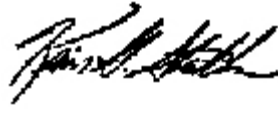


EFFECTIVE DATE: March 27, 2009

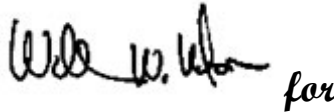
EXPIRATION DATE: March 27, 2011

PROCEDURE INSTRUCTION LETTER NO. I09-III-03

FROM: KEVIN G. STRICKLIN
Administrator for
Coal Mine Safety and Health



NEAL H. MERRIFIELD
Administrator for
Metal and Nonmetal Mine Safety and Health

 for

SUBJECT: Part 100 Safety and Health Conference Procedures

Scope

This Procedure Instruction Letter (PIL) applies to Mine Safety and Health Administration (MSHA) personnel who are responsible for conducting and managing safety and health conferences held pursuant to 30 C.F.R. § 100.6. This PIL supersedes PIL No. I08-III-01.

Purpose

The purpose of this PIL is to clarify that, under 30 C.F.R. § 100.6, District Managers and Conference and Litigation Representatives (CLRs) have discretion regarding the timing of safety and health conferences and are encouraged to defer conferences until after civil penalties have been proposed and timely contested. Deferral of a safety and health conference will provide the opportunity to have more meaningful discussions and to resolve contested violations and their associated civil penalties at the same time.

Procedure Instructions

The need for a safety and health conference should be determined by the District Manager or his or her designee who will acknowledge receipt of the request for a conference by letter to the operator. In some cases, the conference may be held before the notice of proposed penalties is issued, but in most cases the conference should be postponed until after the penalties have been proposed and timely contested. Once a timely penalty contest is received, the assigned CLR or designee will file a letter requesting a 90-day extension of time from the original due date for filing the petition

for the assessment of the civil penalty with the Federal Mine Safety and Health Review Commission (Commission). The assigned CLR or designee will also schedule a safety and health conference to discuss the violations and/or proposed penalties. Failure to timely contest the proposed penalties generally will result in the conference being cancelled. In the course of a safety and health conference, the CLR or designee shall make all reasonable attempts to settle the subject violations and/or associated civil penalties in accordance with part 100 criteria and MSHA guidelines.

If a settlement is reached and approved by the District Manager or his or her designee, the CLR shall concurrently file a *Petition for Assessment of Civil Penalty* and a *Motion for Decision and Order Approving Settlement* with the Commission.

MSHA CLRs, in consultation with appropriate Regional Solicitors or Solicitors with the Mine Safety and Health Division, may choose to conduct pre-penalty safety and health conferences involving potential Pattern of Violation (POV) orders, S&S citations issued during a POV program assessment period, statutory violations, flagrant violations, and accident-related violations.

Background

30 C.F.R. part 100 grants MSHA the sole discretion to determine the nature and timing of safety and health conferences.

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 100.

Filing Instructions

A copy of this PIL should be filed in the Alternative Case Resolution Handbook.

Issuing Office and Contact Person

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