of obtaining a citation for Commission review, MSHA is adopting technical citation procedures similar to those used in the context of roof control, ventilation, and emergency response plans.

When an operator receives a safeguard notice that it seeks to contest, the operator should request, in writing, that the District Manager issue a technical citation. The District Manager may try to informally address the operator's concerns. If the District Manager and the operator are unable to resolve the concerns, the District Manager should issue a technical citation. Normally, this would be a 104(a) citation and not involve unwarrantable failure findings, unless the circumstances justify it.

The technical citation does not relieve the operator of its obligation to provide the safeguard within the timeframe set by MSHA. It gives the operator the option of contesting the technical citation and the validity of the underlying safeguard notice before the Commission, while operating in compliance with the notice. If an operator fails to comply with the safeguard at issue while litigation is pending before the Commission, MSHA will take appropriate action.

**Background**

Under 30 C.F.R. § 75.1403 and 1403-1 through 1403-11, MSHA issues safeguard notices to minimize hazards with respect to the transportation of miners and materials in underground coal mines. Providing a “technical” citation procedure will allow operators to contest a safeguard notice before the Commission while also complying with it, improving safety for miners.

**Authority**

Section 314(b) of the Federal Mine Safety and Health Act of 1977, as amended, 30 U.S.C. § 874(b); 30 C.F.R. § 75.1403-1.

**Filing Instructions**

This program policy letter should be filed behind the tab marked "Program Policy Letters" at the back of Volume V of the Program Policy Manual.

**Internet Availability**

This program policy letter may be viewed on the [MSHA home page](#) by choosing "Compliance Info" and "Program Policy Letters."

**Issuing Offices and Contact Persons**

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