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PROGRAM POLICY LETTER NO. P09-V-02

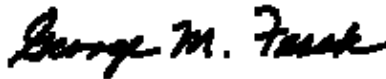
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SUBJECT: Temporary Employment Agency Contracting and Part 50 Reporting

Scope

This program policy letter (PPL) is intended for Mine Safety and Health Administration (MSHA) personnel, mine operators, contractors, miner's representatives, and other interested parties.

Purpose

This PPL is issued to clarify that miners obtained through a temporary employment agency contractor are "miners" for purposes of reporting under 30 C.F.R. Part 50.

Policy

When miners are supplied by a temporary employment agency, under 30 C.F.R. §§ 50.20 and 50.30 the mine operator is responsible for reporting accidents, injuries, illnesses, production and hours worked by these employees. Section 3(g) of the Federal Mine Safety and Health Act of 1977 (Mine Act) and 30 C.F.R. § 50.2(c) defines "miner" as "any individual working in a mine." Section 3(d) of the Mine Act and 30 C.F.R. § 50.2(c) defines "operator" as "[a]ny owner, lessee, or other person who operates, controls, or supervises a coal mine" and any person "operating" or "charged with the responsibility for the operation of" a metal or nonmetal mine. These temporary agency

workers are miners by definition and the mine operator controls and supervises these miners while they are working at that mine.

Background

MSHA regulations at 30 C.F.R. Part 50 require all mine operators to report accidents, illnesses, production, and employment and working hours. Many operators no longer initially hire new miners directly. Rather, operators obtain miners through contractors that furnish manpower for short or long periods. Some operators are not reporting Part 50 information involving these temporary agency employees.

When miners are supplied by a temporary employment agency contractor, the miners perform a variety of activities at the mine and work side-by-side with miners employed directly by the mine operator. This arrangement is in contrast to a traditional contractor where the contractor is performing a specific task and the contractor maintains supervisory control over its employees. When a temporary employment agency or other contractor supplies miners to the operator, the mine operator supervises these miners.

The information obtained through 30 C.F.R. Part 50 populates MSHA's database for tracking safety and health trends and provides MSHA a basis for targeting problem areas. Complete reporting furthers these purposes and assures more comprehensive and accurate event profiles and incidence rates attributable to the practices at particular mines.

Authority

The Federal Mine Safety and Health Act of 1977, as amended, 30 U.S.C. § 801 et seq.; 30 C.F.R. part 50.

Filing Instructions

This PPL should be filed behind the tab marked "Program Policy Letters" at the back of Volume III of the Program Policy Manual.

Internet Availability

This PPL may be viewed on the World Wide Web by accessing the MSHA home page (<http://www.msha.gov>) and choosing "Compliance Info" and "Program Policy Letters."

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