

Attachment 5 –

Sample letter to the Coal Mine Operator or Coal Contractor to inform that the plan has been approved by NIOSH and a sample letter to the Coal Mine Operator or Coal Contractor to inform that it is time to establish a new plan

MSHA Number 9900001|

JAMES Q PUBLIC  
HIDDEN POINT MINES  
432 MAIN STREET  
MORGANTONW, WV 26505

Dear JAMES Q PUBLIC

The Plan you submitted for medical examinations of miners has been reviewed and APPROVED by the National Institute for Occupational Safety and Health (NIOSH), Coal Workers' Health Surveillance Program (CWHSP).

This approved Plan is for "miners working at the mine or company listed below:

HIDDEN POINT MINES – 9900001

The Plan will be effective from 02/15/2015 through 02/14/2020 at which time you will have to file a new Plan. We will notify you approximately 4 months prior to your Plan's expiration date. The open period for your miners to obtain their voluntary examinations under this currently approved plan is from 02/15/2015 through 08/15/2015.

As required by the Federal Mine Safety and Health Act of 1977 and operating under regulations outlined in 42 CFR Part 37, and all subsequent regulations issued under the Act, your Plan is approved subject to the following conditions:

1. A copy of this approved Plan, including any attachments you submitted, shall be permanently posted on the bulletin board at the mine. In "the case of an operator who does not have a bulletin board, such as an operator that is "a contractor, the operator must otherwise notify its employees of the examination "arrangements and have a copy of the Plan available for inspection. Upon request, the contractor "must show NIOSH written evidence that its employees have been notified.

2. In carrying out the Plan, you shall adhere strictly to all regulations and the approved Plan in all respects. Regulations pertaining to the CWHSP are found at:

<http://www.ecfr.gov/cgi-bin/text-idx?SID=78267829dd6935b5d1e3cb372d39e65f&node=42:1.0.1.3.21&rgn=div5>

No modification, alteration, or substitution shall be made in the Plan without first obtaining written approval from NIOSH. Any change to your Plan must be submitted for review and approval on a Coal Mine Operator's Plan (CDC/NIOSH M 2.10), or a Coal Contractor Plan (CDC/NIOSH 2.18).

3. You will encourage substantial participation of miners in the voluntary examinations and complete participation of miners for whom examinations are mandatory.
4. All miners examined while this Plan is in effect shall be examined in conformance with it.
5. All requirements of medical confidentiality shall be met. Duplicate chest images or copies of any health records, shall not be made, and you (as the operator) will not solicit a physician's spirometric, radiographic or other findings concerning any miner employed by you.
6. If examinations require an appointment, they shall be scheduled at the miner's convenience.
7. The hours that miners may be examined at the facility may not be convenient for working miners unless they are released from work for the examinations.
8. If arrangements are made for a mobile unit to examine miners on site, at least 3 weeks before the scheduled 'begin date' you must submit for approval an amended Plan which includes the actual dates, days, and hours the mobile unit will be available to your miners.

9. The dates specified on your Plan do not account for arrangements for the mandatory new-miner examinations. These should be made available from one of the facilities on your plan, at the convenience of the miner, on an as needed basis within 30 days after commencement of employment.
10. The dates specified on your Plan do not account for arrangements for repeat examinations. These should be made available from one of the facilities on your plan, at the convenience of the miner, on an as needed basis.

We want to help you and the miners in your company have a successful program. If any difficulties arise, please contact us at the address or telephone number above.

Sincerely yours,

James W. Lawson  
Health Assessment Specialist  
Coal Workers' Health Surveillance Program  
Surveillance Branch  
Respiratory Health Division

HIDDEN POINT MINES  
HP MINE #1  
432 MAIN STREET  
MORGANTONW, WV 26505

MSHA Number: 9900001

Dear JAMES Q PUBLIC

The National Institute for Occupational Safety and Health (NIOSH) in Morgantown, West Virginia, administers the Coal Workers' Health Surveillance Program (CWHSP) which is a congressionally-mandated medical examination surveillance program for monitoring the health of coal miners. The CWHSP was originally authorized under the 1969 Federal Coal Mine Health and Safety Act and is currently authorized under the 1977 Federal Mine Safety and Health Act and its subsequent amendments.

Regulations, 42 CFR Part 37, require each coal mine operator or contractor to provide **mandatory** chest examinations at the beginning of employment, and to periodically offer a **voluntary** chest examination to ALL coal miners. Each operator or contractor is required to develop a Plan for a chest examination program for their workers. All Plans must be developed in accordance with regulations, and must be submitted (to NIOSH) for review and approval before any examinations can be completed. NIOSH-approved Plans are returned to the coal mine operator or contractor and are to be posted in a visible location on the mine bulletin board. In the case of an operator who does not have a bulletin board, such as an operator that is a contractor, the operator must otherwise notify its employees of the examination arrangements and have a copy of the Plan available for inspection. Upon request, the contractor must show NIOSH written evidence that its employees have been notified. Plans must identify a 6-month period during which chest examinations will be offered, and must be renewed upon notification by NIOSH every 3 ½ to 4 ½ years. An approved Plan remains posted until it is superseded by a more recent version. Plan posting is monitored by the Mine Safety and Health Administration (MSHA).

Based on NIOSH records, it is now time for you to develop a new Plan. Your company's Plan must be submitted by 12/15/2014.

The following information may prove useful in your understanding of the regulations and development of your Plan.

## **REQUIRED CHEST EXAMINATIONS**

ALL chest examinations must be provided to your miners:

- \* **Free of charge;**
- \* **At a convenient date, hour, and location;**
- \* **With adequate notice to participate;**
- \* **In accordance with regulations and the assurances stipulated on the approved Plan;**

- \* **In accordance with notification and approval by NIOSH.**

**MANDATORY** chest examinations must be provided at the following intervals:

- \* **No later than 30 days after a miner begins working in or at a coal mine for the first time;**
- \* **3 years after the first chest examination;**
- \* **2 years after the second chest examination if the miner is so notified by NIOSH.**

**VOLUNTARY** chest examinations must be offered:

- \* **For a 6-month period every 3 ½ to 5 years.**

## **REQUIRED SPIROMETRY EXAMINATIONS**

Coal mine operators with approved plans for chest radiographs and occupational histories will be notified by MSHA when the plans must be amended to include spirometry examinations and respiratory assessments. Amendments must be submitted to NIOSH within 60 days of MSHA's notification.

## **DEVELOPING YOUR PLAN**

Regulations pertaining to the CWHSP are found at:

<http://www.ecfr.gov/cgi-bin/text-idx?SID=78267829dd6935b5d1e3cb372d39e65f&node=42:1.0.1.3.21&ragn=div5>

A list of NIOSH-approved facilities (providers) and a blank Plan with instructions are enclosed. All sections of the Plan must be completed. Please pay particular attention to Sections 37.3 and 37.92 of the regulations and follow the Instructions for Completion when completing your Plan.

**Your Plan is subject to approval by NIOSH. In no instance should any of your miners be examined prior to NIOSH approval. Copy your proposed Plan, mark it "DRAFT", and post a copy on the mine bulletin board, or in the case of an operator who does not have a bulletin board, such as an operator that is a contractor, you must otherwise notify your employees of the examination arrangements and have a copy of the Plan available for inspection. Forward the original to NIOSH, with a roster of names and current home addresses of ALL the miners at your operation.** Per regulations, these examinations must be offered to ALL employees and participation is not limited to any particular job category, pay (i.e., salaried vs. hourly) or organizational level, unless you are a contracting company to the coal mine operator. In that case, your roster must include only the names and current home addresses of employees required to complete MSHA Part 48 training. When NIOSH returns the approved Plan, **replace the "DRAFT" with the final copy.** Retain a copy in your office files so that a replacement is always available if the posted copy is damaged or destroyed. MSHA inspectors will be looking for this posted Plan.

Your new Plan and the roster of your miners are to be completed and forwarded to this office by **12/15/2014**.

In the event that your **Plan is not received, NIOSH will notify MSHA and will then arrange for your miners to be examined at your expense.** If you have any questions about the examination program or require assistance in developing your Plan, please contact me at the address and/or telephone number noted above, or at our toll-free number (1-888-480-4042).

Sincerely yours,

James W. Lawson  
Health Assessment Specialist  
Coal Workers' Health Surveillance Program  
Surveillance Branch  
Respiratory Health Division