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ADMINISTRATIVE POLICY LETTER NO. A09-III-01

FROM: MICHAEL A. DAVIS 
Deputy Assistant Secretary for Operations
Mine Safety and Health

SUBJECT: Operator Requests for Assistance and Enforcement Fairness Policy

Scope

This Administrative Policy Letter (APL) applies to Mine Safety and Health Administration (MSHA) employees who respond to requests for assistance from the public.

Purpose

This APL establishes policy to ensure that no one doing business with MSHA shall fear retaliation for comments regarding actions by agency employees conducting compliance or enforcement activities.

Background

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) was passed by Congress "to make Federal regulators more accountable for their enforcement actions by providing small entities with a meaningful opportunity for redress of excessive enforcement activities." As you know, I have a strong commitment to enforcement fairness, even apart from SBREFA requirements and want to ensure that all entities that receive an audit, inspection, or other enforcement action are provided a means to comment on such enforcement activity.

As government officials, we all have a duty to treat every member of the public professionally and with dignity and respect. We must develop and implement the most effective ways to produce the ultimate result - saving lives and preventing injuries and illnesses. We will use all of the tools available to us to achieve this result, including firm and fair enforcement, education and training, and technology.

Policy

MSHA has a long-established policy that entities should not fear retaliation for comments regarding actions by MSHA personnel conducting compliance or

enforcement activities. This policy reflects the fact that the agency's objective is to help prevent and reduce workplace fatalities, illnesses and injuries. This policy does not extend to inquiries that indicate the existence of an imminent danger or a fatality or those which constitute a report by a miner or a miners' representative indicating the existence of a violation of the Act or standards. Finally, it is also our policy that operator inquiries will not prevent regular inspections, as mandated by the Mine Act.

Mine operators, miners and other inquirers are made aware of the variety of Agency resources that are available to help resolve safety, health and technical issues or concerns. These include: MSHA's webpage; education and training courses; technical support services; educational field services; and the services tailored for small mines.

Authority

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)

Filing Instructions

This APL should be filed behind the tab marked "Administrative Policy Letters" at the back of Volume III of the APPM.

Issuing Office and Contact Persons

Educational Policy and Development, Kevin Burns, 202-693-9594

E-mail: burns.kevin@dol.gov

Distribution

All MSHA Employees