

EFFECTIVE DATE: July 22, 2015

PROGRAM POLICY LETTER NO. P15-IV-01

FROM: NEAL H. MERRIFIELD
Administrator for Metal and Nonmetal
Mine Safety and Health

SUBJECT: Examination of working places (30 C.F.R. §§ 56/57.18002)

Scope

This Program Policy Letter (PPL) applies to surface and underground metal and nonmetal mine operators, contractors, equipment manufacturers, miners, miners' representatives, and Metal and Nonmetal Mine Safety and Health enforcement personnel.

Purpose

The purpose of this PPL is to clarify that the examination of working places required under 30 C.F.R. §§ 56/57.18002 includes the requirement that the operator shall examine each working place at least once each shift for conditions which adversely affect safety or health, that the examination must be conducted by a competent person, and that a record of the examination must be maintained and made available for review by the Secretary or his authorized representative.

Policy

56/57.18002 Examination of Working Places

30 C.F.R. §§ 56/57.18002, Examination of working places, provide

1. 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.
2. 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.
3. 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.

The terms "competent person" and "working place," used in §§ 56/57.18002(a), are defined in §§ 56/57.2, Definitions.

A "competent person," according to §§ 56/57.2, is "a person having abilities and experience that fully qualify him to perform the duty to which he is assigned." The examiner should be able to recognize hazards and adverse conditions that are known by the operator to be present in a work area or that are predictable to

someone familiar with the mining industry. A best practice is for a foreman or other supervisor to conduct the examination; an experienced non-supervisory miner also may be "competent." However, generally operators should not assign inexperienced miners the task of conducting the workplace examination. The phrase "working place" is defined in 30 C.F.R. §§ 56/57.2 as: "any place in or about a mine where work is being performed." As used in the standard, the phrase applies to all locations at a mine site where miners work in the extraction or milling processes. This includes areas where work is performed on an infrequent basis, such as areas accessed primarily during periods of maintenance or clean-up. All such working places must be examined by a competent person at least once per shift.

If a trained competent person fails to identify multiple safety hazards or if multiple trained competent persons fail to identify similar safety hazards, this may indicate that task training as required under parts 46 and 48 was inadequate or did not occur. Evidence of inadequate training may be a basis on which the Mine Safety and Health Administration (MSHA) may require training plan revisions under part 46 (30 C.F.R. § 46.3(a) and (b)(3)) or part 48 (30 C.F.R. §§ 48.3(c)(8)/48.23(c)(8)).

Regarding the requirement that operators keep records of examinations, MSHA historically has taken the position that a meaningful record should contain the following: (1) the date the examination was made; (2) the examiner's name; and (3) the working places examined. See Program Policy Letters P10-IV-3 (2010), P11-IV-01 (2011) and P14-IV-01 (2014). The purpose of workplace examinations is to identify and correct conditions which may adversely affect safety or health. For this reason, it is a best practice also to include a description of such conditions in the examination record to facilitate correction and to alert others at the mine of conditions that may recur or in other ways affect them. Under the record retention requirements in §§ 56/57.18002(b), operators must retain workplace examination records for the preceding 12 months.

Evidence that a previous shift examination was not conducted or that corrective action was not promptly initiated constitutes a violation of §§ 56/57.18002(a).

This evidence may include information which demonstrates that safety or health hazards existed prior to the shift on which they were found.

Background

Recent fatalities and other accidents at Metal and Nonmetal mines suggest that miners would benefit from rigorous workplace examinations conducted by experienced and trained examiners.

Authority

The Federal Mine Safety and Health Act of 1977, as amended, 30 U.S.C. § 801 et seq.; 30 C.F.R. §§ 56./57.18002; and 30 C.F.R. Parts 46 and 48.

Internet Availability

This program policy letter may be viewed on the World Wide Web by accessing the

MSHA home page (<http://www.msha.gov>) and by choosing "Compliance Info" and "Program Policy Letters."

Issuing Office and Contact Person

Brian Goepfert
Metal and Nonmetal Mine Safety and Health
Chief, Division of Safety
(202) 693-9600

Distribution

MSHA Program Policy Holders, Underground and Surface Mine Operators,
Underground and Surface Independent Contractors, Special Interest Groups,
Miners' Representatives