

# Miners' Rights and Responsibilities

## MSHA 3116a (OT-2a)

### Introduction

The Mine Act (Act) and the MINER Act give you and your representative many rights because Congress wanted to encourage you to take an active, responsible role in matters of mine safety and health. 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.

### What Is a Mine?

A mine is generally any surface or underground location involved in the extraction, preparation, or processing of coal or other minerals.

### Who Has Rights Under the Act?

Miners, representatives of miners, applicants for employment.

All persons (including supervisors, contractors, construction or demolition workers, and truck drivers) working at a mine are considered to be "miners" and may exercise the rights given them by the Act.

### What Are My Rights?

You have a right to:

File or make a complaint of an alleged danger or safety or health violation to a Federal or State agency, a mine operator, and operator's agent or a miners' representative.

Participate in proceedings under the Act such as: testifying, assisting, or participating in any proceeding instituted under the Act, or filing a complaint with the Federal Mine Safety and Health Review Commission.

A medical evaluation or to be considered for transfer to another job location because of harmful physical agents and toxic substances. (For example: a coal miner has the right to a chest x-ray and physical examination for black lung disease [pneumoconiosis] and potential transfer to a less dusty position if the miner has a positive diagnosis.)

Withdraw yourself from the mine for not having the required health and safety training.

Refuse to work in unsafe or unhealthy conditions. NOTE: You must notify the operator of the condition and give them an opportunity to address the situation.

Exercise any statutory rights afforded by the Act.

### How Am I Protected?

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

Discriminatory acts covered by the Mine Act include, but are not limited to:

Discharge or termination

Layoff

Demotion

Refusal of employment

Reduction in your benefits, vacation, bonuses, or rates of pay

Changes in your pay and hours of work

Threats of reprisal

Interference with exercise of your statutory rights

Transfer to a less desirable position at less than the regular rate of pay you received immediately prior to transfer

### **What Do I Do if I Am Discriminated Against?**

If you are a miner, representative of miners, or applicant for employment and you believe that you have been the subject of discriminatory conduct as a result of exercising your rights, you must file a discrimination complaint within 60 days of the discriminatory event. If you were not aware of the discrimination during the 60 day period, or other factors prevented you from filing your complaint, your delay may be excused if you have a good reason.

**Important Note:** *Be sure to write down the date and time of events or actions related to the discrimination. If you have been financially affected by the discrimination, whether due to a demotion, firing, or loss of overtime, these financial losses could possibly be returned to you if they are properly documented.*

If you are discriminated against by being fired or by being the subject of other changes in your working conditions, you may be eligible for temporary reinstatement. Requests for temporary reinstatement must be made to MSHA and will be examined for potential merit. Department of Labor attorneys may ask the Federal Mine Safety and Health Review Commission to order your temporary reinstatement.

You may file your complaint with any MSHA office or local Black Lung office. MSHA staff are specially trained to assist you, answer your questions, and provide you with the documents you need to file your complaint. MSHA's headquarters office also has specially trained persons available to answer questions and help you in filing a complaint.

Discrimination on the basis of race, sex, religion, handicap, etc. is NOT covered by Section 105(c) of the Mine Act. However, MSHA will assist you in contacting other agencies for appropriate relief.

### **Miners' Representatives – Participating In Inspections**

Your miners' representative has the right to accompany an MSHA inspector during activities that involve enforcement of health and safety standards and to participate in conferences before and after the inspection occurs.

Your representative participates in our inspection without loss of pay under certain circumstances.

Every shift should have a miners' representative available to participate in an inspection. If there is no representative available at your mine, two or more miners may select one to travel with the MSHA inspector. Should you decide not to select a representative (or a representative is not available) the MSHA inspector will talk with a reasonable number of miners about health and safety matters at the mine.

### **Reporting Possible Violations and Imminent Dangers**

You may tell MSHA 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 MSHA inspector or office. Your identity remains confidential. To report a mine accident or a mine hazard, "One Call Does It All!" at 1-800-746-1553.

### **Can I Receive Pay if I Miss Work Because of a Withdrawal Order?**

If:

You are working on the shift when a withdrawal order is issued and you are idled by the withdrawal order, you are entitled to full regular pay for the time lost, but only for the balance of the shift.

The order is not terminated before the next shift, all the miners on the next shift are entitled to be paid at their regular rate for the time they are idled, up to four hours.

You are withdrawn from the mine or part of the mine and idled because the operator does not comply with any mandatory safety or health standard, you are to be paid for lost time at your regular rate for the time you are idled, or for one week, whichever is the lesser.

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 are entitled to receive double pay for the time you worked while the withdrawal order was in effect. NOTE: If you are 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 or your representative believe you are entitled to compensation, and have not been paid, you must file a complaint with the Federal Mine Safety and Health Review Commission. Your complaint must be filed within 90 days after the idle period began or should have begun. For additional information, please visit the Commission's Web site at [www.fmshrc.gov](http://www.fmshrc.gov).

### **Training (Part 48 and Part 46)**

If you work in a mine and engage in mining operations, whether you are a rank and file employee or a supervisor (this includes independent contractors and their employees, and any construction worker exposed to mining hazards), you have a right to receive health and safety training as follows:

You have the right to be trained during normal working hours.

You have the right to be paid at the same rate of pay while receiving training as if you were performing your usual job, if you are an employee of the operator.

If required training occurs at a place other than your normal workplace, you have the right to be compensated for the additional costs associated with your training such as mileage, meals, and lodging.

You have the right to receive a copy of your training certificate from the operator when you complete each training program.

You cannot be fired, suffer any loss of wages, or be otherwise discriminated against if you are withdrawn from a mine by an MSHA inspector for not having the required safety and health training.

You have the right to be paid from the time you are withdrawn until an MSHA inspector verifies the training has been received.

### **Your Responsibilities**

Always:

Comply with all Federal and state laws, regulations, and your mine's safety and health policies.

Notify the operator when refusing to work in unsafe or unhealthy conditions. NOTE: You must notify the operator of the condition and give them an opportunity to address the situation.

Never:

Give advance notice of an inspection conducted under the Act.

Knowingly make a false statement to MSHA.

Knowingly make a false representation (orally or in writing) on an application, record, report, plan, training certificate, or other document required to be kept or filed with MSHA.

Smoke in an underground coal, gassy metal/nonmetal mine, or other surface or underground location where smoking is prohibited.

Please contact your miners' representative, the nearest MSHA office, or log onto MSHA's home page at [www.msha.gov](http://www.msha.gov) for additional resources and information.