



MSHA Conducts Denver Stakeholders' Meeting on Workplace Examinations

Insights

11.18.19

On Thursday, November 15, 2019, the Mine Safety and Health Administration (“MSHA”) held the fourth of five stakeholder meetings to discuss the implementation of the revised Workplace Examination standard for metal/non-metal mines, 30 C.F.R. §§ 56/57.18002 (“Rule”). Similar to prior meetings, the meeting focused on discussion of the two provisions from the January 2017 version of the Rule that were reinstated following the D.C. Circuit’s decision on June 11, 2019. A discussion of the reinstatement of the January 2017 version of the Rule can be found [here](#). The two provisions that were reinstated related to timing of the examination and record keeping. Specifically:

1. Examinations must be conducted prior to miners beginning work as opposed to as they begin work, which was allowed under the April 2018 revision to the Rule.
2. All conditions affecting safety and health found during the examination must be recorded in the examination record, including those that have been immediately corrected.

MSHA reiterated that enforcement and these provisions will begin on January 1, 2020.

In response to questions at this meeting, MSHA also addressed various specific issues related to the Rule, including:

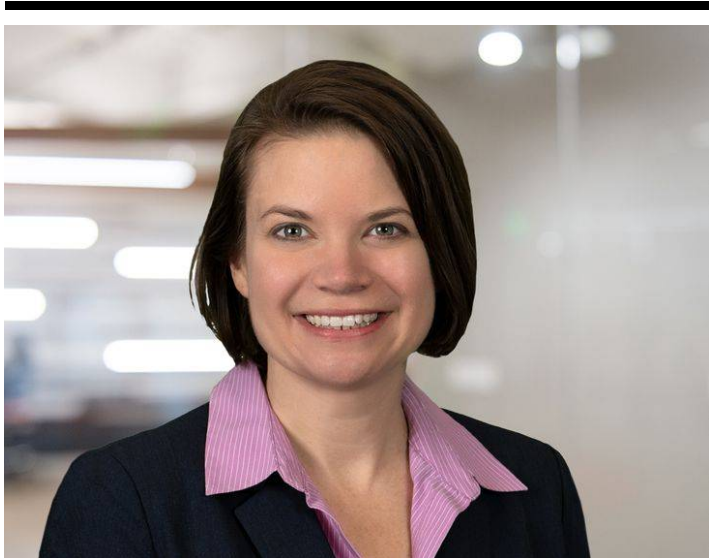
- Even if conditions are immediately corrected, the examiner must record it on the workplace exam form.
- Inspectors should not be citing areas for a lack of a workplace exam if no one is working in the area.
 - However, if a miner goes into a storage shed to retrieve a tool, and no one has examined that shed on that shift, he must examine the shed upon entry.
- A maintenance miner may receive their assignment in line-out in the morning, go to their work area, and then conduct their exam before starting work in that particular area.
- Inspectors should be accepting the use of MSHA’s templates posted on the MSHA website.
- MSHA is not going to define “adverse conditions.” Adverse conditions are conditions that affect health and safety at each particular mine.

- Notification does not have to be in any particular form. However, tape is not sufficient on its own – tags must describe the hazard and provide notice of what actions to take. The communication must be “affected” miners, which may not be the entire mine site.
- Ultimate responsibility to comply lies with the mine operator.
- The mine operator decides who is a competent person.

MSHA will be conducting one more information session on November 21 in Pittsburgh, PA.

Fisher Phillips will continue to monitor developments at the various stakeholders’ meetings.

Related People



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Service Focus

Workplace Safety and Catastrophe Management