

shall not reduce the protection afforded miners by the original decision and order.

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PART 45—INDEPENDENT CONTRACTORS

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§ 45.1 Scope and purpose.

This part sets forth information requirements and procedures for independent contractors to obtain an MSHA identification number and procedures for service of documents upon independent contractors. Production-operators are required to maintain certain information for each independent contractor at the mine. The purpose of this rule is to facilitate implementation of MSHA's enforcement policy of holding independent contractors responsible for violations committed by them and their employees.

§ 45.2 Definitions.

As used in this part:

(a) *Act* means the Federal Mine Safety and Health Act of 1977, Pub. L. 95-173, as amended by Pub. L. 95-164;

(b) *District Manager* means the District Manager of the Mine Safety and Health Administration District in which the independent contractor is located;

(c) *Independent contractor* means any person, partnership, corporation, subsidiary of a corporation, firm, association or other organization that contracts to perform services or construction at a mine; and,

(d) *Production-operator* means any owner, lessee, or other person who operates, controls or supervises a coal or other mine.

§ 45.3 Identification of independent contractors.

(a) Any independent contractor may obtain a permanent MSHA identification number. To obtain an identification number, an independent contractor shall submit to the District Manager in writing the following information:

(1) The trade name and business address of the independent contractor;

(2) An address of record for service of documents;

(3) A telephone number at which the independent contractor can be contacted during regular business hours; and

(4) The estimated annual hours worked on mine property by the independent contractor in the previous calendar year, or in the instance of a business operating less than one full calendar year, prorated to an annual basis.

(Pub. L. No. 96-511, 94 Stat. 2812 (44 U.S.C. 3501 *et seq.*))

[45 FR 44496, July 1, 1980, as amended at 47 FR 14696, Apr. 6, 1982; 60 FR 33722, June 29, 1995]

§ 45.4 Independent contractor register.

(a) Each independent contractor shall provide the production-operator in writing the following information:

(1) The independent contractor's trade name, business address and business telephone number;

(2) A description of the nature of the work to be performed by the independent contractor and where at the mine the work is to be performed;

(3) The independent contractor's MSHA identification number, if any; and

(4) The independent contractor's address of record for service of citations, or other documents involving the independent contractor.

(b) Each production-operator shall maintain in writing at the mine the information required by paragraph (a) of this section for each independent contractor at the mine. The production-operator shall make this information available to any authorized representative of the Secretary upon request.

§ 45.5

§ 45.5 Service of documents; independent contractors.

Service of citations, orders and other documents upon independent contractors shall be completed upon delivery to the independent contractor or mailing to the independent contractor's address of record.

§ 45.6 Address of record and telephone number; independent contractors.

(a) The address and telephone number required under this part shall be the independent contractor's official address and telephone number for purposes of the Act. Service of documents upon independent contractors may be

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proved by a Post Office return receipt showing that the documents were delivered to the address of record or that the documents could not be delivered to the address of record because the independent contractor is no longer at that address and has established no forwarding address; because delivery was not accepted at that address; or because no such address exists. Independent contractors may request service by delivery to another appropriate address of record provided by the independent contractor. The telephone number required under this part will be used in connection with the proposed penalty assessment procedures in 30 CFR part 100.