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Labor, together with all pertinent criteria.


§ 85.12 Subsequent requests for health hazard evaluations.

If a request is received for a health hazard evaluation in a place of employment in which an evaluation under this part was made previously, NIOSH may make another investigation if, as a result of the passage of time or additional information, another investigation would be consistent with the purposes of the Acts.

[45 FR 2654, Jan. 14, 1980]

PART 85a—OCCUPATIONAL SAFETY AND HEALTH INVESTIGATIONS OF PLACES OF EMPLOYMENT

Sec.

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AUTHORITY: Sec. 8(g), 84 Stat. 1600; 29 U.S.C. 657(g) and sec. 508, 83 Stat. 803; 30 U.S.C. 957.

§ 85a.1 Applicability.

(a) Except as otherwise provided in paragraph (b) of this section, the provisions of this part apply to investigations of places of employment which are conducted by NIOSH under sections 20 and 8 of the Occupational Safety and Health Act of 1970 and sections 501 and 103 of the Federal Mine Safety and Health Act of 1977.

(b) The provisions of this part do not apply to those activities covered by part 85 of this chapter.


§ 85a.2 Definitions.

Any term defined in the Occupational Safety and Health Act of 1970 or the Federal Mine Safety and Health Act of 1977 and not defined below shall have the meaning given it in the Acts. As used in this part:

Assistant Regional Director means any one of the ten Occupational Safety and Health Administration Assistant Regional Directors for Occupational Safety and Health.

Employee has the same meaning as stated in the OSH Act and for the purposes of this part includes miner as defined in the FMSH Act.

Employer has the same meaning as stated in the OSH Act and for the purposes of this part includes operator as defined in the FMSH Act.


Informed consent means the knowing consent of an individual or his legally authorized representative, so situated as to be able to exercise free power of choice without undue inducement or any element of force, fraud, deceit, duress, or other form of constraint or coercion. The basic elements of information necessary to such consent include:

(1) A fair explanation of the procedures to be followed, and their purposes, including identification of any procedures which are experimental;

(2) A description of any attendant discomforts and risks reasonably to be expected;

(3) A description of any benefits reasonably to be expected;

(4) A disclosure of any appropriate alternative procedures that might be advantageous for the subject;

(5) An offer to answer any inquiries concerning the procedures; and

(6) An instruction that the person is free to withdraw his consent and to discontinue participation in the investigation any time without prejudice to the subject.

Investigation means research projects, experiments, demonstrations, studies, and similar activities of NIOSH which are conducted under section 20 of the OSH Act and section 501 of the FMSH Act.

Legally authorized representative means an individual or judicial or other body authorized under applicable
law to consent on behalf of a prospective subject to such subject's participation in the particular activity or procedure.

MSHA District Office means any one of the Mine Safety and Health Administration's District Offices.

NIOSH means the National Institute for Occupational Safety and Health of the Centers for Disease Control and Prevention, Department of Health and Human Services.

NIOSH authorized representative means a person authorized by NIOSH to conduct investigations of places of employment, including any person that is fulfilling a contract agreement with NIOSH or is serving as an expert or consultant to NIOSH pursuant to the Act.

OSH Act means the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

Place of employment means any coal or other mine, factory, plant, establishment, construction site, or other area, workplace or environment where work is performed by any employee of an employer.

[79 FR 2792, Jan. 16, 2014]

§ 85a.4 Procedures for initiating investigations of places of employment.

(a) Except as otherwise provided in paragraph (b) of this section, NIOSH authorized representatives will contact an official representative of the place of employment prior to any site visits and will provide the details of why an investigation of the place of employment is being conducted. Prior to the initiation of a site visit of a place of employment, representatives of the following organizations will be advised of the site visit and the reason for its conduct:

(1) The appropriate State agency designated under section 18(b) of the OSH Act, or if no State agency has been designated under the OSH Act and in the case of the FMSH Act, the State agency which, in the judgment of NIOSH, would benefit the most from the investigation's findings;

(2) The local union at the place of employment, if any;

(3) The appropriate Assistant Regional Director, when investigations are conducted under the OSH Act;

(4) The appropriate MSHA District Office when investigations are conducted under the FMSH Act.