

DEPARTMENT OF LABOR**Mine Safety and Health Administration****30 CFR Part 50****Draft Program Policy Letter on Reporting Occupational Illness**

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for comments.

SUMMARY: The Mine Safety and Health Administration (MSHA) voluntarily requests comments on a draft Program Policy Letter (PPL) that restates the reporting requirements of 30 CFR part 50 as they apply to occupational illnesses among miners, including retired or inactive miners. MSHA is publishing this notice to afford an opportunity for interested persons to comment on the draft PPL before it is issued.

DATES: Submit comments on or before January 12, 1998.

ADDRESSES: Send written comments to George M. Fesak, Program Evaluation and Information Resources, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 715, Arlington, Virginia 22203. Commenters are encouraged to submit comments on a computer disk or via e-mail to gfesak@msha.gov, along with an original hard copy.

FOR FURTHER INFORMATION CONTACT: George Fesak or Jay Mattos, 703-235-8378.

SUPPLEMENTARY INFORMATION:**I. Paperwork Reduction Act**

The information collection requirements associated with this policy are approved by the Office of Management and Budget (OMB) under OMB control number 1219-0007.

II. Background

MSHA updates its policies for enforcement of safety and health regulations through Program Policy Letters (PPL's). These PPL's are Agency interpretations of what existing MSHA regulations require; they are not new regulations. Therefore, PPL's do not impose new requirements, but explain or clarify how regulations work or apply in a particular situation. These PPL's are used by MSHA inspectors, miners, mine operators, and mining equipment manufacturers as guidance in determining how best to comply with MSHA regulations. Once adopted, the policy statements are published in the MSHA Program Policy Manual and given wide distribution.

To increase public participation in selected draft PPL's, MSHA is voluntarily requesting comments and suggestions from the public, especially from people who would be directly affected by the selected PPL's. By this notice, MSHA is affording an opportunity for public comment on a draft PPL that restates the reporting requirements for occupational illnesses. The text of the draft PPL follows this supplemental information. MSHA will consider all timely submitted comments before finalizing the PPL.

III. Discussion of Draft Policy

The mining industry has made significant improvements over the last few decades in protecting the health and safety of the men and women who work in the nation's mines. Significant progress has been made in reducing the number of fatal mining accidents and cases of occupational illness, but some miners continue to suffer from work-related illnesses such as black lung disease, occupational asthma, silicosis, asbestos-related diseases, and musculoskeletal disorders, conditions which can disable miners and sometimes lead to premature death.

In order for the mining community to accurately assess the risks to miners' health, accurate information on mining-related illnesses and deaths is essential. The primary way for MSHA to receive data on occupational illnesses is through the reporting requirements of 30 CFR part 50. Reports under part 50 provide MSHA with comprehensive information about the nature and extent of work-related illnesses in the mining industry. Part 50 occupational illness reports alert MSHA to potential health hazards and expedite corrective action to reduce or eliminate hazards. They also allow MSHA to verify that current health hazard controls are effective, to tailor its health-related education and training efforts, and to provide effective technical assistance to miners and operators.

Some work-related illnesses, such as cyanide poisoning, are acute illnesses. Other occupational illnesses may take years to detect or develop and may not be recognized until after a miner leaves employment. As a result, a miner may be retired or otherwise off-work or deceased before an occupational illness is diagnosed or an award of compensation is made. Reporting the occupational illnesses of retired and former miners, along with active miners, is essential for providing a true picture of health conditions and practices in the mining industry, as well as for evaluating the effectiveness of controls in preventing work-related disease.

Section 50.20(a) requires mine operators, including independent contractors, to submit a report to MSHA when they are notified or otherwise learn that a miner has an illness which may have resulted from work in a mine, or for which an award of compensation has been made. Within 10 working days of becoming aware of such a diagnosis or award of compensation, the operator is required to report the occurrence by completing and mailing a Form 7000-1 to MSHA. An intent to contest the award or diagnosis does not relieve the mine operator of the responsibility to file the required report within 10 working days. (However, an operator need not report to MSHA within 10 working days any chest x-ray result if the operator is actively seeking a more definitive second opinion in a timely manner and has supporting documentation.)

Since 1978, when MSHA's part 50 requirements took effect, some mine operators have reported cases of occupational illness in retired and inactive miners formerly employed at the operators' mines. For example, in the past 5 years, one mine operator reported a case of lung disease to the Agency, stating that the "former employee has been informed by his doctor that he has contracted an occupational disease." Another mine operator reported to MSHA that an "employee has received an award from workers comp for exposure to coal dust * * * employee is now retired from this mine." A third mine operator reported cases of noise-induced hearing loss among retired miners. MSHA is concerned, however, that other mine operators have limited their reporting to miners who are still working when an occupational illness is diagnosed and that some mine operators have not reported all known work-related illnesses to the Agency. As an example, MSHA has learned of a miner who left his work and died while awaiting a lung transplant for silicosis; his illness was not reported to the Agency. Limiting reporting to currently employed miners understates the risk of work-related illness in mining and impairs MSHA's ability to take necessary corrective action to reduce hazards and protect the health of miners.

MSHA previously clarified the issue of reporting responsibilities on retired or inactive miners in 1987 by issuing Program Information Bulletin (PIB) No. 87-4C/87-2M for the purpose of " * * * clarify[ing] operator compliance responsibilities for reporting occupational illnesses * * *" The PIB stated that the reporting requirements of 30 CFR part 50 apply " * * * regardless

of whether the individual is currently working as a miner." The PIB was distributed to the entire mining community including every coal, metal, and nonmetal mine operator in the United States, as well as to key officials of trade and labor associations in the mining community. The text of the PIB is included as Appendix I of this notice. A list of the individuals to whom the PIB was distributed can be obtained from the Agency.

The 1987 PIB was never formally withdrawn, but neither was it incorporated into MSHA's Program Policy Manual, which was first issued in 1988. This may have caused confusion among some mine operators and even certain MSHA personnel about the responsibility to report cases of occupational illness in retired or otherwise inactive miners. This PPL will eliminate any ambiguity about the reporting requirements under part 50.

Beginning on the effective date of the PPL, MSHA will observe a grace period of 90 days to allow for unreported cases of occupational illness in retired or inactive miners from the previous 5 years to be submitted to MSHA in accordance with 30 CFR part 50 without penalty. This grace period will be announced at the time the PPL is issued.

MSHA is issuing this PPL to restate its occupational illness reporting requirements. The purpose of the PPL is to eliminate possible confusion about the reporting requirements as they apply to occupational illnesses among miners, including retired or inactive miners. MSHA requests written comments regarding the PPL from interested persons.

Draft Program Policy Letter

Subject: Reporting Occupational Illness

Scope: This Program Policy Letter (PPL) applies to mine operators, including independent contractors, and Mine Safety and Health Administration (MSHA) enforcement personnel.

Purpose: This PPL clarifies and restates MSHA's requirements for reporting occupational illnesses, including cases involving retired or inactive miners, under 30 CFR Part 50.

Policy: Under 30 CFR 50.20(a), mine operators and independent contractors are required to submit a report to MSHA when they are notified of a diagnosis or otherwise learn that a miner has an illness which may have resulted from work in a mine, or for which an award of compensation has been made. These reporting requirements apply regardless of the employment status of the miner (i.e., active, retired, otherwise off-work, or deceased) at the time of the diagnosis

or award. Within 10 working days of becoming aware of such a compensation award or diagnosis, the operator is required to report the occurrence by completing and mailing a Form 7000-1 to MSHA. An intent to contest the award or diagnosis does not relieve the mine operator of the responsibility to file the required report within 10 working days. (The limited exception is that an operator need not report to MSHA within 10 working days any chest x-ray result for which the operator is actively seeking a more definitive second opinion in a timely manner and has supporting documentation, as stated in Program Policy Manual Vol. III, 50.2.)

Effective Date: After considering comments from the public, MSHA anticipates that this PPL will take effect on March 12, 1998 and will be incorporated into MSHA's Program Policy Manual.

Authority: Section 103(h) of the Federal Mine Safety and Health Act of 1977.

J. Davitt McAteer,

Assistant Secretary for Mine Safety and Health.

Appendix I

[**Note:** This is the text of the Program Information Bulletin that was widely distributed to the mining community in 1987. No changes have been made to the text. It is reprinted here solely for the convenience of miners, mine operators, and independent contractors.]

August 31, 1987

MSHA Program Information Bulletin No. 87-4C and 87-2M

Subject: Reporting Occupational Illnesses to MSHA

The purpose of this Bulletin is to clarify operator compliance responsibilities for reporting occupational illnesses under the Federal Mine Safety and Health Act of 1977.

Title 30, Code of Federal Regulations, Part 50 requires mine operators to report occupational illnesses of miners. A miner is defined as "any individual working in a mine," and occupational illness is defined as "an illness or disease which may have resulted from work at a mine or for which an award of compensation is made." Illnesses that are reportable include noise-induced hearing loss, silicosis, coal workers' pneumoconiosis (black lung), poisoning by toxic materials, and cancer. Part 50 further requires that the operator mail a completed Form 7000-1 to the Mine Safety and Health Administration (MSHA) within 10 working days after a miner is diagnosed as having an occupational illness.

Industry reporting activity for occupational illnesses suggests there is operator uncertainty about the relationship between Part 50 reporting obligations and the information provided to the operator through Federal and State occupational illness compensation programs.

In order to ensure that data reported by mine operators reflects the incidence of

occupational illnesses associated with the mining industry, the reporting requirements of Part 50 apply when compensation programs provide an operator notice that an individual has been awarded compensation for or is diagnosed as having an occupational illness resulting from employment in a mine, regardless of whether the individual is currently working as a miner. Thus, within 10 days of becoming aware of any such compensation award or diagnosis, the operator must report the occurrence by completing and mailing a Form 7000-1 to MSHA.

Accordingly, effective 30 days after the issuance date of this Bulletin, MSHA will require that operators report occupational illnesses consistent with the Part 50 regulations and the clarification provided by this bulletin. MSHA's district and subdistrict offices will be pleased to provide additional guidance or assistance regarding the reporting of occupational illnesses and the proper completion of the Form 7000-1.

Roy. L. Bernard,

Administrator, Metal and Nonmetal Mine Safety and Health.

Jerry L. Spicer,

Administrator, Coal Mine Safety and Health.

Inquiries

William H. Sutherland, Chief, Division of Health, Coal Mine Safety and Health, (703) 235-1358

Marvin W. Nichols, Jr., Chief, Division of Health, Metal and Nonmetal Mine Safety and Health, (703) 235-8307

Distribution

All Mine Operators, Coal and Metal and Nonmetal Coal District Managers, Mine Safety and Health Metal and Nonmetal District Managers, Mine Safety and Health Principal Officials, Headquarters Superintendent, National Academy

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD-FRL-5919-7]

RIN 2060-AE-81

National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; Reopening of public comment period.

SUMMARY: The EPA is announcing a 30-day reopening of the public comment period for the proposed "National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production." As initially published in the **Federal Register** on September 4,