

7 February 1946

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ARIZONA ATTORNEY GENERAL

Mr. Clifford J. Murdock
State Mine Inspector
Capitol Building
Phoenix, A r i z o n a

Dear Mr. Murdock:

We answer your request of recent date for our opinion as to the general powers of the mine inspector and, specifically, whether or not the inspector has power to inspect mines employing less than six men.

Your attention is called to Section 65-230 of the 1939 Code, which in part reads as follows:

" *** as herein used the term 'mine' shall include all parts of a mine and any mining plant or equipment connected therewith, underground or on the surface, which contributes, or may contribute, to the mining or handling of ore, coal, or other metalliferous or non-metalliferous mineral product;
* * * * *

The duties of the mine inspector are outlined in Article 2 of Chapter 65 of the Code of 1939. Section 65-204, among other things, provides as follows:

" *** The inspector may at all hours enter and examine any part of any mine, visit, investigate, and examine any plant or equipment connected therewith, or any part of the workings thereof. All operators and their employees shall assist the inspector to make such examination."

Section 65-204 also provides that the inspector shall inspect, at least once in three months, every mine employing fifty or more men underground, and every mine employing six or more men at least once every year.

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In Section 65-204 we find that the principal duty of the mine inspector is to inspect any mine in this state regardless of the number of men employed therein. This inspection duty may be performed at such times and with such intervals as the inspector may determine, but a mandatory duty has been imposed upon the inspector to inspect every three months mines employing fifty men or more and at least once a year mines employing more than six and less than fifty men. The fact that the legislature has imposed a minimum inspection on the two situations hereinbefore mentioned, does not mean that mines employing less than six men are immune from state inspection. It would be a strained and absurd interpretation of the statute to hold that mines employing four or five men, for instance, are immune from inspection, since Section 65-204 provides that examination shall be of any mine.

It appears that the statutes regulating the mining industry were enacted under the police power of the state for the protection of human life. We therefore hold that the inspection in question applies also to mines where the owner thereof, in his own interests and not as an employee, operates the same.

In conclusion, it is our opinion that the mine inspector or his deputies may at any time visit, investigate, and examine any mine or mining plant in this state regardless of the number of men employed therein.

Very truly yours,

JOHN L. SULLIVAN
Attorney General

HARRY O. JULIANI
Chief Assistant
Attorney General

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