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From: Frank DOrsi [mailto:fdbiz@sbcglobal.net]

Sent: Tuesday, May 16, 2006 12:14 AM

To: zzMSHA-Standards - Comments to Fed Reg Group

Cc: zzMSHA-Standards - Comments to Fed Reg Group; MineSafety@aol.com

Subject: Interpretive Bulletin Regarding Limited Liability Companies

To Whom it May Concern;

Despite the fact that MSHA at this point seems to think/feel that LLC's and their agents are subject to 110(c) litigation and that the phenomena of the LLC is a new one, LLC's have been in existence since the late 80's. There is case law that succeeds the inception of LLC's that is already interpretive of the application or lack thereof of 110(c) to LLC's.

In the Pyro Mining Co. case, the FMSHRC (The Commission in the mid 1990's) held that 110(c) personal liability only applies to agents of corporations and not to employees of a partnership composed of two corporations and actions against a maintenance foreman and production manager who worked for Pyro Mining Co. were dismissed. MSHA's argument that such a literal interpretation of 110(c) coverage thwarts the Mine Act's purpose of protecting miners was rejected. The Commission stated in Pyro that 110(c) applies only to agents of operators of operators that are corporations and there is no legislative intent to expand the section's coverage. Reference Donald Guess, Docket Nos. KENT 91-1340 et. al., 15 FSMHRC 2440 (December 13, 1993), 1 MSHN 16, D-10 (January 14, 1994), 2 MSHN 193 (April, 7, 1995).

It would therefore appear that the interpretation of the application of 110(c) personal liability to LLC employees has already been interpreted and established in case law by The Commission in Pyro Mining Co. and would super cede the "**beliefs**" of Acting Assistant Secretary of Labor David Dye as stated in his Interpretive Bulletin Regarding Limited Liability Companies.

The interpretive bulletin looks precariously like an attempt at legislating through memorandum. The industry and United Safety Associates appreciates the opportunity to comment on this issue regardless of whether the Agency feels that comments are required or not.

Respectfully submitted,

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