

U.S. Department of Labor

Mine Safety and Health Administration  
1100 Wilson Boulevard  
Arlington, Virginia 22209-3939



Patton Boggs, LLP  
Attorneys At Law  
2550 M Street, NW.  
Washington, DC 20037-1350

Dear

This letter responds to your February 16, 2006, appeal of the Mine Safety and Health Administration's (MSHA's) January 3, 2006, decision concerning your information quality correction request. You request that MSHA make corrections to the information used in developing MSHA's June 6, 2005 and January 19, 2001 rules, "Diesel Particulate Matter Exposure of Underground Metal and Nonmetal Miners."<sup>1</sup> Your information quality request on behalf of the Methane Awareness Resource Group (MARG) asks for expedited review and correction of information found within the Diesel Particulate Matter (DPM) rulemaking record, and has been referred to me for disposition.

Your request is based on your view that MSHA and the Department of Labor (DOL) have a responsibility under the Information Quality Act to respond substantively to the information in the MARG Petition and that the position taken by the Agency is contrary to the OMB and the DOL Guidelines on the implementation of the Act. You state that MSHA rejected MARG's petition arbitrarily and without any substantive analysis or explanation. You also state that MSHA's decision that "the information quality issues raised in [the] complaint should be handled through rulemaking procedures" is without merit. You request that MSHA make corrections to the information used in developing the DPM Rulemaking and the DPM final limit for underground metal and nonmetal mines.

The issues that you have raised in your information correction request and your appeal of MSHA's decision to handle your request through rulemaking procedures, as well as

---

<sup>1</sup> MSHA's June 6, 2005 rule, "Diesel Particulate Matter Exposure of Underground Metal and Nonmetal Miners" (70 Fed. Reg. 32868-32968) and the January 19, 2001 rule, "Diesel Particulate Matter Exposure of Underground Metal and Nonmetal Miners" (66 Fed. Reg. 5706-5755)

You can now file your MSHA forms online at [www.MSHA.gov](http://www.MSHA.gov). It's easy, it's fast, and it saves you money!

the issues from other members of the public that have submitted comments, have been placed in the rulemaking record. MSHA will respond to your comments and address the substantive information quality concerns you raised in accordance with the Information Quality Act and the Department of Labor Information Quality Guidelines in the preamble to the DPM final rule limit for underground metal and nonmetal mines. The final DPM rule will be published in May 2006. This is the Department's final decision regarding the mechanism it will use to process your information request.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert M. Friend", with a large, sweeping flourish at the end.

Robert M. Friend  
Acting Deputy Assistant Secretary  
for Mine Safety and Health