

IN THE MATTER OF: )  
 )  
ESCAPEWAYS AND REFUGES )  
IN UNDERGROUND METAL AND )  
NONMETAL MINES )  
PROGRAM POLICY LETTER (PPL) )  
STAKEHOLDERS MEETING )

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BEFORE THE U.S. DEPARTMENT OF LABOR  
MINE SAFETY AND HEALTH ADMINISTRATION

IN THE MATTER OF: )  
 )  
ESCAPEWAYS AND REFUGES )  
IN UNDERGROUND METAL AND )  
NONMETAL MINES )  
PROGRAM POLICY LETTER (PPL) )  
STAKEHOLDERS MEETING )

Room 7W204 & 7W206  
201 12th St. South  
Arlington, Virginia 22202

Thursday,  
October 10, 2019

The parties convened, pursuant to the notice, at  
9:08 a.m.

APPEARANCES:

SHEILA McCONNELL, Director  
Office of Standards, Regulations and Variances in  
the Mine Safety and Health Administration

BRIAN GOEPFERT, Deputy Administrator  
Metal and Nonmetal Mine Safety and Health

BRAD MANTEL, Counsel  
Counsel for Standards and Legal Advice for the  
the Solicitor  
Mine Safety and Health Division

HUNTER PRILLAMAN, NLA

CHRIS GREISSING, IMA-NA

BRIAN HENDRIX, Husch Blackwell

KENT ARMSTRONG, Draeger

ADELE ABRAMS, Law Office of Adele L. Abrams

ATTENDEES:

JACOB CARR, NIOSH

JOE RILEY, NVMA

CHRIS PETERSON, NVMA, Fisher Phillips

CHRIS GREISSING, IMA-NA

JOSH ROBERTS, WMWA

JON HARMAN, NMA

LIBBY PRITCHARD, NSSCA-PCA

PAUL KAVOKUCA, MSHA

MARTY COOPER

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P R O C E E D I N G S

(9:08 a.m.)

1  
2  
3 MS. MCCONNELL: Good morning. Good morning.  
4 Can you hear me in the back there? Good morning. My  
5 name is Sheila McConnell. I am the director of Office  
6 of Standards, Regulation and Variances in the Mine,  
7 Safety and Health Administration. I will be the  
8 moderator for this public meeting to gather  
9 information and data on MSHA's guidance regarding the  
10 existing requirement on Escapeways and Refuges in  
11 Underground Metal and Nonmetal Mines.

12 On behalf of David G. Zatezalo, our  
13 Assistant Secretary of Labor, I want to welcome you to  
14 this public meeting and thank you for your  
15 participation. Let me introduce the members of our  
16 panel. To my left, we have Brian Goepfert, the Deputy  
17 Administrator for Metal, Nonmetal, Mine Safety and  
18 Health. And to his left, we have Brad Mantel, the  
19 Counsel for Standards and Legal Advice for the  
20 Solicitor, Mine Safety and Health Division.

21 MSHA's existing standards on escapeways and  
22 of refuges requires two or more separate properly  
23 maintained escapeways and underground metal and  
24 nonmetal mines to enable miners to escape in an  
25 emergency. And when they cannot escape, the standard

1 requires refuges to be enabled to enable to miners to  
2 shelter safely in place until they can be rescued.  
3 MSHA standards recognize two exceptions to the  
4 requirement that underground metal and nonmetal miners  
5 be provided at least two separate escapeways from  
6 their working places to the surface. But first,  
7 miners must be provided a method of refuge while a  
8 second escapeways is being developed. Second, during  
9 the exploration or development of an ore body, a  
10 second escapeway is recommended, but not required.

11 MSHA consistently has interpreted these two  
12 exceptions to mean that, if in either of these  
13 situations miners have only one escapeway from their  
14 working place, miners must have access to a refuge.  
15 This refuge should be located near the miners so that  
16 they may promptly and reliably enter the refuge. The  
17 purpose of this public meeting is to seek comment on a  
18 program policy letter that MSHA announced in the  
19 Federal Register on July 29th. This program policy  
20 letter is not a rulemaking. The guidance seeks to  
21 clarify the agency's existing standard regarding the  
22 placement of a refuge when miners have only one  
23 escapeway. In the guidance, MSHA noted that the  
24 agency recognizes that it may not be practical for  
25 most working places near the portal in a horizontal

1 configuration to have refuges.

2 MSHA further noted that the agency believes  
3 that in most cases a refuge located, for example, 1500  
4 feet from miners on a relatively level surface,  
5 something that could be reachable within a 10 minute  
6 walk while carrying an injured miner, is close enough  
7 to provide protection the standard intends. MSHA's  
8 proposed guidance also notes that mine operators  
9 should consult with their district manager to  
10 determine appropriate refuge locations given mines  
11 specific conditions and factors, for example, steeply  
12 pitched, narrow, uneven, low-height, or wet travel  
13 ways, when developing and reviewing the mines escape  
14 and evacuation plan required under existing standards.

15 This is not -- today is a public meeting.  
16 This is not a hearing, so this is going to be  
17 collected in an informal manner. Speakers and other  
18 attendees may present information for the record.  
19 MSHA will accept comments and other information for  
20 the record from any interested party. If you haven't  
21 already done so, please sign the attendance sheet  
22 that's in the back of the room so that we may have an  
23 accurate record of your attendance. We have copies of  
24 the Federal Register notice regarding our guidance,  
25 our program policy letter in the back of the room.

1 MSHA will make a verbatim transcript of this public  
2 meeting about two weeks from the completion of the  
3 meeting on our websites. You may view the transcript  
4 of all public meetings, comments on our website at  
5 MSHA.gov, at [www.regulations.gov](http://www.regulations.gov).

6 If you are providing comments, please  
7 provide specific information and supporting rationale  
8 for your position. All comments must be received by  
9 October 28th. If you have a copy of your testimony or  
10 presentation, please give a copy to the court  
11 reporter, so that it can be appended to the meeting  
12 transcript. When you make your presentation, please  
13 spell your first and last name so the recorder -- the  
14 court reporter can have an accurate record. We have  
15 two individuals who signed up to speak. That doesn't  
16 mean that others may feel that they have -- that  
17 doesn't preclude anyone else from changing their mind  
18 and coming up. Our first speaker for today is Hunter  
19 Prillaman, National Lime.

20 MR. PRILLAMAN: Thank you. That's Hunter,  
21 H-U-N-T-E-R, Prillaman, P-R-I-L-L-A-M-A-N and I'm  
22 within the National Lime Association. I thank you for  
23 the opportunity to participate in this meeting this  
24 morning. We're interested because we do have a number  
25 of lime plants that have underground mines, and so it



1 affects our members, and so, our folks are interested  
2 in this topic. I'm really going to talk primarily  
3 about the, sort of, administrative procedure element  
4 of this. As you mentioned, the rule has these two  
5 exceptions in it for two escapeways, and I think that  
6 part of the rule is a little ambiguous. However, and  
7 in the PPL, you state the position that the section  
8 requires a method of refuge, both when a second  
9 opening is being developed and during the exploration  
10 or development of the ore body. And I don't think the  
11 language necessarily requires that. However, that's  
12 not a new position for prevention. Now, that was -- I  
13 don't know if it was the first time, but it was stated  
14 in a program information bulletin back in 2009 that  
15 that was the position.

16 What's new, however, and problematic is the  
17 language about 1500 feet in 10 minutes. That's new,  
18 and in our view it's inconsistent with the position  
19 that the agency has taken before. In that same  
20 program information bulletin from 2009, it says  
21 explicitly, miners working in any mine area which is  
22 not provided two separate escapeways must be provided  
23 a refuge area they can access within 30 minutes using  
24 normal means of travel. And that is also consistent  
25 with the language in 57.11050(b) about the placement

1 of escapeways when you can't get out within an hour.  
2 That says, these refuges must be positioned so that  
3 the employee can reach one of them within 30 minutes  
4 from the time he leaves his workplace. And I think  
5 our view of the -- and this is what the industry has  
6 been relying on is the idea that the escapeways must  
7 be accessible within 30 minutes.

8           So, I think it's a little confusing, the  
9 language that's in the program policy letter. The  
10 language of 10 minutes is given as a poor example.  
11 So, it's not clear whether that's intended to be  
12 enforceable. I would argue that it's not enforceable  
13 because you have a rule already that says 30 minutes.  
14 So, our position would either be that you should take  
15 that out and at least reference the 30 minutes, which  
16 is an enforceable number or at least make it clear  
17 that that is an example of best practice or of a  
18 recommendation as opposed to the 30 minutes. The 30  
19 minute interpretation has been in place for over 10  
20 years and folks have relied on it in terms of where to  
21 place the refuges. And it's also logical that an  
22 escape way the requires an hour to traverse is  
23 acceptable and that access to a refuge within half of  
24 that time should also be acceptable. So, that's  
25 pretty much what -- it's pretty much all I have to say

1 about it.

2 MS. MCCONNELL: Okay.

3 MR. PRILLAMAN: That we think that, as the  
4 language stands right now, it doesn't really clarify  
5 matters, but it actually confuses matters because  
6 people are saying, well we believed all along that it  
7 was 30 minutes and now we're reading 10 minutes.  
8 What's the inspector going to say when he comes? So,  
9 we would ask that that be changed to make clear what  
10 the -- you know, if you really want to enforce 10  
11 minutes, then I would say you probably need to do  
12 rulemaking because the -- that 30 minutes in the rule  
13 and the long-established policy.

14 MS. MCCONNELL: Okay.

15 MR. PRILLAMAN: And that's --

16 MS. MCCONNELL: Well, thank you for your  
17 testimony and also thank you for your comments. I  
18 find them very clear and I don't have any further  
19 questions. Thank you very much.

20 MR. PRILLAMAN: Thank you.

21 MS. MCCONNELL: Our next speaker is Chris  
22 Greissing from -- and I'm sure I'm not pronouncing  
23 that correctly, but IMA.

24 MR. GREISSING: Hey, how are you?

25 MS. MCCONNELL: I'm good. Spell your name.

1                   MR. GREISSING: So, Chris Greissing, C-H-R-  
2     I-S, Greissing, G-R-E-I-S-S-I-N-G. I'm with the --  
3     I'm the Executive Vice President at the Industrial  
4     Minerals Association of America. I very much  
5     appreciate the opportunity to provide some very  
6     important comments today. We're going to expand on  
7     our comments in a few weeks. As you know, we  
8     represent the Industrial Minerals industry in the  
9     U.S., and that includes Soda Ash, Ball Clay, Barite,  
10    Betontine, Kaolin, Orates (phonetic), Industrial Sand,  
11    Talc, Wollastonite, Calcium Carbonate among others.  
12    Industrial minerals are found throughout the U.S. and  
13    include a number of underground mines.

14                  We applaud MSHA for addressing issues of  
15    escape and refuge in underground mines. But with that  
16    being said, our members at our meeting a couple weeks  
17    back did raise a number of issues of concern with the  
18    rules drafted -- or the PPLs drafted. First, the PPL  
19    asserts that miners must have access to refuge while a  
20    second opening to the surface is being developed and  
21    during the exploration and development of an ore body.  
22    This assertion is not clearly mandated by 30 CFR  
23    57.11050. Second, there are no distances stated in 30  
24    CFR 57.11050(a) or (b), only time frames and the use  
25    of normal exit methods. MSHA's introduction of

1 specific distances, even if only for example, departs  
2 from the plain language of 30 CFR 57.11050 and is a  
3 potential source of confusion.

4 Third, IMA supports MSHA's consideration of  
5 mine specific conditions and factors from developing  
6 and the reviewing the mines escape and evacuation plan  
7 under 30 CFR 57.11053. And finally, because MSHA's  
8 policy guidance is binding on the agency employees,  
9 IMA supports making clear that the examples cited in  
10 the PPL do not constitute the basis for enforcement.  
11 We're concerned that any new policy may constitute  
12 rulemaking through interpretation rather than through  
13 notice of comment rulemaking required by the Federal  
14 Mine Safety and Health Act of 1977. We share the  
15 concerns that Hunter brought up earlier as well in his  
16 comments. We very much appreciate you guys taking the  
17 time to hear us out and we look forward to working  
18 constructively with you as we move forward in the  
19 process.

20 MS. MCCONNELL: Okay. I guess -- so, I  
21 guess in your position is that you would rather -- if  
22 I had to summarize your comment is that you would  
23 rather us either, A), not issue guidance, or B), you  
24 would say that, if we were going to discuss placement  
25 of the refuge, you would recommend that we go enter

1 into rulemaking?

2 MR. GREISSING: Correct.

3 MS. MCCONNELL: Okay. I don't have any  
4 other questions.

5 MR. GREISSING: All right. Thank you very  
6 much.

7 MS. MCCONNELL: Sure. Is there anyone else  
8 who would like to come and share their comments?

9 MR. HENDRIX: Good morning. My name is  
10 Brian Hendrix, H-E-N-D-R-I-X and I'm with the law firm  
11 of Husch Blackwell. I just had a couple of questions  
12 that I wanted to ask the agency. First is there any  
13 -- or if you can describe for us specific data  
14 information studies that the agency has considered in  
15 determining that the 1500 foot or the 10 minute rule  
16 is something that the agency believes is protective of  
17 miners?

18 MS. MCCONNELL: We don't have any studies  
19 that substantiate that position in terms of the 1500  
20 feet or the 10 minutes. These -- I believe it's based  
21 on experience, inspector experience, working at, you  
22 know -- being at the mine site. And Brian, you can  
23 elaborate, but basically, the 30 years the agency has  
24 been at mines, inspecting mines, looking where the  
25 refuges should be placed and looking at maybe even our

1 experiences on the other side of the house in terms of  
2 refuges. So, I would say that we did not rely on any  
3 studies from any -- from NIOSH or other  
4 establishments, but our own experience.

5 MR. HENDRIX: So, the agency is aware that  
6 NIOSH has studied this issue and --

7 MS. MCCONNELL: No. Did NIOSH study the  
8 issue?

9 MR. HENDRIX: They did.

10 MS. MCCONNELL: Okay.

11 MR. HENDRIX: Yes.

12 MS. MCCONNELL: Do you -- and as NIOSH is in  
13 the room, do you have -- could you provide us in your  
14 comments your studies if they exist in terms of  
15 placement of refuge?

16 MR. GOEPFERT: I will look into that put  
17 that in our comments, yes.

18 MS. MCCONNELL: Okay. Thank you.

19 MR. HENDRIX: And additionally, I'd like to  
20 point out that there are several other countries that  
21 do address this issue of refuge in metal mines  
22 including Australia, and Australia has some very  
23 helpful guidance, that I know several operators here  
24 in the states have referred MSHA to previously. So,  
25 that's some additional guidance that we hope the

1 agency would address or look at and consider.

2 MS. MCCONNELL: Okay. Would you be able to  
3 submit that in your comments in terms of the guidance  
4 that you're referencing now?

5 MR. HENDRIX: We certainly will.

6 MS. MCCONNELL: Okay.

7 MR. HENDRIX: Yes.

8 MS. MCCONNELL: Thank you.

9 MR. HENDRIX: I also had a question about  
10 the statement in the rulemaking -- or rather the  
11 statement in the preamble to the proposed PPL, that  
12 they do --

13 MS. MCCONNELL: This is not a rulemaking.

14 MR. HENDRIX: I -- I don't --

15 MS. MCCONNELL: This is why this --

16 MR. HENDRIX: -- I did not. That was a  
17 misstatement on my part.

18 MS. MCCONNELL: No, that's okay. I just  
19 want to make sure it's on the record.

20 MR. HENDRIX: I understand.

21 MS. MCCONNELL: This is not a rulemaking.

22 MR. HENDRIX: I understand. That the  
23 agency's position has been consistent. Can you  
24 explain to me how the agency's position now is  
25 consistent with the position it took in the S&D case



1 before the commission was -- actually, not recently,  
2 within a year or two.

3 MS. MCCONNELL: That I can't comment on. I  
4 don't know, Brad, if you're going to be able to talk  
5 about that recent case.

6 MR. MANTEL: Not at this time.

7 MR. HENDRIX: And has the agency considered  
8 any of the citations that it's issued over the course  
9 of the last three years and the enforcement position  
10 it's taken as it was promulgating proposed DL?

11 MS. MCCONNELL: No. I don't think we did.  
12 But, if we were going to go into rulemaking, that's  
13 obviously something that we would take into  
14 consideration of. But no. Did we take public --  
15 previous citations, I don't think so, no.

16 MR. HENDRIX: Okay. And I guess my last  
17 question is, what was the impetus for this? That's  
18 what we're trying to understand is, what reason did  
19 the agency have to issue the proposed guidance?

20 MS. MCCONNELL: The agency issued the  
21 proposed guidance because we heard from stakeholders  
22 that they would want more -- they want us to clarify  
23 our existing standards. And for us to clarify an  
24 existing standard, you would have to issue guidance  
25 without doing rulemaking.

1           So, in our attempt to make sure that  
2       everyone understood our intent, we published this in  
3       the Federal Register so that we could see comment on  
4       the guidance. We weren't necessarily required to do  
5       so. But this is part of this ongoing discussion on  
6       how -- what is -- what does the standard mean? What  
7       is our intent? And this exchange that we're having is  
8       going to help us move the agency further along, and at  
9       the request of our stakeholders to provide clarity for  
10      this existing standard.

11           MR. HENDRIX: I appreciate it. Thank you  
12      very much.

13           MS. MCCONNELL: Sure. Anybody else?

14           MR. PRILLAMAN: Can I say one more thing?  
15      Is that --

16           MS. MCCONNELL: Come on up. Come on down.

17           MR. PRILLAMAN: Again, I'm Hunter Prillaman  
18      from the Lime Association. I just wanted to emphasize  
19      that there's certainly place for guidance and a place  
20      for program policy letters that clarify things. And I  
21      think the problem here is, there's now some new  
22      confusion about what is enforceable and what isn't.  
23      And so, I think that's what needs to be further  
24      clarified. And also, it needs to be consistent with  
25      what is already in policy in the rules. And I think

1       that's, you know, I -- and I also want to emphasis --  
2       I don't think there's anything wrong with giving  
3       examples that go beyond what the rule requires, as  
4       long as it's clear that an inspector is not going to  
5       enforce that. So, that -- I just wanted to make that  
6       point --

7               MS. MCCONNELL: Yes.

8               MR. PRILLAMAN: -- clear.

9               MS. MCCONNELL: Yes, I agree.

10              MR. PRILLAMAN: Thank you.

11              MS. MCCONNELL: You're welcome. Anyone  
12       else? Good morning.

13              MR. ARMSTRONG: Good morning. My name is  
14       Kent Armstrong, K-E-N-T, Armstrong, A-R-M-S-T-R-O-N-G.  
15       I am a global business development manager for  
16       Draeger. We are a manufacturer of shelters that we  
17       like to call life support systems. We've been doing  
18       that globally for over -- for the better part of 25  
19       years.

20              Some of the points I'd like to bring up from  
21       working internationally is that every mine is being  
22       developed differently today and this is a global  
23       situation, not a recent situation. How we build  
24       mines, how we design mines, how we get to ore bodies  
25       and previous presentations down there in ore

1 conferences have stated that we've taken the easy  
2 stuff. We have to mine both our present ore bodies to  
3 meet results, but we have many different divisions  
4 that are being developed because of that. We're  
5 bringing in new products into the marketplace, such as  
6 battery operated mining equipment, there again, that  
7 has different risks should that expire, or an  
8 emergency occur.

9 Many global mining companies that are  
10 developing new shelters, or as we say, miner emergency  
11 escape plans are basing a little more on risk, and  
12 cannot take -- is that 1500 feet on the same line we  
13 had for development and be satisfied that that would  
14 work in every place around the world?

15 So, to put it in a pigeonhole, or put it in  
16 a set criteria like that and not base it on just a  
17 basic plan. we have to work on our emergency  
18 functions. We as manufacturers of life support  
19 systems would also like to include that if you look at  
20 design shelters, what makes the best sense, given the  
21 ambient temperatures we're having to deal with,  
22 conditions we're having to deal with today. I think  
23 we have to look at that more seriously. Again, on how  
24 we design these particular shelters that best protect  
25 the miners for longer durations. One has to look at

1 making it safe back up to at least a four month  
2 rescue, proper firefighting techniques. More comes  
3 into play than just building a box, sinking it in a  
4 hole 1500 feet away.

5 MS. MCCONNELL: Thank you very much. I  
6 don't have any further questions. Any other comments  
7 for the record? I'm just going to sit here for a few  
8 minutes to have everyone contemplate whether or not  
9 they have any additional comments.

10 (Pause.)

11 MS. ABRAMS: Excuse me.

12 MS. MCCONNELL: Yes.

13 MS. ABRAMS: I'm not signed up and I wasn't  
14 really going to comment on this. But --

15 MS. MCCONNELL: The seat is yours, Adele.

16 MS. ABRAMS: Yes. Hi. Adele Abrams,  
17 spelled A-D-E-L-E, last name Abrams, A-B-R-A-M-S and  
18 I'm president of the Law Office of Adele L Abrams,  
19 P.C. in Beltsville, Maryland. I had really more of an  
20 overarching question.

21 MS. MCCONNELL: Sure.

22 MS. ABRAMS: I saw that yesterday President  
23 Trump signed two executive orders dealing with agency  
24 policy documents and interpretative memorandum. And I  
25 was wondering if that is going to impact, you know,

1 your request for information and that this is ongoing  
2 with regard to the refuge chamber since that has been  
3 characterized as a program policy letter.

4 MS. MCCONNELL: And that's a very good  
5 question and I don't have the answer to that. But I  
6 would have to say that I haven't read the most recent  
7 executive order. But I will do that and see whether  
8 or not it is, in fact -- because we did publish this  
9 before that. So, I need to review that.

10 MS. ABRAMS: Right. And as an ancillary  
11 matter, these took effect instantly, so as of  
12 yesterday, and it indicated that any policy that was  
13 not currently searchable on the agency website was  
14 being rescinded. And so I would just urge MSHA, since  
15 we have this opportunity, to look at other policy that  
16 out there related to refuge chambers, make sure -- and  
17 other matters as well --

18 MS. MCCONNELL: Right.

19 MS. ABRAMS: -- to make sure that the things  
20 you intend to have publicly available are, in fact, up  
21 there and searchable or else they could have  
22 inadvertently been rescinded.

23 MS. MCCONNELL: Yes. That's a good point.  
24 Thank you very much.

25 MS. ABRAMS: Thank you.

1 (Pause.)

2 MS. MCCONNELL: So, is anyone else thinking  
3 to -- so, before I close the meeting, I just want to  
4 give you a couple of reminders. One, next week, we  
5 will be holding a stakeholder meeting on our request  
6 for information regarding respirable ports. It's  
7 going to be here in this room at 9:00 a.m. Also, in  
8 the coming days, MSHA will announce a series of  
9 stakeholder meetings related to the reinstatement of  
10 the January 2017 rulemaking on working place  
11 examinations in metal, nonmetal mines. The first  
12 meeting will be -- well, when you see the notice, the  
13 first meeting will be October 29th in Dallas. So, set  
14 your records. Lastly, for this guidance, comments are  
15 due by October 28th.

16 (Pause.)

17 MS. MCCONNELL: Okay. I think it's time.  
18 Since there's no one else who would like to make a  
19 presentation or a statement today, I will conclude  
20 MSHA's public meeting on the program policy letter,  
21 Escapeways and Refuges in Underground Metal and  
22 Nonmetal Mines. And on behalf of the Assistant  
23 Secretary, David G. Zatezalo, we appreciate your  
24 participation in this process and encourage you to  
25 submit any additional comments on or before Monday,

1       October 28, 2019. The meeting is now concluded.

2       Thank you very much.

3               (Whereupon, at 9:37 a.m., the hearing in the  
4       above-entitled matter concluded.)

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DOCKET NO.: N/A

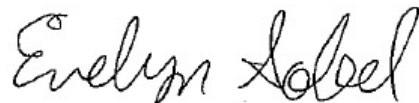
CASE TITLE: Escapeways and Refuges in Underground  
Metal and Nonmetal Mines, Program Policy  
Letter (PPL), Stakeholders Meeting

DATE: October 10, 2019

LOCATION: Arlington, Virginia

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the U.S. Department of Labor, Mine Safety & Health Administration.

Date: October 11, 2019

A handwritten signature in black ink that reads "Evelyn Sobel". The signature is written in a cursive, flowing style.

Evelyn Sobel  
Official Reporter  
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## Opening Statement

Stakeholder Meeting – Arlington, VA

October 10, 2019

Program Policy Letter - Escapeways and refuges in underground metal and nonmetal mines

Good morning. My name is Sheila McConnell. I am the Director of the Office of Standards, Regulations, and Variances in the Mine Safety and Health Administration. I will be the moderator of this public meeting to gather information and data on MSHA's guidance regarding the existing requirement on escapeways and refuges in underground metal and nonmetal mines.

On behalf of David G. Zatezalo, Assistant Secretary of Labor for Mine Safety and Health Administration, I want to welcome you to this public meeting and thank you for your participation. Let me introduce the other members of the panel: Brian Goepfert, Deputy Administrator for Metal and Nonmetal Mine Safety and Health, and Brad Mantel, Counsel for Standards and Legal Advice for the Solicitor, Mine Safety and Health Division.

MSHA's existing standards on Escapeways and Refuges requires two or more separate, properly-maintained escapeways in underground metal and nonmetal mines to enable miners to escape in an emergency and, when they cannot escape, the standard requires refuges to enable miners to shelter safely in place until they can be rescued.

MSHA's standards recognizes two exceptions to the requirement that underground metal and nonmetal miners be provided at least two separate escapeways from their working places to the surface. First, miners must be provided a method of refuge while a second escapeway is being developed. Second, during the exploration or development of an ore body, a second escapeway is "recommended, but not required."

MSHA consistently has interpreted these two exceptions to mean that if, in either of these situations, miners have only one escapeway from their working place, miners must have access to

a refuge. This refuge should be located near the miners so that they promptly and reliably can enter the refuge.

The purpose of this public meeting is to seek comment on a Program Policy Letter that MSHA announced in the Federal Register on July 29. This program policy letter is not a rulemaking.

MSHA's Program Policy Letter seeks to clarify the Agency's existing standard regarding the placement of a refuge when miners have only one escapeway. In the Program Policy Letter, MSHA noted that the Agency recognizes that it may not be practicable for most working places near the portal (for example, within 300 feet) in a horizontal configuration (as opposed to vertical) to have refuges.

MSHA further noted that the Agency believes that, in most cases, a refuge located, for example, 1500 feet from miners on a relatively level surface (or, for example, reachable within a 10-

minute walk while carrying an injured miner) is close enough to provide the protection the standard intends.

MSHA's proposed program policy letter also notes that mine operators should consult with their MSHA District Manager to determine appropriate refuge locations given mine-specific conditions and factors (for example: steeply pitched, narrow, uneven, low-height, or wet travelways) when developing and reviewing the mine's escape and evacuation plan required under existing standards.

Our meeting will be conducted in an informal manner. Speakers and other attendees may present information for the record. MSHA will accept comments and other information for the record from any interested party.

If you have not already done so, please sign the attendance sheet at the back of the room so that we may have an accurate record of your attendance.

We have copies of the Federal Register notice regarding this Program Policy Letter in the back of the room.

MSHA will make available a verbatim transcript of this public meeting approximately two weeks from the completion of the meeting on the websites identified below. You may view the transcripts of all public meetings and comments on our website at [www.msha.gov](http://www.msha.gov) and on [www.regulations.gov](http://www.regulations.gov).

If providing comments, please provide specific information and supporting rationale for your position.

All comments beyond those offered for the record today must be received by Monday, October 28, 2019. You can view the comments on [www.regulations.gov](http://www.regulations.gov) or the Agency's website at [www.msha.gov](http://www.msha.gov) – and select the link for Regulations.

If you have a copy of your testimony or presentation, please give a copy to the court reporter so it can be appended to the meeting transcript.