

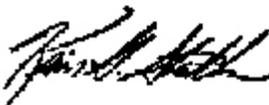
EFFECTIVE DATE: 06/18/09

EXPIRATION DATE: 03/31/2011

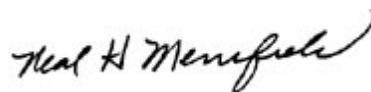
PROCEDURE INSTRUCTION LETTER NO. I09-V-04

FROM:

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SUBJECT: Re-Issue I06-V-11 - Mine Safety and Health Administration
(MSHA) Procedures for Properly Identifying Equipment in Official
Agency Document

Scope

This Procedure Instruction Letter (PIL) applies to all Coal Mine Safety and Health (CMS&H) and Metal and Nonmetal Mine Safety and Health (MNM) enforcement personnel and Technical Support investigators.

Purpose

The purpose of this PIL is to establish uniform procedures for identifying equipment in official Agency documents.

Procedure Instructions

Investigators and inspection personnel should exercise care in identifying equipment in official Agency documents. Descriptions of equipment should be factual and avoid drawing any inference about facts not in evidence.

The investigator should not assume, and therefore not infer, in the report that when an Original Equipment Manufacturer (OEM) is identified on an MSHA approval plate that the equipment conforms in all respects to the OEM's original configuration. Such assumptions and inferences can be avoided by using generic descriptions and reporting only incontrovertible physical evidence such as information on name plates and approval plates. For example, when referring to a permissible shuttle car in an accident investigation report, the report should state only that the equipment involved in the accident was an electrically-powered, rubber-tired, coal hauler which bore an MSHA approval plate which contained the following information. The report would then document any or all of the information on that plate as well as any other nameplate (such as a rebuild shop's plate) that might have been present. It would also be appropriate to record any relevant specifications of the operating parameters of the equipment such as nominal voltage and any relevant physical characteristics of the equipment that may have contributed to the cause of the accident. If it is determined that the approval plate or any other identifier on the machine is improperly affixed to the machine, such determination could also be reported. The report can also report any permissibility violations that were observed.

The same issue exists for non-permissible equipment, as well. For example, a hand-held pneumatic face drill should be identified only with that description and any nameplate information that may be present. Use of trade names commonly associated with such a device is not appropriate because the trade name may, in fact, be registered by a particular manufacturer.

Background

Recently the Agency received a request from a mining equipment manufacturer to amend an accident investigation report issued by the Agency with respect to the description of a particular piece of mining equipment involved in the accident. The equipment was identified in the report by the moniker of the apparent manufacturer. However, further investigation revealed that although the MSHA approval plate affixed to the equipment identified the original manufacturer of the equipment, subsequent extensive rebuild of that equipment by a third party was tantamount to remanufacture. The rebuild was, in fact, properly documented via an MSHA-accepted field modification which was granted to the owner (mine operator) of the equipment in accordance with the Mine Act and the Agency's approval regulations. However, many of the other features of the machine, which are not subject to approval requirements were extensively modified as well. In some cases, the OEM is concerned that the machine continues to be identified as manufactured by the OEM. The objection was primarily based on the potential legal liability faced by the OEM.

Authority

Federal Mine Safety and Health Act of 1977, section 103(a) (30 U.S.C. §813(a)).

Filing Instructions

This instruction letter should be filed behind the tab marked "Procedures Instruction Letters" in the binder for Program Policy Handbooks and Procedure Instruction Letters.

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Distribution

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