

U.S. Department of Labor

Mine Safety and Health Administration
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MEMORANDUM FOR KEVIN G. STRICKLIN
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Mine Safety and Health

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SUBJECT: Fatality Review Committee Decision on Chargeability**Case No.:** 2010-C-02-XXXXXXXXXX**Deceased:** XXXXXXXXXX**Date of Incident:** January 11, 2010**Date of Death:** January 12, 2010**Operator:** Robindale Energy
Services**Mine:** Armagh Mine**Contractor:** Performance 1**Decision:** Not chargeable

In a unanimous decision, the Fatality Review Committee has determined that the death of [REDACTED] should not be charged to the mining industry.

[REDACTED], a contractor refuse truck driver, was waiting in the staging area to have his truck loaded with coal refuse. Due to the cold temperature, [REDACTED] was salting the bed of his truck to keep the coal from sticking when he apparently fell from the vehicle. He was found quickly and was briefly conscious before he slipped in unconsciousness. He was transported to a local hospital where he died the next day. The Coroner's report indicated that the manner of death was accidental with the cause of death being a closed head injury secondary to a fall.

MSHA's investigation determined that the accident occurred on an access road leading to an active property. The road was privately owned and leased to the mine. The mine also maintained the road. The investigation also found that the only activity occurring at the site was refuse loading and that MSHA did not have jurisdiction. It was a former preparation site but was no longer being used for preparation activities but merely for refuse loading.

Based on MSHA's investigation, the committee members concluded that [REDACTED] died on a site for which MSHA does not have jurisdiction.

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