

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

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MAR 25 2014

SECRETARY OF LABOR
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA),
Petitioner

v.

DRUMMOND COMPANY,
Respondent

CIVIL PENALTY PROCEEDINGS

Docket No. SE 2011-274
A.C. No. 01-02901-242524

Docket No. SE 2011-403
A.C. No. 01-02901-248080

Mine: Shoal Creek Mine

AMENDED DECISION¹

Appearances: Thomas A. Grooms, Esq., Office of the Solicitor, U.S. Department of Labor, 618 Church Street, Suite 230, Nashville, Tennessee for the Secretary of Labor

John Church, Conference and Litigation Representative, U.S. Department of Labor, Mine Safety and Health Administration, 135 Gemini Circle, Suite 213, Birmingham, Alabama for the Secretary of Labor

Noelle Holladay True, Esq., Rajkovich, Williams, Kilpatrick & True, PLLC, 3151 Beaumont Centre Circle, Suite 375, Lexington, Kentucky for Respondent

Damon Jay Boiles III, Esq., Drummond Company, Inc., P.O. Box 10246, Birmingham, Alabama for Respondent

Before: Judge Andrews

These civil penalty proceedings are conducted pursuant to the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 *et seq.* (2000) (the "Mine Act" or "Act"). This matter concerns Citation Nos. 8518691 and 7699789, both issued under Section 104(a) of the Act and served upon Drummond Company, Inc. ("Drummond" or "Respondent") by the Mine Safety and Health Administration ("MSHA"). A hearing was held on July 10, 2013 in Birmingham, Alabama at which the parties presented testimony and documentary evidence. After the hearing, the parties submitted Post Hearing Briefs and informed the undersigned that Respondent withdrew its contest of Citation No. 7699789 and agreed to pay the assessed penalty of \$1,203.00. The assessed penalty for Citation No. 8518691 is \$8,209.00.

¹ This decision has been amended to reflect the issuance date of Citation Number 8518691 to November 15, 2010 located on page 2.

PROCEDURAL HISTORY

These dockets collectively contained twenty-nine citations and were assessed penalties totaling \$81,620.00. On June 24, 2011, they were assigned to Administrative Law Judge Jeffrey Tureck. On March 20, 2012, a motion for partial settlement that included twenty-five citations was approved. The Secretary filed a motion for summary judgment concerning Citation Nos. 8518691 and 7699789 on October 9, 2012, which was denied in a decision by Judge Tureck on November 23, 2012. Later, on November 26, 2012, a second motion for partial settlement that covered two unrelated citations was approved, leaving only Citation Nos. 8518691 and 7699789 at issue for hearing. These cases were reassigned to the undersigned on February 12, 2013.

STIPULATIONS

1. Respondent was the operator of the Shoal Creek Mine at all relevant times.
2. The Shoal Creek Mine is a "mine" as that term is defined in Section 3(h) of the Mine Act.
3. Operations at the Shoal Creek Mine involve products which enter commerce or products which affect commerce.
4. Respondent is subject to the Federal Mine Safety & Health Act of 1977.
5. The Citations attached to Exhibit A of the Secretary's Petitions were issued to Respondent.
6. The penalty assessed for the alleged violations are appropriate to the size of the operator.
7. The operator demonstrated good faith in attempting to achieve rapid compliance after notification of the alleged violations.
8. The penalties assessed will not affect the operator's ability to continue in business.

THE CITATION

On November 15, 2010, MSHA Inspector Stanley Frank Wilkosz ("Wilkosz") issued Citation No. 8518691 for a violation of 30 C.F.R. § 75.1506(g). The Condition or Practice stated:

At all times, the site and area around the refuge alternative shall be kept clear of machinery, materials and obstructions that could interfere with the deployment or use of the refuge alternative. The refuge alternative on the G-9 long wall section #31 brattice had coal, rocks and blocks 1.5 feet deep by 8 feet wide from the side of the chamber and toward the door.

GX-1.² Wilkosz designated this violation as reasonably likely to result in fatal injuries to ten miners and significant and substantial (“S&S”) in nature. He further evaluated Respondent’s negligence as moderate.*Id.* The citation was terminated on November 17, 2013 when the refuge alternative was moved to the 34 cross cut, which was well rock-dusted, had adequate roof and rib conditions, and was free from obstructions. *Id.*

LAW AND REGULATIONS

Wilkosz cited Respondent for a violation of 30 C.F.R. § 75.1506(g). This regulation, entitled “Refuge alternatives,” states, “[a]t all times, the site and area around the refuge alternative shall be kept clear of machinery, materials, and obstructions that could interfere with the deployment or use of the refuge alternative.” 30 C.F.R. § 75.1506(g).

Wilkosz found that this violation was S&S in nature and was the result of moderate negligence. A significant and substantial (“S&S”) violation is described in section 104(d)(1) of the Act as a violation “of such nature as could significantly and substantially contribute to the cause and effect of a coal or other mine safety or health hazard.” 30 U.S.C. § 814(d)(1). A violation is properly designated S&S “if, based upon the particular facts surrounding that violation, there exists a reasonable likelihood that the hazard contributed to will result in an injury or illness of a reasonably serious nature.” *Cement Div., Nat’l Gypsum Co.*, 3 FMSHRC 822, 825 (Apr. 1981).

The Commission has explained that:

[i]n order to establish that a violation of a mandatory safety standard is significant and substantial under *National Gypsum*, the Secretary of Labor must prove: (1) the underlying violation of a mandatory safety standard; (2) a discrete safety hazard--that is, a measure of danger to safety--contributed to by the violation; (3) a reasonable likelihood that the hazard contributed to will result in an injury; and (4) a reasonable likelihood that the injury in question will be of a reasonably serious nature.

Mathies Coal Co., 6 FMSHRC 1, 3-4 (Jan. 1984) (footnote omitted); *see also, Buck Creek Coal, Inc. v. MSHA*, 52 F.3d 133, 135 (7th Cir. 1999); *Austin Power, Inc. v. Secretary*, 861 F.2d 99, 103-04 (5th Cir. 1988), *aff’g Austin Power, Inc.*, 9 FMSHRC 2015, 2021 (Dec. 1987) (approving *Mathies* criteria).

The difficulty with finding a violation S&S normally comes with the third element of the *Mathies* formula. In *U.S. Steel Mining Co., Inc.*, 7 FMSHRC 1125, 1129 (Aug. 1985), the Commission provided additional guidance: We have explained further that the third element of the *Mathies* formula “requires that the Secretary establish a reasonable likelihood that the hazard contributed to will result in an event in which there is an injury.” *U.S. Steel Mining Co., Inc.*, 6

²Hereinafter, Government exhibits will be referred to as “GX” followed by a number. Respondent’s exhibits will be referred to as “RX” followed by a number. Cites to the transcript will be labeled “Tr.” followed by the page number(s).

FMSHRC 1834, 1836 (August 1984). We have emphasized that, in accordance with the language of section 104(d)(1), it is the *contribution* of a violation to the cause and effect of a hazard that must be significant and substantial. *U.S. Steel Mining Co., Inc.*, 6 FMSHRC 1866, 1868 (August 1984); *U.S. Steel Mining Co., Inc.*, 6 FMSHRC 1573, 1574-75 (July 1984).

This evaluation is made in consideration of the length of time that the violative condition existed prior to the citation and the time it would have existed if normal mining operations had continued. *Elk Run Coal Co.*, 27 FMSHRC 899, 905 (Dec. 2005); *U.S. Steel Mining Co., Inc.*, 6 FMSHRC at 1574. The question of whether a particular violation is S&S must be based on the particular facts surrounding the violation. *Texasgulf, Inc.*, 10 FMSHRC 498 (Apr. 1988); *Youghiogeny & Ohio Coal Co.*, 9 FMSHRC 2007 (Dec. 1987).

Negligence "is conduct, either by commission or omission, which falls below a standard of care established under the Mine Act to protect miners against the risks of harm." 30 C.F.R. § 100.3(d). "A mine operator is required to be on the alert for conditions and practices in the mine that affect the safety or health of miners and to take steps necessary to correct or prevent hazardous conditions or practices." *Id.* MSHA considers mitigating circumstances which may include, but are not limited to, actions taken by the operator to prevent or correct hazardous conditions or practices. *Id.* Low negligence exists when "[t]he operator knew or should have known of the violative condition or practice, but there are considerable mitigating circumstances." *Id.* Moderate negligence is when "[t]he operator knew or should have known of the violative condition or practice, but there are mitigating circumstances." *Id.* High negligence exists when "[t]he operator knew or should have known of the violative condition or practice, and there are no mitigating circumstances." *Id.* See also *Brody Mining, LLC*, 2011 WL 2745785 (2011)(ALJ). Finally, the operator is guilty of reckless disregard where it "displayed conduct which exhibits the absence of the slightest degree of care." 30 C.F.R. § 100.3(d).

The Secretary contends that Respondent violated 30 C.F.R. § 75.1506(g) when it did not remove the material that accumulated in front of the RA when it was moved. He argues that the citation was correctly designated as S&S because miners could trip over the accumulation, lose the lifeline and become disoriented interfering with their ability to retreat to the RA. He also states that the alleged violation was the result of moderate negligence because the RA was in an area of high travel, so a foreman should have noticed the material.

Respondent argues that no violation of 30 C.F.R. § 75.1506(g) occurred because nothing interfered with the use or deployment of the RA. In the alternative, it contends that the alleged violation is neither S&S nor the result of moderate negligence. In support, it states that the material acted as a sort of ramp to the entrance of the RA and would actually help miners in the event of an emergency situation. It also argues that the RA had been moved after the preshift examination and had only been in place for a couple of hours at the time that the citation was issued.

CONTENTIONS OF THE PARTIES

SUMMARY OF THE TESTIMONY

The findings of fact are based on the record as a whole and my careful observation of the witnesses during their testimony. In resolving any conflicts in the testimony, I have taken into consideration the interests of the witnesses, or lack thereof, and consistencies, or inconsistencies, in each witness's testimony and between the testimonies of the witnesses. In evaluating the testimony of each witness, I have also relied on his demeanor. Any failure to provide detail as to each witness's testimony is not to be deemed a failure on my part to have fully considered it. The fact that some evidence is not discussed does not indicate that it was not considered. *See Craig v. Apfel*, 212 F.3d 433, 436 (8th Cir. 2000)(administrative law judge is not required to discuss all evidence and failure to cite specific evidence does not mean it was not considered). I have also fully considered the contents of the Official File including the pre- and post-hearing submissions of the parties, and the exhibits admitted into evidence.

1. Testimony of Stanley Frank Wilkosz

Wilkosz is an inspector who has worked for MSHA for approximately five years. Tr. 15. He began work in the coal industry in 1969 at the Renton Coal Mine in Renton, Pennsylvania where he worked for about twelve years. Tr. 16. During this time, he was a general laborer, an equipment operator and a fire boss. Tr. 17. After a twenty year hiatus, Wilkosz returned to the industry with Respondent at the Shoal Creek Mine in 2005 as a face foreman. Tr. 17, 19. In this capacity, he was responsible for taking air readings, conducting gas checks and conducting preshift and onshift examinations. Tr. 19. He continued in this position until joining MSHA in 2008. Tr. 20.

Wilkosz issued Citation No. 8518691 on November 15, 2010, while at the mine conducting a regular quarterly inspection. Tr. 20-21; GX-1. He was traveling a return air course with Safety Director Larry Armstrong ("Armstrong") and Union Representative Joe Weldon when he noticed a pile of rocks along the side of the refuge alternative ("RA"). Tr. 21-23; GX-3. According to Wilkosz, the RA is a man-made structure that supports life by facilitating communications with the outside, supplying its own oxygen supply, filtering incoming air and supplying food and water. Tr. 22. In the event of a disaster, this is where the miners retreat to as a last resort. Tr. 22. Because it is required to be within a certain distance of the face, it must advance and retreat with the miners. Tr. 23.

Wilkosz testified that the RA, including the door, was blocked by coal and rocks, as well as blocks that had been used to build the stopping behind it. Tr. 27, 36; GX-3. When asked, he did not recall Armstrong opening the door. Tr. 28. He stated that the average depth of the debris was one and a half feet, which he measured using a measuring tape at the beginning and looking toward the wall. Tr. 41. According to Wilkosz, it could have been deeper, but he did not dig. Tr. 41. He theorized that the debris pile was created as the RA was pushed along the roadway by a heavy-duty forklift. Tr. 39-40. He did not attempt to open the door because the RA is actually sealed until an emergency situation occurs. Tr. 43. He testified at the hearing that if miners cannot get into the RA, it is not considered to be "deployed." Tr. 45. In his opinion, tripping hazards constitute an interference or obstruction with escaping or getting to a refuge alternative. Tr. 47.

During cross-examination, Wilkosz acknowledged that refuge alternatives were not required when he was employed at Respondent's Shoal Creek Mine. Tr. 44. Therefore, he has no experience in examining them. Tr. 45. He further admitted that during his deposition he stated that he did not see anything that interfered with "deployment," but he did see obstructions that he did not measure. Tr. 46, 54. During the hearing, he also stated that regardless of debris or obstructions, miners must step up into the RA anyway. Tr. 48-49.

Wilkosz determined that the violation was reasonably likely to result in injury and S&S because miners would be following the lifeline in a disaster or emergency situation in which they can't see. Tr. 30, 38. If they hit tripping hazards, which can reasonably be assumed to cause broken legs, etc., it is likely that miners would not make it into the RA. Tr. 30. If miners were to lose the lifeline by tripping over the debris, they could become disoriented because the environment is totally black, according to Wilkosz. Tr. 37, 40. In this environment, head lamps and cap lights would be useless because of the smoke and dust in the air.³ Tr. 30. Given this situation, he found that injuries would most likely be fatal because miners would not be able to get into breathable airspace. Tr. 36. He explained that fires on a belt line or in coal creates noxious gases and takes oxygen out of the air. Tr. 37.

Wilkosz further designated the negligence as moderate. Ex. 1. He testified that the longwall coordinator stated that the RA had been moved that morning. Tr. 38. Wilkosz acknowledged that the RA would have been moved after the preshift examination and admitted that he had no evidence that a person of responsibility had seen the condition; although, he testified that someone should have. Tr. 38-39, 51, 53. He stated that it was a heavily trafficked with foremen passing it several times throughout the shift. Tr. 51. He did not withdraw the miners or take the RA out of service because Armstrong represented that Respondent would move the RA. Tr. 62.

2. Testimony of Larry Armstrong

Armstrong possesses a Bachelor's as well as a Master's degree in Counseling. Tr. 67. He worked in the mining industry from approximately 1972-1988 as an inside laborer, equipment operator and electrician for Jim Walter Resources before leaving the industry entirely to pursue a career in counseling. Tr. 68. He returned to mining at Drummond in 2004 as a safety inspector. Tr. 68. In this capacity, he travels with inspectors during their inspections, including during Wilkosz's inspection on November 15, 2010. Tr. 69, 74. He makes notes of what he sees and points out mitigating circumstances. Tr. 69. He also tries to correct any conditions that may not be citable, but need correcting nonetheless. Tr. 69. Outside of official inspections, he inspects the mine himself, including the belts and mine ARCS⁴. Tr. 69. Armstrong testified that he is certified in installing and examining refuge alternatives. Tr. 71.

According to Armstrong, a refuge alternative is a safe place for miners to gather in case of an emergency such as a fire, an ignition or an explosion. Tr. 72. It provides the miners with fresh air. Tr. 72. He explained that the RA has a step up into it which measures approximately

³ During his employment with Drummond, Wilkosz testified that he experienced a belt fire and the limitations of sight to which he testified. Tr. 31-33.

⁴ This is another term for a refuge alternative. Tr. 69.

eleven and three quarters inches from floor to door. Tr. 74. During the inspection, he described the debris as coal and dirt that had “kind of tapered up into an incline.” Tr. 75. Armstrong stated that the area was smooth and neither he nor Wilkosz had any difficulty walking in the area. Tr. 79-80. In his opinion, the depth was nine inches at the most because it started even with the floor and was not over the top of the step. Tr. 75. He admitted that he did not take any measurements, but he stated that he did not see Wilkosz take any either. Tr. 76-77. Armstrong further disputed Wilkosz assertion of the location of material around the RA. Tr. 78; GX-3.

Armstrong testified that he did open the door to the RA during the inspection, and he did not have push any material aside to do so. Tr. 80, 82. He did this because Wilkosz made that the comment that the door may have been obstructed. Tr. 81. However, Armstrong stated that Wilkosz turned and walked away just as he was demonstrating that the door could be opened. Tr. 81. He was certain of these events because it was the first refuge alternative that he had ever opened. Tr. 81. Armstrong stated that it was possible that Wilkosz had not heard him say that the door would be opened. Tr. 82.

Armstrong explained that a branch line of the lifeline was physically attached to the RA door on both the left and right sides. Tr.82-84; GX-3. He said that the material began approximately three feet from the RA, and he believed that, in the event of an emergency, the debris was such that, rather than interference, it may have actually helped miners by acting as a sort of ramp. Tr. 85, 89-90. Even if a miner were to trip and lose the lifeline, he explained that he or she would then likely reach up and to the right for the lifeline at which time the RA would be found. Tr. 89. Armstrong’s boss, Randy Clements (“Clements”) also inspected the RA approximately sixteen hours after the citation was issued. Tr. 90-91. According to Armstrong, Clements also commented that the material did not interfere with the use of the door. Tr. 91.

During cross-examination, Armstrong admitted that he did see “some” rocks and blocks in the area, as well as the coal and dirt that was even with the step. Tr. 101; GX-12. He later stated that the blocks had been moved out of the way by hand into the corners to create a pathway for the movement of the RA, and they would not have interfered with miners seeking refuge. Tr. 101, 106, 108. Further, while Armstrong testified that he actually asked Wilkosz if he wanted to see the door a second time, he generally described Wilkosz’s reaction as non-responsive. Tr. 103-104.

3. Testimony of Kenneth Randy Clements

Clements started in the mines at Jim Walter Resources in 1979. Tr. 114. Here, he basically operated every type of equipment, including the miner, roof bolter, shuttle car and scoop. Tr. 114. While transferring between mines, he became a safety inspector, then a safety superintendent. Tr. 114-115. At the time that the citation was issued, he held the title of Safety Superintendent for the Shoal Creek Mine. Tr. 115. In this capacity, Clements oversees all safety aspects of the mine such as dust sample collection and maintenance calibration. Tr. 115. He reviews all citations that are issued to the Mine and determines which should be contested. Tr. 115.

Clements explained that at the time that the instant citation was issued, refuge alternatives were a new requirement and a “touchy issue” with operators. Tr. 116. According to Clements,

as a new legal requirement, operators were trying to make sure that everything was "right." Tr. 116. He too was trained and certified by Jim Walters Resources in maintaining and examining the RA. Tr. 122. Sixteen hours after Citation No. 8518691 was issued, Clements accompanied Armstrong to the RA. Tr. 118. He averred that the conditions were the same as the time of issuance because he could see the pathway of the machinery around the RA, which would not have been viewable if the miners had begun to shovel the area out. Tr. 118. Given the conditions as they existed, Clements testified that he did not understand why the citation was issued. Tr. 117.

Clements stated that he was able to open the door to the RA with no obstruction or pushing of material. Tr. 117. He further testified that he actually walked on the material and did not see anything in the travelway that would constitute a tripping hazard. Tr. 119. He did see some blocks on the left-hand side of the travelway; however, he argued that it did not interfere with his approach to the RA. Tr. 119-120. At the time of the hearing, Clements could not recall whether the lifeline was attached in this particular instance, but stated that it usually is now. Tr. 120-121. He admitted that Respondent did not comply with the requested termination time, but he argued that it is not uncommon for MSHA to set a time that it knows cannot be met. Tr. 123.

ANAYLYSIS AND CONCLUSIONS

1. Validity

I find that the Secretary has met his burden of proving a violation of 30 C.F.R. § 75.1506(g). Wilkosz credibly testified that there was material laying in front of the door to the RA. In fact, Respondent does not dispute this fact. Instead, it argues that the material did not interfere with the use or deployment of the RA. At hearing, Wilkosz testified that the material was blocking the door. However, this information is not located in the narrative or the citation, and Wilkosz later acknowledged that, in his deposition, he stated that the material was not blocking the door. In light of this, I discredit the testimony that the door was blocked.

Regardless, I find that the material interfered with the use of the RA. In training for emergency situations, miners were taught to follow the lifeline and branch line. At the end of this branch line, they anticipated a step up into the RA. If a miner were to trip over the unexpected material and lose the lifeline, he could become very disoriented. In his search for the RA, he would be expecting to find a step if he were on his hands and knees. The material (as described by both Wilkosz and Armstrong) would prevent this discovery.

Respondent argues that the "ramp" would actually be helpful to the miners in that they would not have to step up into the RA in the low visibility. I find this unpersuasive. If a miner were in an emergency situation, his training would presumably guide him in how to proceed. Given this fact, the "ramp" would serve to confuse rather than guide. As such, I discredit this argument and find that the Secretary has proven a violation of the regulation.

2. S&S

I further agree that the Secretary has proven that this violation is S&S in nature. As stated above, a violation of the regulation has been found. This violation contributes to the hazard of a miner falling during an emergency situation, becoming disoriented and failing to find the RA. If this were to happen, it is reasonably likely that he could suffer inhalation or burn injuries depending on the particular emergency requiring evacuation. There is no doubt that these injuries could lead to fatalities. In light of this, I find that the violation is S&S in nature.

Like the lifeline regulation, I find that 30 C.F.R. § 75.1506(g) is an emergency regulation. Indeed, refuge alternatives are a last-resort means of survival. To apply the regulation in any other situation than an emergency is to defy the basic meaning of it. *Secretary of Labor v. Cumberland Coal Resources, LP*, 33 FMSHRC 2357, 2367 (Oct. 2011), *aff'd Cumberland Coal Resources, LP v. Secretary of Labor*, 717 F.3d 1020 (D.C. Cir. 2013). I do not rule that every interference with a refuge alternative is S&S; however, given the circumstances as they exist in this particular situation, I find that in an emergency situation, the material would have been reasonably likely to result in the reasonably serious injury, including fatalities, to miners.

2. Negligence

I do not, however, find that the Secretary has proven that the violation was the result of Respondent's moderate negligence. As stated before, moderate negligence occurs when the operator new or should have known about the condition, but there are some mitigating factors. While I agree that Respondent should have known about the condition, there are considerable mitigating factors here. First, Wilkosz received information from the longwall coordinator and acknowledged at hearing that the RA was moved after the preshift examination occurred that morning. Second, Wilkosz admits that he had no information whatsoever to suggest that any agent of Respondent had knowledge of the material. Wilkosz based his designation on the idea that the area was heavily trafficked and foreman would have passed it several times during the shift. However, there was no evidence provided because the inspector had none. Given all of this information, I find that the condition was the result of Respondent's low negligence.

3. Penalty

Section 110(i) of the Mine Act delegates to the Commission and its judges the authority to assess all civil penalties provided in the Act. 30 U.S.C. § 820(i). The Act delegates the duty of proposing penalties to the Secretary. 30 U.S.C. §§ 815(a) and 820(a). Thus, when an operator notifies the Secretary that it intends to challenge a penalty, the Secretary petitions the Commission to assess the penalty. 29 C.F.R. § 2700.28. The Act requires that in assessing civil monetary penalties the Commission and its judges shall consider the six statutory penalty criteria, found at Section 110(i) of the Act:

[1] the operator's history of previous violations, [2] the appropriateness of such penalty to the size of the business of the operator charged, [3] whether the operator was negligent, [4] the effect on the operator's ability to continue in business, [5] the gravity of the violation, and [6] the demonstrated good faith of


the person charged in attempting to achieve rapid compliance after notification of a violation.

Id.

The Secretary and Respondent stipulated to the appropriateness of the penalty, the affect on the operator's ability to continue in business and the demonstrated good faith in achieving rapid compliance. As stated above, I have affirmed the gravity designation and decreased the negligence. Having considered each of the six criteria and given that I decreased the negligence attributable to Drummond, I find that the penalty for Citation No. 8518691 should be decreased to \$7,000.00.

ORDER

In light of the foregoing, it is **ORDERED** that Citation No. 8518691 is **MODIFIED** to reduce the negligence attributable to the operator from "Moderate" to "Low." Citation No. 7699789 remains as issued. It is further **ORDERED** that Drummond Company, Inc., **PAY** the Secretary of Labor the sum of \$8,203.00 within 30 days of the date of this Decision.⁵ Upon receipt of payment, these cases are hereby **DISMISSED**.


Kenneth R. Andrews
Administrative Law Judge

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⁵ Payment should be sent to: MINE SAFETY AND HEALTH ADMINISTRATION, U.S. DEPARTMENT OF LABOR, PAYMENT OFFICE, P. O. BOX 790390, ST. LOUIS, MO 63179-0390