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US Labor Department's MSHA places increased emphasis on miner discrimination complaints

ARLINGTON, Va. – The U.S. Department of Labor's Mine Safety and Health Administration filed 39 requests during fiscal year 2012, more than in any other year, with the Federal Mine Safety and Health Review Commission for temporary reinstatements on behalf of miners who submitted complaints of discrimination in the form of a suspension, layoff, discharge or other adverse action.

From October 2009 through September 2012, the department filed 79 temporary reinstatement requests – an average of 26 per year – compared to an average of seven per year from October 1993 to September 2009. Additionally, the department filed a total of 84 discrimination complaints with the commission during the same period, compared to 28 during the three prior years combined.

According to Section 105(c) of the Federal Mine Safety and Health Act of 1977, a miner cannot be discharged, discriminated against or interfered with in the exercise of statutory rights because he or she has engaged in a protected activity such as filing a complaint alleging a health or safety violation, or refusing to work under unsafe or unhealthy conditions.

“MSHA strongly encourages miners to exercise their rights under the Mine Act and maximize their involvement in monitoring safety and health conditions,” said Joseph A. Main, assistant secretary of labor for mine safety and health. “In turn, we will vigorously investigate all discrimination complaints.”

If MSHA finds that a miner's complaint is “not frivolously brought,” the agency, at the request of the miner, will ask the commission to order immediate reinstatement for the miner.

Issues relating to fears of discrimination and retaliation came to light during congressional hearings held in the wake of the Upper Big Branch Mine disaster. Statements from miners and family members of the miners who died indicated that mine employees had been reluctant to speak out about safety conditions in existence prior to the April 2010 explosion, fearing retaliation by management. Testimony from UBB employees presented during MSHA's investigation also supports those claims.

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