

A Guide To Miners' Rights and Responsibilities Under the Federal Mine Safety and Health Act of 1977



U.S. Department of Labor
Mine Safety and Health Administration
National Mine Health and Safety Academy

Other Training Materials
OT-2

Revised 2005



MSHA's Code-A-Phone

To report a hazardous condition at a mine to MSHA, call:

(800) 746-1553

You do not need to identify yourself!

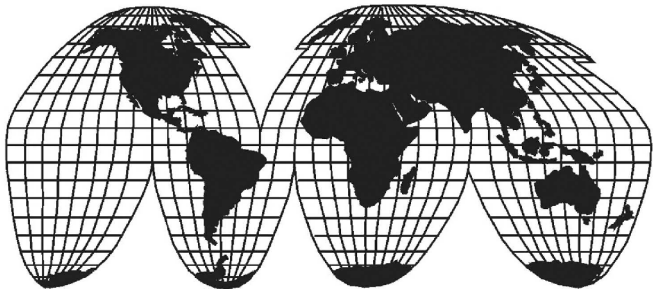
OR

You may send an anonymous e-mail by visiting the website listed below.

To help us help you, please include any or all of the following information in your phone conversation:

- Name of company
- Name of mine
- Location of mine (city/town)
- State where mine is located
- If you know the MSHA ID for the mine, please include it.

Visit our website at <http://www.msha.gov>



A Guide To Miners' Rights and Responsibilities Under the Federal Mine Safety and Health Act of 1977



U.S. Department of Labor
Elaine L. Chao
Secretary

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Introduction

The Federal Mine Safety and Health Act of 1977 (referred to in this booklet as “the Act”) gives individual *miners* the following rights:

- The right to have a representative of the miners accompany Federal inspectors during inspections at a mine.
- The right to obtain an inspection of the mine where there are reasonable grounds to believe that an imminent danger, or a violation of the Act or a safety or health standard exists.
- The right to pay during certain periods of time when a mine or part of a mine has been closed because of a withdrawal order.
- The right to be protected against discrimination based on the exercise of rights given by this Act.
- The right to receive health and safety training.
- The right to be informed of, and to participate in, enforcement and legal proceedings under the Act.

In addition, miners’ *representatives* also have specific rights under the Act to those rights given to individual miners. Also, applicants for mine work have the right not to be discriminated against in hiring because they have previously exercised rights given them by the Act.

This booklet summarizes the rights and responsibilities of miners, their representatives and applicants for mine work under the Act. This booklet must not, however, be considered an “official” statement of the law and should not be used as a source for legal interpretations of the Act. Some of the rights and responsibilities of miners described in this booklet may involve interpretations of the Act by the Mine Safety and Health Administration and could be modified by subsequent court decisions.

If you, as a miner, representative of miners, or job applicant, have general or specific questions about your rights under the Act, please

contact the nearest MSHA office. A list of district offices is at the end of this booklet.

The Act gives miners and their representatives many rights because Congress wanted to encourage them to take an active, responsible role in matters of mine safety and health. To find out about proposed and final MSHA regulations, contact your miners' representative, the nearest MSHA office, or log onto MSHA's home page at <http://www.msha.gov>. MSHA sends copies of all new regulations to all known miners' representatives. A good safety and health program depends on the active participation and interest of everyone at the worksite. If you and your fellow miners take advantage of these rights, you can help decrease workplace deaths, injuries, and illnesses.

NOTE

The regulations under the Act are found in Title 30, Code of Federal Regulations, Mineral Resources (30 CFR). The specific sections of the Act referring to the rights of miners and their representatives are headlined in this booklet.



There are time limits on many of the rights described in this guide. Those time limits *must* be met or one risks losing the rights. This symbol means that a time limit applies to a right discussed in this booklet.

Your Rights Under the Mine Act

The Act defines a “*miner*” as any person working in a mine. Therefore, all persons working in a mine are “miners,” and may exercise the rights given them by the Act. Supervisors who may not normally perform the actual physical mining activities but who work in a mine are also “miners.”

The Act gives certain rights to a “*representative of miners*.” This is a person who has been chosen by two or more miners to represent them in safety and health matters at their mine. Additionally, the Act provides that applicants for mining jobs cannot be denied a job because they have previously exercised rights given them by the Act.

Protection Against Discrimination: Section 105(c)

Section 105(c) of the Act protects you from discrimination for using any of the rights given to you by the Act.

It is not legal for you to be fired, transferred to a lower paying job, not hired, harassed, or otherwise lose job benefits for exercising your rights under the Act.

For example, you have a right to:

- File or make a complaint under the Act of an alleged danger or safety or health violation.
- Institute, testify, or assist in any proceeding conducted under the Act.
- A medical evaluation leading to a possible transfer to another job location.
- Be withdrawn from the mine for not having received required safety and health training.

Congress wanted the Act to be broadly interpreted and clearly meant to protect you from discrimination if you in good faith refuse to work in conditions you reasonably believe to be unsafe or unhealthy. Congress also intended for the Act to protect miners who refused to comply when their employers ordered them to violate a health or safety standard.

A discrimination complaint filed by you, or your representative on your behalf or on behalf of others, or a job applicant, should be promptly filed with us. We may not be able to pursue a claim unless it is filed *within 60 days* of the act of discrimination, unless you, your representative, or the applicant can show a good reason why it should be considered.



Be sure the complaint includes relevant details such as names, dates, places, times, events, etc. - of the discrimination.

The staff at our local district or field offices can assist you, answer your questions, and provide the form needed to file a complaint.

You may be eligible for temporary reinstatement if you file a claim because you have been discharged for engaging in actions protected under the Act.

Here's how this works. We examine your complaint to make sure of its potential merit. If we find your claim is not frivolous, our attorney may ask the Federal Mine Safety and Health Review Commission (Commission) to order your temporary reinstatement or, if necessary, your temporary reassignment to a comparable job at your regular pay until a final decision is reached on your complaint.

If we investigate your complaint, and we find you have been discriminated against, our attorneys may file a complaint on your behalf with the Commission asking them to order appropriate action. Depending on the facts of your case, we might request your

reinstatement to your old job, back pay, restoration of seniority rights, transfer, and/or any other steps needed to correct the discrimination.

If we investigate your complaint and we determine that you have *not* been discriminated against, we will notify you of our decision.



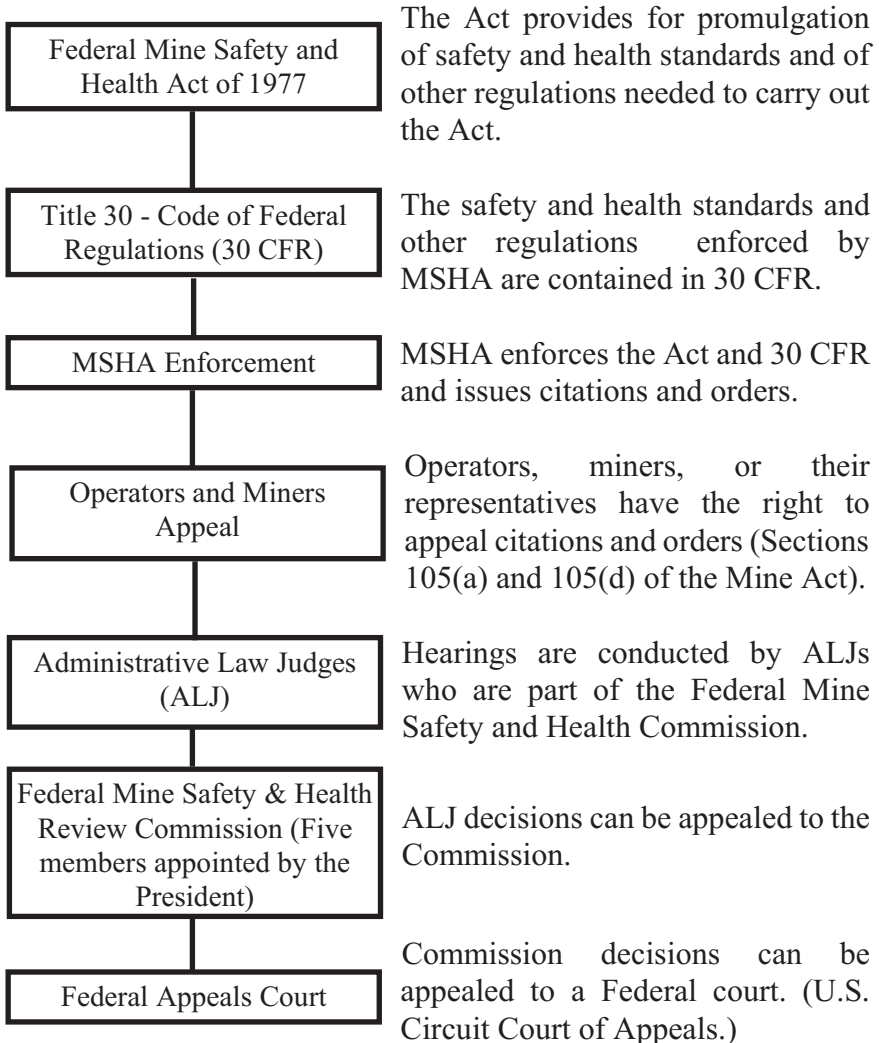
You may pursue your complaint without our help by filing the complaint with the Commission *within 30 days* of our notifying you that we found no discrimination.

If the Commission agrees with you, they may order the person(s) discriminating against you to pay all your reasonable costs and expenses (including attorney's fees).

If you think you have been discriminated against because of your race, religion, sex, national origin, age, or some other reason not covered by the Act, you should contact the appropriate Federal or state agency to seek assistance.

Enforcement of the Act

The diagram illustrates how the Federal Mine Safety and Health Act of 1977 is enforced. The diagram depicts MSHA enforcement of both the provisions of the Act and of Title 30, Code of Federal Regulations. It also shows that miners and their representatives may appeal citations and orders issued by MSHA inspectors.



Participating in Inspections: Section 103(f)

Your miners' representative plays an important part in our inspection work. Section 103(f) of the Act gives your representative an opportunity to participate in Federal mine inspections and in conferences before and after the inspections occur.

Congress put this into the Act because they felt that you, with your knowledge of the work site, could provide our inspectors with a great deal of useful information. They also felt that if you watched what happened during an inspection you would better understand how the Act's safety and health requirements work.

Your representative or you have the right to accompany our inspectors during their activities that involve enforcement of health and safety standards. Your representative participates in our inspection without loss of pay.

We recommend that every shift have a miners' representative available. Our inspector may not be able to wait while a miners' representative is called back to the mine.

If there is no representative at your mine, you may select one to travel with our inspector during an inspection. Should you decide not to select a representative (or if a representative is not available), our inspector will consult with a reasonable number of miners about health and safety matters at your mine.

The law does not provide for pay when you or your representative participate in technical consultations, equipment demonstrations, off-mine property meetings, and discussion of research. The right of participation generally does not include our investigation of alleged discrimination or possible civil or criminal violations of the Act.

Multiple Representatives

In certain circumstances there can be more than one miners' representative at your mine. If our inspector decides that more people familiar with the mine or with a specific problem area at the mine need to participate in the inspection, then our inspector may allow the operator and the miners to have an equal number of additional representatives. Only *one* representative of miners who is employed by the operator is paid for accompanying the inspector.

Where two or more of our inspectors are at the mine at the same time, and do *not* travel together, a representative may travel with each inspector or separate group of inspectors. Under these circumstances, each representative participates in the inspection without loss of pay. However, where two or more of our inspectors are *together* conducting an inspection in the same section or area of the mine, only one representative accompanies our inspectors without loss of pay.

When multiple operators are present at the mine and the work or activities of one operator may affect the safety and health of the other operator(s) miners, representatives of more than one operator have the right to accompany an MSHA inspector under Section 103(f). One representative of miners of each operator is entitled to compensation for the time spent accompanying the MSHA inspector during the inspection.

Reporting Possible Violations and Imminent Dangers/Requests for Inspections: Section 103(g)

It is important to remember that there is a difference between a general notice to us (which may be written or given orally) and a notification made under Section 103(g) of the Act which must be in writing and which requires some definite response from us.

You may tell us at any time about a violation of the Act, violation of health and safety standards, or the existence of an imminent danger.

You can do this by word of mouth or by calling or writing any of our inspectors or offices. A general notice to us may be written or given orally.

If circumstances warrant, we inspect the mine to see if the violation or danger actually exists.

If you or your representative asks for an inspection or notifies our inspector in writing about a violation or imminent danger, you receive a written notice from us if we decide not to conduct a requested inspection or if we find that no violation or imminent danger exists.

In some cases, you or your representative have a right to an informal review of our decision.

A 103(g) “Request for Inspection” to us must be in writing, and we must give you a written response.

We inspect the mine as soon as possible to see if the violation or imminent danger exists when we receive a “Request for Inspection” (unless we can see from the facts stated in the notice that the condition described is not a violation or imminent danger).

If a “Request for Inspection” says that a violation of the Act or a health or safety standard exists, we give a copy of the written request to the mine operator either before we start or during our inspection. If the request says an imminent danger exists, we immediately tell the operator about the imminent danger. We do not include your name or the name of your representative on the “Request for Inspection” we give to the operator.

We issue a citation if we find a violation, or a withdrawal order if we find an imminent danger exists.

We send a written determination to you or your representative if you request a 103(g) inspection and we decide not to conduct one, or if we find that no violation or imminent danger exists.

Notifying Our Inspector Before an Inspection

Before we start an inspection, you or your representative may tell our inspector, on the mine property, *in writing*, of any violation or imminent danger that the representative or you have reason to believe exists.

Our inspector will issue a citation or withdrawal order if we find a violation or imminent danger exists.



If you told us in writing, and our inspector found there was no violation or imminent danger, you or your representative may ask our District Manager to informally review our inspector's decision. You have *10 days* to give this request to our District Manager.

You may also request a meeting with our District Manager to discuss your concerns.

The District Manager will make a final decision based on our inspector's findings and your views, and give you a written statement with the reasons for the final decision.

Pay for Miners Idled By a Withdrawal Order: Section 111

You are entitled to pay if you are idled because of a withdrawal order issued under Section 111.

- If you are working on the shift when the withdrawal order is issued, and you are idled by the withdrawal order, you get full regular pay for the time lost; *but only* for the balance of the shift.

- If the order is not terminated before the next shift, all the miners on the next shift are paid at their regular rate for the time they are idled, up to four hours.
- If you are withdrawn from the mine or part of the mine and idled because the operator does not comply with any safety or health standard, you are paid for lost time at your regular rate for the time you are idled, or for one week, whichever is the lesser.
- If the operator fails to comply with a withdrawal order issued under the Act and keeps you working in the area to which the order applies, you receive double pay for the time you worked while the withdrawal order was in effect. *If you are a miner working to correct the condition that resulted in the withdrawal order, then you are not working in violation of the order and are not entitled to double pay.*



You may file a complaint with the Commission if you or your representative believe you are entitled to compensation but have not received it. This complaint must be filed *within 90 days* after the idle period began.

The Commission's procedural rules can be found at 29 CFR Part 2700 or at <http://www.fmshrc.gov>. Your MSHA District Office can inform you of other possible remedies to recover compensation to which you may be intitled.

Possible Imminent Dangers and Lack of Technology: Section 107(b)



Sometimes we find that a mine or an area of a mine has dangerous conditions which cannot be corrected using existing technology. If there is no reason to believe that an imminent danger exists, we issue a notice to the operator describing the area where these conditions are. Your representative also gets a copy of this notice.

We may investigate the matter in greater detail. Your representative may present information to us about the notice during this investigation. We will also hold a public hearing about the situation if someone asks us to do so. After the investigation and public hearing we either cancel the notice or issue an order withdrawing the miners (except those who are working to correct the condition or causes described in the order) from the area of the mine closed by the order.

You cannot reenter the area once you have been withdrawn until after a public hearing has been held at which all interested persons have a chance to present their views and we determine that the hazardous conditions no longer exist.

Contesting Enforcement Actions



Under 30 CFR 100.6, you or a miners' representative have a right to a copy of citations and orders that we issue, and the right to ask for a conference about them.

Upon notice by MSHA, all parties have 10 days to submit additional information or request a safety and health conference with the District Manager or designee. You or a miners' representative may also be present at a health and safety conference to review the citations and orders, and to submit additional information.

You or your representative have a right to a copy of a proposed assessment. This is explained in Sections 105(d) and 105(b)(1)(A) of the Act and in 30 CFR 100.7.

You or your representative have the right to contest the issuance, modification, or termination of any order issued under Section 104 of the Act. You may also contest the reasonableness of the time fixed for abatement.



You or your representative have 30 days to notify us if you want to challenge the order, action, abatement time, etc. This is covered in Sections 105(a), 105(b)(1)(A), and 105(d) of the Act.

You or your representative may file a copy of this notice with the Federal Mine Safety and Health Review Commission. The Commission's address is at the end of this booklet.

As affected parties you or your representative have the right to participate in Commission hearings held under Section 104.

This is called a “notice of contest.” It should state: you and your representative’s position on each item being challenged; and the action (“relief”) you want MSHA to take.

Review of Imminent Danger Orders: Section 107(e)



Your representative, after being told that an imminent danger order has been issued, modified, or terminated has *30 days* after the date of notification to ask the Commission to reinstate, modify, or vacate the order. The Commission provides an opportunity for a hearing and issues a decision to vacate, terminate, affirm, or modify the order.

Commission Review of ALJ Decisions: Section 113(d)

Section 113(d) of the Act explains this. Administrative Law Judges (ALJs) work for the Federal Mine Safety and Health Review Commission. You or your representative can ask the Commission to review an ALJ's decision that adversely affects you. The Commission's address is at the end of this booklet.



If you decide to do this, you need to file a request (in the form of a petition) with the Commission *within 30 days* after the ALJ's decision was issued. The Commission will decide whether or not to review the decision. If the

Commission decides not to conduct a review, the ALJ's decision becomes final *40 days* after it is issued.

Judicial Review of Commission Decisions: Section 106(a)

You or your representative can ask for a judicial review of a Commission decision that adversely affects you in a case to which you were a party.



If you decide to do this, you need to file a written petition for review with the proper circuit court *within 30 days* after the Commission's decision, requesting that the decision be modified or set aside. The review occurs

either in the U.S. Circuit Court of Appeals for the circuit where the violation of the Act is alleged to have occurred, or in the U.S. Circuit Court of Appeals for the District of Columbia.

IMPORTANT - PLEASE READ THE FOLLOWING

The provisions in 30 CFR Part 46 apply to you if you work at a sand, gravel, surface stone, surface clay, surface limestone, colloidal phosphate, or shell dredging operation. You are also included under the provisions of Part 46 if you work at a surface marble, granite, sandstone, slate, shale, traprock, kaolin, cement, feldspar, and lime operation. Please turn to page 28 in this booklet for additional information about Part 46.

Your Part 48 Training Rights

You must receive safety and health training under applicable programs of a training plan developed by operators and approved by us. These requirements are covered in detail in Part 48 of 30 CFR.

Training During Working Hours

Training must take place during your normal working hours.

Pay While Receiving Training

When you receive training, you must be paid at the same rate of pay as if you were performing your usual job at that time. If the required training is given at a place other than your normal workplace, you must be compensated for the additional costs associated with your training. Examples of these costs include mileage, meals, and lodging.

Training Records

The operator must provide you with a copy of your training certificate when you complete each training program.

For example, if you take and complete new miner training, you receive a copy of the training certificate. If you are later assigned to a new task and take required new task training, you receive a copy of the training certificate for that program. Also, if you leave the operator's employ, you receive copies of your training certificates for all of the health and safety training you have completed within the previous two years.

Copies of all training certificates are kept on file at the mine site and you or your representative may look at them. Copies of training certificates for currently employed miners are kept on file for two years, or for 60 days after a miner leaves the operator's employ.

Lack of Training - No Discrimination/Right to Pay

You cannot be fired, discriminated against, or suffer loss of pay if you are withdrawn from a mine for not having the necessary safety and health training. You are paid for as long as it takes for you to receive the training you need and until you return to your regular job.

Part 48 Training Plans

Each mine must have an MSHA-approved training plan that addresses new miner training, experienced miner training, training miners for new tasks, annual refresher training, and hazard training. You may inspect a copy of the approved plan.

The operator must give your representative a copy of the training plan at least two weeks before it is sent to our District Manager for approval. If there is no representative at your mine, the operator posts a copy of the plan on the mine bulletin board or gives each miner a copy of the plan at least two weeks before it is sent to our District Manager for approval.

You or your representative may submit written comments on the plan to the operator who forwards them to our District Manager. You or

your representative may also submit comments directly to our District Manager.

The District Manager then evaluates and approves the plan or suggests changes to the plan before it is approved.

Part 48 Training for New Underground Miners

You are a new miner if you are not an experienced underground miner (see below).

If you are a new underground miner, you receive no less than 40 hours of training before you start work. Your training must be given in conditions duplicating actual underground conditions (as much as practicable). About 8 hours of your training must take place at the mine site, and you must complete all of your training before you start work.

Your underground new miner training includes:

- Instruction in the statutory rights of miners and their representatives under the Act
- Self-rescue and respiratory devices - you have to receive this training *before* you go underground
- Entering and leaving the mine; transportation; communications
- Introduction to the work environment
- Mine map; escapeways; emergency evacuation; barricading
- Roof or ground control and ventilation plans
- Health
- Cleanup; rock dusting
- Hazard recognition
- Electrical hazards

- First aid
- Mine gases
- Health and safety aspects of the tasks to which you will be assigned
- Other mine-specific training courses as required by our District Manager

Part 48 Training for Experienced Underground Miners

You are an experienced underground miner if:

- You have completed MSHA-approved new miner training for underground miners or received training acceptable to us from a state agency, and if you have at least 12 months of underground mining experience,
- You are a supervisor certified under an MSHA-approved state certification program and were employed as a supervisor on *October 6, 1998*, or
- You were an experienced underground miner on *February 3, 1999*.

You need to complete training before you start work if you are an experienced miner who is:

- Newly employed by the operator,
- Transferred to the mine,
- An experienced underground miner transferred from surface to underground, or
- Returning to the mine after being away for more than 12 months.

You must receive at least 8 hours of training if you are an experienced miner who has been away from mining for 5 years or more.

Your training covers:

- Introduction to the work environment
- Mandatory health and safety standards (including the standards that apply to your specific job)
- Authority and responsibility of supervisors and miners' representatives
- Entering and leaving the mine; transportation; communications
- Mine map; escapeways; emergency evacuation; barricading
- Roof or ground control and ventilation plans
- Hazard recognition
- Prevention of accidents
- Emergency medical procedures
- Health
- Health and safety aspects of the tasks to which you will be assigned
- Self-rescue and respiratory devices
- Other mine-specific training courses as required by our District Manager

You must receive training on major changes that could adversely affect your health and safety at the mine if you have been away from the mine for 12 months or less and return to work at the *same* mine.

Part 48 New Task Training for Underground Miners

You may be assigned a new job as a mobile equipment operator, drilling machine operator, haulage and conveyor systems operator, roof and ground control machine operator, or assigned to work in blasting operations. If you are, you must receive training before you

start work. Until you complete your training, you are not to perform work on the jobs listed above.

Your training covers:

- Health and safety aspects and safe operating procedures for work tasks, equipment, or machinery
- Supervised practice of the new task during non-production, or closely supervised operation during production
- Safe work practices if you will be working with new or modified machines or equipment at the mine which require new or different operating procedures
- Other mine-specific training courses as required by our District Manager

If you are assigned a new task other than the ones listed above, you receive instruction in safety and health aspects and safe work procedures relating to the new task before you perform the new task.

You do not have to receive this training if you have already been trained and have demonstrated that you have followed safe work procedures for the new work task within the 12 months before your new assignment. Also, you do not have to receive this training if you have performed the new task and you have demonstrated safe work procedures for the new work tasks within the 12 months before your new assignment.

Part 48 Refresher Training for Underground Miners

Underground miners must receive a minimum of 8 hours refresher training each year on these subjects:

- Mandatory health and safety standards related to your tasks
- Transportation controls and communications systems

- Barricading
- Roof or ground control and ventilation plans
- First aid
- Electrical hazards
- Prevention of accidents
- Self-rescue and respiratory devices
- Explosives
- Mine gases
- Health
- Other mine-specific training courses as required by our District Manager

These sessions last at least 30 minutes, and you are told that the session is part of your annual refresher training.

Part 48 Hazard Training at Underground Mines

You must receive hazard training *before* you start work *and* at least once every 12 months if you work at an underground mine, in a job such as a delivery person, office worker, scientific worker, or occasional short-term maintenance or service workers contracted by the operator. You must also receive hazard training if you are a student working on an academic project that requires you to be at the mine for extended periods of time. If you are subject to hazard training, you are accompanied by an experienced miner at all times while underground.

Hazard training covers:

- Hazard recognition and avoidance
- Emergency and evacuation procedures

- Health and safety standards; safety rules and safe working procedures
- Use of self-rescue and respiratory devices
- Other mine-specific training courses as required by the District Manager

Part 48 Training for New Surface Miners

You are a new miner if you are not an experienced surface miner (see below).

If you are a new surface miner, you must receive no less than 24 hours of training.

Your training includes these subjects - where they apply to your mine:

- Instruction in statutory rights of miners and their representatives under the Act
- Self-rescue and respiratory devices (if used at your mine)
- Transportation controls and communication systems
- Introduction to the work environment
- Escape and emergency evacuation plans; firewarning and firefighting
- Ground control; working in areas of highwalls, water hazards, pits and spoil banks; illumination and night work
- Health
- Hazard recognition
- Electrical hazards
- First aid
- Explosives

- Health and safety aspects of the tasks to which you will be assigned
- Other mine-specific training courses as required by our District Manager

Ideally, your training at a surface mine is to be done before you start work. However, if you receive 8 hours of training in:

- Introduction to the work environment,
- Hazard recognition, and
- Health and safety aspects of the tasks to which you will be assigned, you may begin work.

You must receive the remaining 16 hours of training within 60 days of starting work.

Part 48 Training for Experienced Surface Miners

You are an experienced surface miner if:

- You have completed MSHA-approved new miner training for surface miners or have received training acceptable to us from a state agency, and if you have at least 12 months of surface mining experience, or
- You are a supervisor certified under an MSHA-approved state certification program and were employed as a surface supervisor on *October 6, 1998*, or
- You were an experienced surface miner on *February 3, 1999*.

You must complete training before starting to work if you are an experienced miner who is:

- Newly employed by the operator,
- Transferred to the mine,
- An experienced surface miner transferred from underground to surface, or
- Returning to the mine after being away for more than 12 months.

You must receive at least 8 hours of training if you are an experienced miner who has been away from mining for 5 years or more.

Your training includes:

- Introduction to the work environment
- Mandatory health and safety standards (including the standards that apply to your specific job)
- Authority and responsibility of supervisors and miners' representatives
- Transportation controls and communication systems
- Escape and emergency evacuation plans; firewarning and firefighting
- Ground controls; working in areas of highwalls, water hazards, pits, and spoil banks; illumination and night work
- Hazard recognition
- Prevention of accidents
- Emergency medical procedures
- Health
- Health and safety aspects of the tasks to which you will be assigned

- Other mine-specific training courses as required by our District Manager

If you have been away from the mine for 12 months or less and return to work at the *same* mine, you must be trained on major changes that could adversely affect your health and safety.

Part 48 New Task Training for Surface Miners

You may be assigned a new job as a mobile equipment operator, drilling machine operator, haulage and conveyor systems operator, ground control machine operator, or assigned to work in blasting operations. If you are, you must be trained before you start work. You will not operate the equipment or machines or engage in blasting operations without direct and immediate supervision until you demonstrate to the operator (or their agent) that you know and can apply safe work procedures relating to the equipment, machines, or blasting operations.

Your training must cover:

- Health and safety aspects and safe operating procedures for work tasks, equipment, or machinery
- Supervised practice of the new task during non-production, or closely supervised operation during production
- Safe work practices if you will be working with new or modified machines or equipment at the mine which require new or different operating procedures
- Other mine-specific training courses as required by our District Manager

If you are assigned a new task other than the ones listed above, you must receive instruction in safety and health aspects and safe work procedures relating to the new task before you perform the new task.

You do not have to receive this training if you have already been trained and have demonstrated that you have followed safe work procedures for the new work task within the 12 months before your new assignment. Also, you do not have to receive this training if you have performed the new task and demonstrated safe work procedures for the new work tasks within the 12 months before your new assignment.

Part 48 Refresher Training for Surface Miners

Surface miners must receive a minimum of 8 hours of refresher training each year on these subjects:

- Mandatory health and safety standards related to your tasks
- Transportation controls and communications systems
- Escape and emergency evacuation plans; firewarning and firefighting
- Ground control; working in areas of highwalls, water hazards, pits, and spoil banks; illumination and night work
- First aid
- Electrical hazards
- Prevention of accidents
- Health
- Explosives
- Self-rescue and respiratory devices (if used at your mine)
- Other mine-specific training courses as required by our District Manager

These sessions must last at least 30 minutes, and you must be told that the session is part of your annual refresher training.

Part 48 Hazard Training at Surface Mines

You must receive hazard training before you start work *and* at least once every 12 months if you work at a surface mine in a job such as a delivery person, office worker, scientific worker, or occasional short-term maintenance or service workers contracted by the operator. You also get hazard training if you are a student working on an academic project that requires you to be at the mine for extended periods of time.

Hazard training covers:

- Hazard recognition and avoidance
- Emergency and evacuation procedures
- Health and safety standards; safety rules and safe working procedures
- Self-rescue and respiratory devices
- Other mine-specific training courses as required by our District Manager

Your Part 46 Training Rights

The provisions in 30 CFR Part 46 apply to you if you work at a sand, gravel, surface stone, surface clay, surface limestone, colloidal phosphate, or shell dredging operation. You are also included under the provisions of Part 46 if you work at a surface marble, granite, sandstone, slate, shale, traprock, kaolin, cement, feldspar, and lime operation.

Part 46 makes a distinction between the *miners* who are required to receive comprehensive miner training, and other workers at the mine site required to receive site-specific hazard awareness training.

You are considered a *miner* under Part 46 if you work at a mine site and engage in *mining* operations.

You are considered a *miner* under Part 46 if you work for an independent contractor and you engage in *mining* operations.

You are also a miner if you are a construction worker who is exposed to hazards of mining operations for frequent or extended periods.

Training During Working Hours

All Part 46 training must take place during your normal working hours.

Pay While Receiving Training

When you receive training you must be paid at the same rate of pay as if you were performing your usual job at that time. If the required training occurs at a place other than your normal workplace, you must be compensated for the additional costs associated with your training. Examples of these costs include mileage, meals, and lodging.

Part 46 Training Records

The operator must provide you with a copy of your training certificates when you complete each training program. For example, the operator must provide you with a training certificate at the completion of the full 24 hours of new miner training; at the completion of the full 8 hours of annual refresher training; and at the completion of newly-hired experienced miner training and site-specific hazard awareness training. The operator must also provide you with a training certificate at least once every 12 months for new task training, or upon request.

The operator is also required to make a record of your training at specific intervals during new miner and newly-hired experienced miner training; after each session of annual refresher training; and at the completion of training for each new task. This record is not a certification.

Operators are required to maintain training records and certificates for inspection by MSHA and examination by you and your representative.

You may request copies of your training records and certificates when you leave the employ of the operator. The operator is also required to maintain your training records and certificates for 60 days after your employment with the operator ends.

Lack of Training - No Discrimination/Right to Pay

You cannot be fired, discriminated against, or suffer loss of pay if you are withdrawn from a mine for not having the necessary safety and health training. You are paid for as long as it takes for you to receive the training you need and until you return to your regular job.

Part 46 Training Plans

The operator is required to develop an approved training plan containing effective programs covering new miner training, newly-hired experienced miner training, training for new tasks, annual refresher training, and site-specific hazard awareness training. You may inspect this plan.

We approve training plans under Part 46 in two ways

- A training plan is considered approved by us if it meets the minimum requirements listed in 30 CFR 46.3(b).
- Training plans not meeting the minimum requirements of 30 CFR 46.3(b) must be submitted to us for review and approval.

The operator has the option to ask us to examine and approve their Part 46 training plan. The operator must tell you when a plan is being submitted to us for approval. You or your representative may also request that we examine and approve the Part 46 training plan for your mine.

Part 46 training plans are submitted to our Regional Manager, Educational Field Services Division (Regional Manager) for review and approval. The addresses for our Regional Managers are at the end of this booklet.

Depending on which process for plan approval is followed, your representative must receive a copy of the plan from the operator at least two weeks before training starts, or at least two weeks before the plan is sent to our Regional Manager for approval.

If there is no representative at your mine, the operator must post the plan or give you a copy at least two weeks before training starts, or at least two weeks before the plan is sent to our Regional Manager for approval.

Training Plans Sent to Our Regional Manager

When a plan is submitted to our Regional Manager for approval (or a request for plan approval is made by you or your representative), we will notify you, your representative, and the operator of our decision (or the status of our review) in writing within 30 days from the time we receive it.

You or your representative may give written comments about the plan to the operator or our Regional Manager (where applicable) *within two weeks* after the plan is received or posted.

If you request a review and approval of the plan by the MSHA Regional Manager, you must notify the production operator or independent contractor of such request.



We notify you, your representative, and the operator in writing of the approval, or status of approval of the training plan *within 30 days* after we receive it for approval or within 30 days of the date we receive the request from you or your representative that we approve the plan.

Once our Regional Manager makes a decision to approve a training plan, the *operator must* give your representative a copy within one week. If there is no representative at your mine, the operator must post the plan or give you a copy within one week.

Training plan decisions by our Regional Manager can be appealed in writing *within 30 days* of the decision to the:

U.S. Department of Labor
Mine Safety and Health Administration
Director for Educational Policy and Development
1100 Wilson Blvd.
Arlington, VA 22209

The Director must issue a written decision on the appeal within 30 days after it is received.

Your Health Protection Rights

Exposure to Toxic Materials or Harmful Agents

The Mine Act tells us to issue safety or health standards that address problems such as mine dusts and gases, noise, heat, and radiation.

Some of these standards may require us to make medical examinations available to you if you have been exposed to these hazards.

These examinations are provided to you by the operator free-of-charge.

Toxic Substances and Hazardous Physical Agents and Equipment Studies: Section 501(a)(11)

Your representative may ask us or the Department of Health and Human Services to make studies or to conduct research, experiments, and demonstrations to see if any substance found in your mine is toxic in its usual concentration, or if any physical agents or equipment found or used at the mine is hazardous.

We share the results of any of these activities with you and the operator as soon as possible.

Chest X-Rays for Underground Coal Miners: Sections 203(a) and (c)

Operators must cooperate with us and the Department of Health and Human Services in making x-ray examinations available to you. These x-rays and tests are free-of-charge to you.

You have the opportunity for a chest x-ray when you *start work* in an underground coal mine for the first time, and again three years later if you are still working as an underground coal miner.

If your second x-ray shows evidence of the development of black lung, you receive an additional x-ray two years later, if you are *still working* as an underground coal miner.

You have an opportunity for a chest x-ray *at least once every five years, or earlier* if required by the Secretary of Health and Human Services.

We give you the results of your examination and tests. You may ask that the results of the reading of your x-ray be sent to your doctor.

We advise you (where appropriate) of your transfer rights under the Act.

Underground Coal Miners - Black Lung Transfer Rights: Section 203(b)

If, while working at an underground coal mine, we find that you have black lung, you will be notified that you have the opportunity to transfer from your present job to another job in any area of your coal mine that has a concentration of respirable dust of less than 1.0 milligrams per cubic meter of air.

Your rate of pay cannot be cut if you transfer.

Protection Against Discrimination

You cannot be fired or discriminated against if you are partly disabled from black lung and keep working.



If you are fired or discriminated against because of your condition, you or your representative may apply to us or the Department of Labor's Employment Standards Administration *within 90 days* for a review of your situation. Be sure to send a copy of your application to the person alleged to have committed the act of discrimination.

Black Lung Benefits

You are entitled to compensation and medical benefits if you are a coal miner who is totally disabled by black lung disease due to your coal mine employment.

We do not handle black lung benefits.

For information on black lung benefits, contact the:

U.S. Department of Labor
Employment Standards Administration
Division of Coal Mine Worker's Compensation
Washington, DC 20210
Telephone: (202) 693-0046

Your Rights Relating to New and Revised Standards

Copies of Proposed Standards or Regulations: Section 101(e)

We publish all of our proposed standards and regulations in the *Federal Register* and send copies of them to your representative and the operator. The operator must post copies of our proposed standards and regulations on your mine's bulletin board.

Comments, Objections, and Requests for Hearings

You and your representative may comment on or object to a proposed standard or regulation.

You and your representative may also notify our contact person listed in the proposed standard or regulation to request a hearing to state your views.

Challenging Standards: Section 101(d)

You or your representative may file a petition to challenge a new standard *prior to the 60th day* after the standard is published in final form in the *Federal Register* if you believe you are adversely affected by it. You may file a petition with the U.S. Circuit Court of Appeals for the circuit where you or your representative live, or with the U.S. Circuit Court of Appeals for the District of Columbia. The court will not, *except* "for good cause," consider your objection to the standard unless your objection was mentioned to us during the proposal period.

Modification of Safety Standards: Section 101(c)

Your representative can ask us to modify how we apply a safety standard if the proposed alternative guarantees *at least* the same measure of protection afforded by the standard, *or* if enforcing the standard itself will cause safety to be reduced at your mine.

We will let your representative know if we receive a petition for modification from the operator or anyone else at your mine. Your representative can present their views on the proposed modification in writing or can request a hearing before a Department of Labor Administrative Law Judge (ALJ) to discuss the proposed modification. ALJ decisions can be appealed to the Assistant Secretary for Mine Safety and Health.

Your representative gets a copy of our final decision on the modification.

Your Rights to Information

General Access: Sections 103(c) and (h)

You or your representative can get copies of most records, information, reports, findings, citations, notices, orders, and decisions that the Act calls for from us or the Secretary of Health and Human Services.

If you are a miner or a former miner, the operator can provide you with copies of your records of exposure to potentially toxic materials and harmful physical agents.

Monitoring and Recording of Exposure to Toxic Materials or Harmful Physical Agents: Section 103(c)

You and your representative may watch the operator's monitoring or measuring of your exposure to potentially toxic materials or harmful physical agents.

You have access to your exposure records (even if you are a former miner).

In case of overexposure, the operator tells you about it and what is being done to correct the situation.

Operator's Records of Accidents and Accident Investigations: Section 103(d)

We require operators to investigate all accidents to find the cause of any accident, and devise a way to make sure it does not happen again. Operator's accident records and reports are open for investigation by "interested parties" which includes you and your representative.

Notice of Proposed Civil Penalty: Section 105(a)

We send the operator and your representative notices of a proposed civil penalty for a safety or health violation cited by our inspector.

Notice of Proposed Civil Penalty for Failure to Correct Violations: Section 105(b)

We tell the operator and send your representative a copy of any notice of a proposed civil penalty under Section 110(b) for failure to correct a violation within the time period permitted for its correction.

Posting Documents: Section 109

We deliver to your mine office any order, citation, notice, or decision required by the Act, and the operator or their agent must immediately post copies of these on the bulletin board at your mine. We also mail or deliver copies of these materials to your representative.

Underground Coal Mines - Roof Control Plans: Section 302(a)

You or your representative may inspect a copy of the approved roof control plan of the underground coal mine where you work.

Underground Coal Mines - Roof Control Plans: §75.220(e)

The approved roof control plan and any revisions shall be available to the miners and representative of miners at the mine.

Underground Coal Mines - Roof Control Plans - Instructions: §75.220(d)

Before implementing an approved revision to a roof control plan, all persons who are affected by the revision shall be instructed in its provisions.

Underground Coal Mines - Mine Maps Showing Roof Falls: §75.223(c)

The mine map on which roof falls are plotted shall be available at the mine for inspection by the representative of the miners.

Underground Coal Mines - Approval Criteria - Longwall Mining Systems - Ground Failure: §75.222(g)(2)

Where a ground failure prevents travel out of the section through the tailgate side of a longwall section, miners should be notified that the tailgate is blocked, reinstructed on escape procedures in the event of an emergency, and reinstructed in the availability and use of self-contained self-rescuers.

Underground Coal Mines - Records of Examinations and Reports: Sections 303(d), (f), (g), and (w)

You and your representative may look at the recorded results of examinations, tests, and reports made in underground coal mines. These include:

- Pre-shift examinations
- Weekly examinations for hazardous conditions
- Weekly ventilation examinations
- Daily reports of mine foremen and assistant mine foremen

Underground Coal Mines - Records of Electrical Examinations and Maps of Stationary Electrical Installations: Sections 305(e) and (g)

You may inspect records of electrical equipment examinations made at your mine and maps showing the locations of all stationary electrical installations and other required information.

Underground Coal Mines - Mine Maps: Section 312(b)

You or your representative may inspect the maps of the underground coal mine where you work.

Underground Coal Mines - Ventilation Plans: §75.370

The operator must tell your representative at least five days before submitting a ventilation plan or when changes are made to the plan. Your representative can ask the operator to provide a copy of the plan at the time notification is made.

Sometimes a plan has to be revised immediately. When this happens, the operator gives your representative, on request, a copy of the revision when it is submitted for approval.

The operator must make available for inspection to your representative copies of the ventilation plan and proposed revisions to the plan.

The operator must post on the mine bulletin board copies of the proposed ventilation plan and any proposed revisions submitted to us for approval. These documents remain posted on the mine bulletin board until they are approved, withdrawn, or denied.

Your representative may submit timely written comments to our District Manager about the proposed plan or revision. Our District Manager provides copies of these comments to the operator on request.

Our District Manager tells the operator in writing if the proposed plan is approved or denied.

Our District Manager gives a copy of this notice to your representative.

If a plan or revision is approved, and you are directly affected by the plan or revision, the operator must instruct you in the provisions of the plan or revision before it takes effect.

In addition, after notification of approval, the approved ventilation plan and any revisions are provided by the operator to your representative on request and made available to your representative for inspection.

The operator must post approved ventilation plans and revisions on the mine bulletin board within one working day after notification of approval. Approved plans and revisions stay on the mine bulletin board as long as they remain in effect.

Underground Coal Mines - Records of Main Mine Fan Examinations: §75.312(h)

Records, including records of mine fan pressure and the certified copies of data produced by fan monitoring systems, shall be made available for inspection by the representative of miners.

Underground Coal Mines - Methane Monitors: §75.342(a)(4)(iii)

Records of calibration of all machine-mounted methane monitors shall be made available for inspection by the representative of miners.

Underground Coal Mines - Roof Bolting: §75.204(a)(2)(b)

The mine operator makes available to the representative of miners manufacturer's certifications that materials were manufactured in accordance with ASTM F432-95.

**Underground Coal Mines - Torque Tension Test Records:
§75.204(f)(6)**

The mine operator makes available to the representative of miners certified records of torque/tension tests required under §75.204(f)(5).

**Underground Coal Mines - ATRS Capacity Certification:
§75.209(f)**

Certification records of the support capacity of each ATRS system and the structural capacity of each compartment are made available to the representative of miners.

**Underground Coal Mines - Rehabilitation of Areas With
Unsupported Roof: §75.212**

When rehabilitating each area where a roof fall has occurred or the roof has been removed by mining machines or blasting, all persons assigned to perform rehabilitation work shall be instructed in the cleanup and support procedures established.

Underground Coal Mines - Escapeway Maps: §75.383(a)

An up-to-date map of all escapeways shall be posted at a surface location and in each working section, accessible to all miners. Miners will be notified of any changes in the escapeways.

Underground Coal Mines - Escapeway Drills: §75.383(b)(1)

Miners shall participate in escapeway drills as set out in §75.383(b).

**Underground Coal Mines - Mining Into Inaccessible Areas:
§75.389**

When mining into inaccessible areas, a copy of the procedures to be used will be posted near the site and explained to the miners.

Underground Coal Mines - Diesel Equipment - Fire Suppression Systems: §§75.1911(j), 75.1912(i)

Records of fire suppression systems for diesel-powered equipment, fuel transportation units, and underground fuel storage facilities are available for inspection by the representative of miners.

Underground Coal Mines - Diesel Equipment - Maintenance Records §75.1914(h)

Records of maintenance of diesel-powered equipment are available for inspection by the representative of miners.

Underground Coal Mines - Diesel Equipment - Training and Qualification Program Records: §75.1915(c)

Training and qualification program records for persons working on diesel-powered equipment are available for inspection by the representative of miners.

Your Legal Responsibilities

Smoking Prohibited: Section 110(g)

You may have to pay a fine of up to \$250 for *each* violation if you smoke or carry smoking materials, matches, or lighters into an underground coal mine, a gassy underground metal/nonmetal mine, or into any area of a mine where smoking is prohibited.

Other nonsmoking areas of underground coal mines include:

- Areas around oil houses
- Explosives magazines
- Other surface areas where smoking could cause a fire or explosion

You may not smoke or use an open flame at a surface coal mine in any area where it might cause a fire or an explosion.

You may not smoke within 25 feet of where explosives or detonators are stored in noncoal mines.

You may not smoke in a uranium mine where radon daughter exposure measurements are required to be taken.

False Statements and False Representations: Section 110(f)

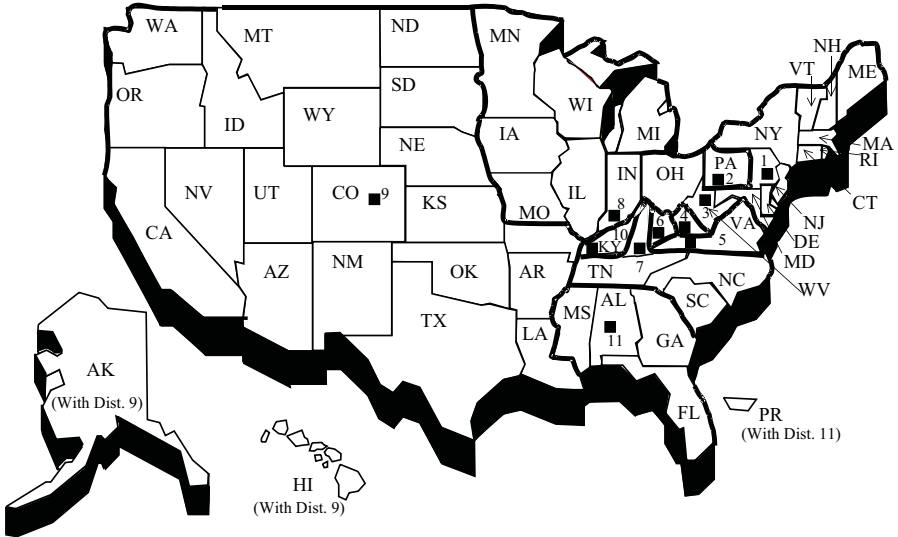
People may be fined, or imprisoned up to five years (or both) if they knowingly make a false statement (orally or in writing), a false certification in an application, record, report, plan, training certificate, or any other document required to be kept or filed with us. Criminal fines for violation under the Mine Act are subject to the increased penalty provisions by the Federal Comprehensive Crime Control Act, 18 U.S.C. §3571.

In a coal mine, an example of a violation of Section 110(f) would be to intentionally record incorrect results of the pre-shift ventilation examination required by Section 303(d) of the Act. If false entries are knowingly made in the book, *whoever* made the entries could be liable under this section of the law.

In a metal/nonmetal mine, an example of a violation of Section 110(f) would be false statements made about the required instruction on fire alarm signals and procedures to be followed in case of a fire or other emergency. If false statements are intentionally made in the records, the person making them could be fined, sentenced to prison, or both.

Additional Information

Coal Mine Safety and Health District Offices



■ District Offices

- | | |
|---------------------|----------------------|
| 1. Wilkes-Barre, PA | 7. Barbourville, KY |
| 2. Pittsburgh, PA | 8. Vincennes, IN |
| 3. Morgantown, WV | 9. Denver, CO |
| 4. Mount Hope, WV | 10. Madisonville, KY |
| 5. Norton, VA | 11. Birmingham, AL |
| 6. Pikeville, KY | |

Coal Mine Safety and Health District Offices

Office of the Administrator
CMSH
1100 Wilson Blvd., Rm. 2424
Arlington, VA 22209-3939
(202) 693-9500

MSHA - District 6
100 Fae Ramsey Lane
Pikeville, KY 41501-3211
(606) 432-0944

MSHA - District 1
The Stegmaier Bldg.
7 N. Wilkes-Barre Blvd., Ste. 034
Wilkes-Barre, PA 18702
(570) 826-6321

MSHA - District 7
3837 S. U.S. Hwy. 25E
Barbourville, KY 40906
(606) 546-5123

MSHA - District 2
319 Painterville Road
Hunker, PA 15639
(724) 925-5150

MSHA - District 8
2300 Willow Street, Ste. 200
Vincennes, IN 47591
(812) 882-7617

MSHA - District 3
604 Cheat Road
Morgantown, WV 26508
(304) 225-6800

MSHA - District 9
PO Box 25367, DFC
Denver, CO 80225-0367
(303) 231-5458

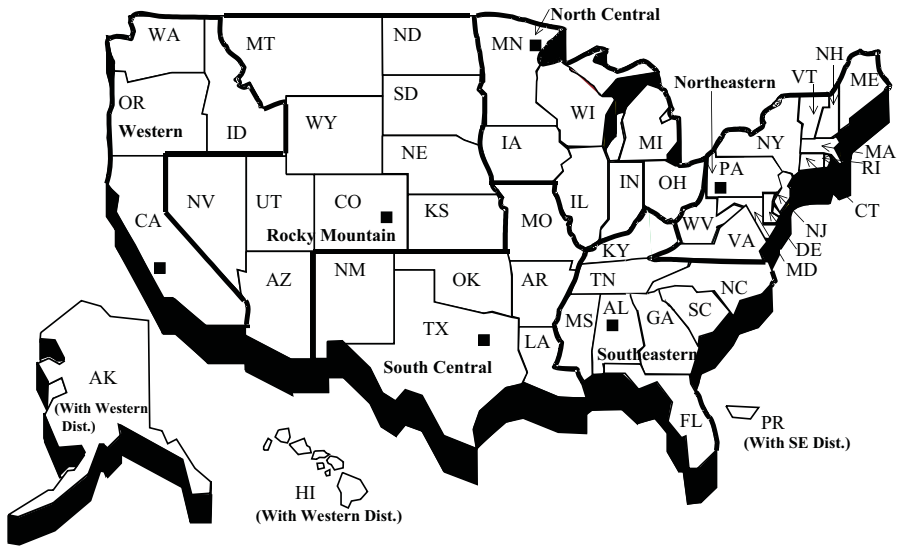
MSHA - District 4
100 Bluestone Road
Mt. Hope, WV 25880
(304) 877-3900

MSHA - District 10
100 YMCA Drive
Madisonville, KY 42431-9019
(270) 821-4180

MSHA - District 5
PO Box 560
Norton, VA 24273
(276) 679-0230

MSHA - District 11
135 Gemini Circle, Suite 213
Birmingham, AL 35209
(205) 290-7300

Metal/Nonmetal Mine Safety and Health District Offices



■ *District Offices*

Northeastern
Warrendale, PA

South Central
Dallas, TX

Southeastern
Birmingham, AL

Rocky Mountain
Denver, CO

North Central
Duluth, MN

Western
Vacaville, CA

Metal/Nonmetal Mine Safety and Health District Offices

Office of the Administrator
M/NMSH
1100 Wilson Blvd.
Arlington, VA 22209-3939
(202) 693-9600

MSHA - SC District
1100 Commerce Street,
Rm. 462
Dallas, TX 75242-0499
(214) 767-8401

MSHA - NE District
Thorn Hill Industrial Park
547 Keystone Drive, Ste. 400
Warrendale, PA 15086-7573
(724) 772-2333

MSHA - Rocky Mtn. District
PO Box 25367, DFC
Denver, CO 80225-0367
(303) 231-5465

MSHA - SE District
135 Gemini Circle, Ste. 212
Birmingham, AL 35209
(205) 290-7294

MSHA - Western District
2060 Peabody Road, Ste. 610
Vacaville, CA 95687
(707) 447-9844

MSHA - NC District
Fed. Bldg., U.S. Courthouse
515 W. 1st St., Rm. 333
Duluth, MN 55802-1302
(218) 720-5448

Assessments Offices

MSHA Office of Assessments
1100 Wilson Blvd.
Arlington, VA 22209-3939
(202) 693-9700

MSHA Office of Assessments
Penn Place, Rm. 2121
20 N. Pennsylvania Ave.
Wilkes-Barre, PA 18701
(570) 826-6431

Educational Field Services Regional Managers

Eastern Operations
1301 Airport Road
Beaver, WV 25813
(304) 256-3223

Western Operations
PO Box 25367
Denver, CO 80225
(303) 231-5434

Federal Mine Safety and Health Review Commission

Federal MS&H Review Comm.
1730 K Street, N.W.
6th Floor
Washington, DC 20006
(202) 653-5633

MSHA's Headquarters Office

Mine Safety and Health Admin.
1100 Wilson Blvd., 21st Floor
Arlington, VA 22209-3939
(202) 693-9500

Note: To contact your local MSHA office, please consult your local telephone directory under U.S. Government, Department of Labor.

Safety and Health Information Contacts

Title and Name

Phone Number

Miners' Representative

Safety Committeeman

Company Instructor

Company Safety Director

MSHA Inspector

MSHA Inspection Supervisor

MSHA District Manager

Notes

Notes

