

Inspector Review of Operator Workplace Examination Practices



Metal and Nonmetal Mines

Operator Workplace Examination Records

**30 C.F.R. §§
56/57.18002**

30 C.F.R. §§ 56/57.18002 (a)
Examination of Working Places

A competent person designated by the operator shall examine each working place at least once each shift for conditions which may adversely affect safety or health. The operator shall promptly initiate appropriate action to correct such conditions.

30 C.F.R. §§ 56/57.18002 (b)

Examination of Working Places

A record that such examinations were conducted shall be kept by the operator for a period of one year, and shall be made available for review by the Secretary or his authorized representative.

30 C.F.R. §§ 56/57.18002 (c)
Examination of Working Places

In addition, conditions that may present an imminent danger which are noted by the person conducting the examination shall be brought to the immediate attention of the operator who shall withdraw all persons from the area affected (except persons referred to in section 104(c) of the Federal Mine Safety and Health Act of 1977) until the danger is abated.

Competent Person

30 C.F.R. §§ 56/57.2, Competent Person is "a person having abilities and experience that fully qualify him to perform the duty to which he is assigned."

MSHA's Program Policy Manual (PPM) further clarifies the meaning of Competent Person

The definition of Competent Person includes any person who, in the judgment of the operator, is fully qualified to perform the assigned task. MSHA does not require that a competent person be a mine foreman, mine superintendent, or other person associated with mine management.

Competent Person defined by Commission Decision

Excerpt from 11 FMSHRC 1622 – FMC Wyoming

We conclude that the term competent person within the meaning of sections 57.18002(a) and 57.2 must contemplate a person capable of recognizing hazards that are known by the operator to be present in a work area or the presence of which is predictable in the view of a reasonably prudent person familiar with the mining industry.

Working Place

30 C.F.R. §§ 56/57.2 defines working place as: any place in or about a mine where work is being performed.

MSHA's Program Policy Manual (PPM) clarifies the working place

As used in the standard, the phrase applies to those locations at a mine site where persons work during a shift in the mining or milling processes.

MSHA's Program Policy Manual (PPM) clarifies the recordkeeping

Record of examination must include:

- (1) the date the examination was made;
- (2) the examiner's name; and
- (3) the working places examined.

Records of examinations may be entered on computer data bases or documents already in use, such as production sheets, logs, charts, time cards, or other format that is more convenient for mine operators.

MSHA's Program Policy Letter (PPL) clarifies the recordkeeping

- As discussed, §§ 56/57.18002(a) require workplace examinations every shift for the purpose of identifying and correcting conditions which may adversely affect safety and health. As a best practice, prudent operators should include a description of the conditions found which may adversely affect safety or health in the examination record.

MSHA's Program Policy Manual (PPM) clarifies the recordkeeping provision

In order to comply with the record retention portion of §§ 56/57.18002(b), operators must retain workplace examination records for the preceding 12 months.

ALJ decision on Record Keeping

A violation of §56.18002 occurred where an operator could not produce records of workplace exams that occurred after the most recent move of its crusher. While the company did have past exam records, and the inspector testified that he believed management did perform the exams, there was still a violation because of the lack of recordkeeping. The violation was the result of high negligence because the supervisor of the mine, who was responsible for examination records, failed to produce or generate the records despite knowing that they were required.

Violation of 30 C.F.R. §§ 56/57.18002

MSHA's PPM policy states that evidence that a previous shift examination was not conducted or that prompt corrective action was not taken constitutes a violation. This evidence may include information which demonstrates that safety or health hazards existed prior to the working shift in which they were found.