

NOTE TO REVIEWER: The following notice will be posted on MSHA's web site.

NOTICE TO THE MINING PUBLIC: Underground Coal Mine Operators and Independent Contractors, Miners, Miners' Representatives, Trade Associations, Equipment Manufacturers, Repair Facilities, Major Coal Producing States, and other Interested Parties

On June 15, 2006, the President signed the Mine Improvement and New Emergency Response Act (MINER Act) of 2006 (P.L. 109-236). The MINER Act requires that each underground coal mine operator have an approved Emergency Response Plan (ERP) that includes post-accident communications and post-accident tracking. Further, the MINER Act requires that by June 15, 2009, each operator must submit a plan that provides for "a post-accident communication system between underground personnel and surface personnel via a wireless two-way medium and an electronic tracking system that permits surface personnel to determine the location of any persons trapped underground, or set forth within the plan the reasons such provisions can not be adopted".

As of December 12, 2008, approved electronic tracking systems are available. However, fully wireless communications technology is not sufficiently developed at this time, nor is it likely to be technologically feasible by June 15, 2009.

In accordance with [Executive Order \(EO\) 12866](#) on Regulatory Planning and Review, as amended by EO 13422 (January 18, 2007), and the [Bulletin for Agency Good Guidance Practices](#) (Good Guidance Bulletin), adopted by the Office of Management and Budget, MSHA is issuing a Program Policy Letter (PPL) to provide mine operators guidance for implementing MINER Act requirements for wireless communications and electronic tracking systems by June 15, 2009. Specifically, the guidance addresses electronic tracking systems and acceptable alternatives to fully wireless communication systems for use in mine emergencies. The guidance represents MSHA's current thinking with respect to two-way communication and electronic tracking for use in mine emergencies. It does not create or confer any rights for any person and it does not operate to bind mine operators or any other members of the public.

In accordance with the Good Guidance Bulletin, MSHA is making the PPL on "Guidance for Compliance with Post-Accident Two-Way Communications and Electronic Tracking Requirements of the MINER Act" publicly available in the [Federal Register](#) and on the Agency's website for comment. Persons may send comments by January 8, 2009, midnight EST to: GoodGuidance@dol.gov; or

zzMSHA-Standards - Comments to Fed Reg Group@dol.gov. MSHA is also making available on the Agency's website preliminary estimates of costs associated with implementing the MINER Act requirements under the guidance in the PPL. MSHA invites the public to comment on the guidance in the PPL, as well as the preliminary cost estimates. You may view all comments on the Agency's website at <http://www.msha.gov/currentcomments.asp>.

MSHA will consider initiating rulemaking on requirements for wireless post-accident communication systems and electronic tracking systems in the future. In the interim, MSHA is issuing the PPL to respond to underground coal mine operators' requests for guidance to assist them in implementing the requirements of the MINER Act in a timely and effective manner. MSHA will use comments received to help the Agency determine the most appropriate course of action.