



Beckley also argues that the foreman's examination was made "immediately prior" to moving the roof bolter into the working place. The judge disagreed and found that it "was made at some point in time prior to the immediate movement of the roof bolter inby the crosscut, that is, prior to the time that it took the roof bolter to move out of the [old] working place and into the [new] working face", and therefore did not meet the "immediately prior" requirement of the regulation. J.D. at 23. As the judge held, "I find that lapse of time and the time interval does not meet the 'immediately' test of the regulation and constitutes a violation." *Id.* We agree.

---

1/ 30 U.S.C. §801(g)(2)(1976)(amended U.S.C.A. 1979). See also 30 U.S.C. §817(c)(amended U.S.C.A. 1979).

~1795

Finally, Beckley argues that the notice of violation does not adequately describe a violation, and that consequently it was prejudiced in preparing its defense. We also reject this argument. The notice contained the standard allegedly violated along with a written description of the condition leading to its issuance. 2/ In light of this Beckley was fully apprised of the allegations against it.

Accordingly, the judge's decision is affirmed.

---

2/ The notice of violation stated in relevant part:

James Richardson, roof bolter operator, supervised by Tom Cochran was observed tramming the roof bolting machine into the no. 47 crosscut ... before making an examination for methane ...