

# **MSHA Annual Refresher Training**

## **Module 8**

### **Miner Rights and Responsibilities**

**MSHA Training Requirement:**

Instruction on the statutory rights of miners and their representatives and the authority and responsibilities of supervisors and miners' representatives under the Federal Mine Safety and Health Act of 1977. [Section 46.5(b)(5), Section 46.5(b)(6)].

**Learning Objectives:**

1. Understand the fundamental rights afforded to miners and their representatives in the workplace.
2. Identify the duties miners have to adhere to regulations and report safety concerns.
3. Recognize miners' representatives and understand how to identify mining safety and health information contacts.
4. Understand specific rights regarding incident reporting, protections against retaliation, and representation in safety matters.
5. Explain the importance of information access, regular training, proper individual health protections, and accurate health records in accordance with regulations.

**Module Sections**

- 8.1 Introduction and Definitions
- 8.2 Miner Representation Rights
- 8.3 Employment, Reporting, and Protections
- 8.4 Information Access and Training
- 8.5 Health Protections and Records

## 8.1 INTRODUCTION & DEFINITIONS

### Introduction to Miner Rights & Responsibilities

Understanding the statutory rights of miners (**your rights!**) and the authority and responsibilities of their representatives is essential to ensure a safe and compliant mining operation. This module will introduce you to the Federal Mine Safety and Health Act of 1977 and other regulations that directly impact your rights and responsibilities as a miner. You will also review relevant definitions that will help you as you complete this training.

### Module Warmup

*Why Miner Rights Matter: The Evolution of Miner Rights & Responsibilities*

Understanding your rights is crucial for your safety, health, and overall well-being. Mining can be demanding and challenging, and knowing your rights ensures you are protected under the law.

In 1977 the Federal Mine Safety and Health Act (FMSH Act) was passed, which moved oversight of mines to the U.S. Department of Labor, emphasizing worker safety. It required more inspections, safety training, and rescue teams, giving miners better protections and rights.

Passing this Act was a big win for miner safety, driven by the lessons from past disasters and the push from labor unions and lawmakers. It remains a crucial part of ensuring safe working conditions and fair treatment for miners today.

### Scope of Miner Protections and Regulations

In addition to the FMSH Act of 1977, the MINER Act of 2006 and Title 30 of the CFR also grant various rights to protect the safety and treatment of miners, their representatives, and mine job applicants, encouraging active roles in mine safety.

While this training outlines these primary rights and responsibilities, it is not an official or complete legal source. MSHA interpretations and subsequent legal decisions may modify your rights as workplace processes and protections emerge. It is good practice to contact the nearest Mine Safety and Health Administration (MSHA) office for detailed inquiries about the most current direction on your rights and responsibilities

To learn about new regulations, you can also consult:

- Your miners' representative
- Your local MSHA office
- The MSHA website



**8.1: Every miner must understand their rights to enable their own safety, health, and overall well-being.**

The rest of this module will prepare you to understand how:

- You
- Your miner representative
- Your mine operator
- MSHA

uphold different rights to protect your safety.

Now you have a basic understanding of how mining production and worker rights evolved. Let's learn more about the specific rights and protections that you have in terms of reporting information, access to information, proper training, and healthcare records.

## 8.2 MINER REPRESENTATION RIGHTS

Knowing your rights regarding representation as a miner is key to having a voice in your workplace. Whether it is through representatives, or directly contacting the MSHA yourself, being able to speak up about your working conditions and address any issues is crucial for a fair and respectful environment.

This section will help you understand the authority and responsibilities of supervisors and miners' representatives at your mine should you need assistance or representation. Before you begin work at a mine, you will want to know how to identify each supervisor and their responsibilities, your miners' representative and their responsibilities, as well as the right people to contact in your direct chain of command.

### Supervisor, Miners' Representatives, and MSHA Responsibilities

Here is a breakdown of common key roles and responsibilities within direct mine worksite and broader MSHA oversight for mining operations. It is helpful to familiarize yourself with these stakeholders and their roles to support your safety and representation as a miner.

1. **Area, Section, or Shift Leader:** Each area, section, or shift in the mine has a designated leader who oversees daily operations and ensures adherence to safety protocols. Their responsibilities include supervising tasks, managing personnel, and addressing any immediate issues that arise during their designated time.
2. **Miners' Representative:** The Miners' Representative is chosen by at least two miners to advocate for safety and health concerns within the mine. Their role includes accompanying MSHA inspectors during inspections, participating in safety meetings, and ensuring that miners' rights under the Mine Safety and Health Act are upheld. They are crucial in representing miners' interests and ensuring compliance with safety regulations.
3. **Safety Committeeman:** A Safety Committeeman is typically elected or appointed to serve on the mine's safety committee. Their responsibilities include identifying potential hazards, recommending safety improvements, and participating in safety audits and inspections. They collaborate with management and miners to promote a safe working environment, conduct safety training, and facilitate communication on safety-related matters.
4. **Company Instructor:** Company Instructors are responsible for providing training to miners on safety procedures, equipment operation, and emergency protocols. They ensure that all miners receive adequate training to perform their jobs safely and effectively. Company Instructors play a vital role in maintaining compliance with MSHA training requirements and promoting a culture of safety within the workforce.
5. **Company Safety Director:** The Company Safety Director oversees the overall safety program at the mine. Their responsibilities include developing and implementing safety policies, conducting safety audits, investigating incidents, and ensuring compliance with

MSHA regulations. They work closely with management, safety committees, and miners to continuously improve safety practices and mitigate risks in the workplace.

6. **MSHA Inspector:** The MSHA Inspector is responsible for conducting inspections at mining operations to enforce compliance with safety and health regulations. They inspect equipment, review records, interview personnel, and issue citations for violations. MSHA Inspectors play a critical role in ensuring that mines adhere to safety standards to protect miners' health and well-being.
7. **MSHA Inspection Supervisor:** The MSHA Inspection Supervisor oversees a team of inspectors and coordinates inspection activities at mining sites. They assign inspection tasks, review inspection reports, and ensure consistency in enforcement of regulations. MSHA Inspection Supervisors may also provide guidance to inspectors and address complex safety issues during inspections.
8. **MSHA District Manager:** The MSHA District Manager is responsible for overseeing regulatory enforcement within a designated district. They manage inspection activities, review inspection findings, and collaborate with mine operators, miners' representatives, and other stakeholders. MSHA District Managers play a pivotal role in promoting safety, resolving disputes, and ensuring compliance with federal mining laws and regulations.

You should have access to contact information for each area, section, and shift leader, as well as the Safety Director for your mine. This information should be readily available and easily accessible to you, ensuring quick communication in urgent situations to address safety concerns or operational issues effectively.

## Every Miner's Responsibilities Under the Act

While supervisors, miners' representatives, and the MSHA have key responsibilities under the Act, so do you! As a miner, you must adhere to all federal and state laws, company safety policies, and notify your mine operator of unsafe conditions. It is your duty to provide accurate information during inspections, investigations, or when filing documents with MSHA.

### Your Responsibility to Comply

Active participation in safety programs reduces workplace incidents. It is your responsibility as a miner to comply with laws and mine policies and notify supervisors of unsafe conditions promptly to mitigate risks. We will cover specific reporting responsibilities later in this section, but here are some key responsibilities that you must follow under the Act:

- Never Make False Statements or False Representations
- Never Give Advance Notice of an Inspection

You now understand the authority and responsibilities of supervisors, miners' representatives, and MSHA regulatory bodies for mining operations. You also know some key miner responsibilities that you must uphold under the Act. Next, we will look more closely at your rights regarding employment, reporting, and protections.

## 8.3 EMPLOYMENT, REPORTING, AND PROTECTIONS

Whether you are a miner, a representative of miners, or an applicant for employment, you have rights regarding employment, reporting, and representation.

### Protection Against Discrimination

As a miner or representative, you are protected against discrimination when exercising your rights under the Act, such as reporting violations and unsafe conditions. You cannot be:

- Fired
- Demoted
- Harassed
- Transferred
- Refused employment
- Lose wages

### How to File a Discrimination Complaint

If you believe you have faced discrimination for exercising your rights as a miner, representative, or job applicant, you must file a complaint *within 60 days* of the incident. Extensions may be granted if you were unaware or unable to file on time.

Complaints should include detailed information such as names, dates, and events.

Proper documentation, especially of financial impacts like demotion or loss of overtime, is crucial and can be reviewed in MSHA's handbook on back pay.

Discrimination complaints can be filed with any MSHA office, where trained staff can assist. If your working conditions changed due to exercising your rights or if you believe you were the target of retaliatory behavior, you may request temporary reinstatement.

Once you have filed a complaint, MSHA will investigate and notify you of its decision *within 90 days*. If discrimination is found, the Department of Labor attorneys will seek appropriate relief, such as reinstatement or back pay.

If no violation is found, you can independently pursue the matter with the Commission.

### Right to Pay for Miners Idled by a Withdrawal Order

Miners and their representatives may be entitled to compensation when a mine is idled by a withdrawal order (also known as a 'stop work order').

Complaints for unpaid compensation must be filed with the Commission *within 90 days* of the idle period's *start* and you can seek further assistance from your MSHA District Office for specific procedures.

These protections are in place to encourage miners to report unsafe conditions without fear of retaliation. If you face any discriminatory actions after exercising these rights, you should file a discrimination complaint with MSHA to safeguard your rights and seek appropriate remedies.

## **MSHA's National Hazard Reporting System: "One Call Does It All!"**

You learned about hazard reporting earlier in this course. To recap, you can report a hazardous condition by calling the MSHA hotline (1-800-746-1553), visiting MSHA's website ([www.msha.gov](http://www.msha.gov)), or visiting your local MSHA office. You do not need to identify yourself!

To help the MSHA better understand your concern, remember to include any or all of the following information:

- Name of company
- Name of mine
- Location of mine (city/town and state)
- MSHA ID number (if known)

Depending upon the report, MSHA will determine whether an investigation is needed at your mine site.

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## **Your Right to Be Represented or Participate in Inspections**

While you may not directly be involved in reporting a complaint or safety hazard, you still have the right to be represented or participate in mine inspections.

The Act allows miners' representatives to join Federal mine inspections and conferences to provide insights and better understand effective practices for mine worksite safety. Of special note is that representatives can accompany MSHA inspectors without loss of pay if they are mine employees, but this excludes confidential investigations. MSHA advises having a representative for every shift as inspections are unannounced. If no representative is present, MSHA will consult miners directly. Participation in technical consultations or off-site meetings is generally unpaid.

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## **Your Rights to Request a Health and Safety Inspection or Report Hazardous Conditions, Imminent Dangers, Violations of the Act or Health and Safety Standards**

There are two ways to report unsafe work conditions with MSHA:

1. File a Hazardous Condition Complaint
2. File a Formal Section Request for Inspection

### **Appealing MSHA's Determination**

You or your representative can appeal MSHA's decision not to issue a citation after a Section 103(g) inspection. You must submit a written appeal with supporting information to the District Manager *within 10 days* of receiving MSHA's notice.

You have a foundational understanding of your rights regarding employment, the different steps you can take to report hazards or participate in inspections, and your legal protections regarding these activities. Let's continue to explore your rights regarding information access about mining operations and training.

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## **8.4 INFORMATION ACCESS AND TRAINING**

Part of your rights under the Act ensure that you have the information access and additional training that you need to safely conduct your work. Understanding your rights regarding records, plans, maps, evacuation procedures, emergency preparedness drills, and site or job-specific training is crucial for maintaining safety and preparedness in your mine. Let's take a closer look at your rights to information at various types of mine worksites.

### **1. Underground Coal Mines**

- Roof Control Plans
- Mine Maps
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- Mine Emergency Response Plan
- Ventilation Plans
- Records of Examinations and Reports
- Rehabilitation of Areas with Unsupported Roof
- Ground Failure on Longwall Mining Systems
- Mine Emergency Evacuation, Training and Drills
- Fire Suppression Systems

### **2. Surface Coal Mines and Surface Areas of Underground Coal Mines**

- Respirable Dust Control Plan
- Respirable Dust Sample Reports

### **3. Underground Metal/Nonmetal Mines**

- Roof and Rock Fixture Certifications
- Limit on Exposure to Diesel Particulate Matter

### **Your Right to Receive Health and Safety Training: Part 46 and Part 48 Training Rights**

Earlier in this course, we covered your Part 46 training requirements. But did you know that Part 46, and separate Part 48 training, are protected by specific rights?

You have the right to health and safety training if you work in mining, including as an:

- Employee
- Supervisor
- Contractor

**Note:** Non-mining workers, including visitors and maintenance personnel not accompanied by experienced miners, are entitled to site-specific hazard awareness training.

Training during work hours must be compensated at your regular rate, with additional costs covered if training is off-site. It is your responsibility to make sure that you obtain, and maintain, the appropriate training credentials.

You must be trained *before* starting work; employers are not required to pay for training if:

- You are a new applicant
- If your training expires during a layoff

If you are already employed at a mine worksite but lack the required training, or your training has lapsed, you can withdraw from the mine without penalty, and you must be paid until training is completed and verified by MSHA.

The Code of Federal Regulations indicates that workers at sand, gravel, clay, limestone, stone, phosphate, shell dredging, marble, granite, sandstone, slate, shale, traprock, kaolin, cement, feldspar, and lime operations must undergo health and safety training. Part of this training includes site-specific hazard awareness training. This training must be conducted by a Competent Person designated by the mine operator or contractor.

*Who else should receive Part 46 training?*

Non-mining workers, including visitors and maintenance personnel not accompanied by experienced miners, are also entitled to site-specific hazard awareness training.

MSHA approves training plans either if they meet minimum requirements or upon submission and review. Your mine operator must inform you or your representative about plan submission, and MSHA notifies all parties of training plan approval decisions within 30 days. Appeal rights exist within 30 days of the decision.

## **Part 48 Training Rights**

Comprehensive training is required for underground miners, including those in extraction, shaft or slope construction, or regularly exposed to mine hazards.

*Who should receive Part 48 training?*

Maintenance or service workers, including mine operators, receive training if they work underground intermittently. Short-term contract workers like drillers may substitute experienced miner training for hazard training.

Training is by MSHA-approved instructors, and mine operators must share plans with representatives *two weeks* before District Manager approval. Comments on plans can be submitted to the mine operator or District Manager. Returning miners need training *after 12*

*months, and for major mine environment changes affecting safety upon return within 12 months.*

You know which regulations directly support your rights to information access and adequate training as a miner. Now, we will review how the Act also protects your health and associated health records.

## 8.5 HEALTH PROTECTIONS AND RECORDS

Mining can expose you to various health risks, from respiratory issues to hearing loss. Be aware of your rights related to health and wellness, including access to medical check-ups, protective gear, and the right to report health concerns without fear of retaliation.

### Your Health Protection Rights

#### Hazardous Communications

Miners and on-site operators exposed to chemical hazards have the right to know about health risks and protective measures at a mine worksite.

Additionally, in a medical emergency, your mine operator must disclose trade secret chemical details to your health provider for proper treatment.

#### Noise Exposure Assessment

Mines are noisy environments, and prolonged exposure to high levels of noise can lead to health issues. You have several rights regarding noise exposure in mining:

- **Noise levels:** You are not to be exposed at any time to noise levels exceeding 115 dBA (decibels), as determined without adjustment for the use of any hearing protector.
- **Noise exposure monitoring:** The mine operator must monitor your noise exposure and notify you and your representative beforehand. You have the right to observe the monitoring. If your exposure surpasses specified levels—action noise, permissible exposure, or dual hearing protection—your mine operator must inform you within 15 days and take measures to reduce exposure, unless previously notified within the past year.
- **Hearing protection:** If exposed excessively to noise, you must join a hearing conservation program. If your exposure meets or exceeds specified levels, your mine operator must provide and train you in hearing protection. You may select from various types of hearing protection, maintained as per manufacturer instructions, with replacements supplied at no cost.
- **Enrollment in a Hearing Conservation Program:** Your mine operator is required to enroll you in a hearing conservation program if your noise exposure equals or exceeds the established action level, also known as the level at which hearing protection is required.

## General Hearing Health

In addition to noise exposure assessments and protections, you are entitled to certain rights related to your hearing health, such as:

- **Audiometric Testing:** Your mine operator must provide you with audiometric tests if your exposure equals or exceeds the established MSHA approved action level, which must be conducted by a physician or an audiologist, or by a qualified technician under the direction or supervision of a physician.
- **Permissible Exposure Level:** You are not to be exposed at any time to noise levels exceeding 115 dBA (decibels), as determined without adjustment for the use of any hearing protector.
- **Dual Hearing Protection Level:** If your noise exposure exceeds the dual hearing protection level during a shift, your mine operator must provide and ensure the simultaneous use of both earplugs and earmuffs.

Remember, it is up to **you** to remember and utilize these protections for your health and safety! Ask your mine operator about these programs and standards before you begin work at a mine worksite.



8.2: Noise levels can fluctuate at a mining work site. Always be sure to monitor noise levels and adjust your communication and hearing protection accordingly.

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## Your Rights Relating to New and Revised Standards or Regulations, and Information

You may find that certain standards are not adequately protecting your health and safety. In this case, you have rights to petition or appeal certain regulations by following procedures.

The Act mandates MSHA to publish proposed health and safety standards in the Federal Register and distribute copies to your representative and the operator. Your mine operator

must display these proposed standards. You and your representative can submit comments or objections to new or revised proposed standards within specified dates provided in the Federal Register.

Additionally, if you believe you are negatively affected by a new standard, you may petition the U.S. Circuit Court of Appeals *within 60 days* after its final publication in the Federal Register. The court will only consider objections raised during the proposal period, unless there is "good cause" to consider otherwise.

### **Petitions for Modification of a Safety Standard or Regulation**

Your representative can request MSHA to modify how it applies a safety standard if the alternative ensures the same level of protection or if enforcing the standard would reduce safety at your mine. MSHA will notify your representative when it receives a modification petition from the mine operator or others at your mine.

The U.S. Department of Labor has additional resources on petitions for modification.

### **Your Rights to Information**

You or your representative have rights to access most records from MSHA or U.S. Department of Health and Human Services (HHS). Your mine operator must provide copies of your exposure records to toxic materials. You can examine all HazCom materials (except trade secrets)—both initial and revised—free of charge. Your mine operator must also disclose trade secret chemicals in writing upon request for occupational health reasons. Noise control procedures must be posted, and noise exposure records are accessible. Designated representatives can access training certificates and exposure notices at reasonable cost.

Make sure you know how information is shared at your mine worksite before you begin work.

You now have awareness of your rights regarding new and revised standards or regulations, and your access to information about your health and mining operations. Remember, all of these rights and protections work together to keep you safe and healthy at a mine worksite.