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PROCEDURE INSTRUCTION LETTER NO. I10-V-19

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SUBJECT: Emergency Response Plan (ERP) Reviews of Post-Accident  
Communication and Electronic Tracking Systems

### **Scope**

This Procedure Instruction Letter (PIL) is intended for Coal Mine Safety and Health personnel.

### **Purpose**

The purpose of this PIL is to guide Mine Safety and Health Administration personnel who review coal mine operators' emergency response plans (ERPs) in determining compliance with the Mine Improvement and New Emergency Response Act of 2006 (MINER Act) (Pub. L. 109-236). The MINER Act requires that, by June 15, 2009, each operator submit an ERP that shall provide for "post-accident communication between underground and surface personnel via a wireless two-way medium, and provide for an electronic tracking system permitting surface personnel to determine the location of any persons trapped underground, or set forth within the plan the reasons such provisions can not be adopted."

### **Procedure Instructions**

Program Policy Letter (PPL) No. P09-V-01 "*Guidance for Compliance with Post-Accident Two-Way Communications and Electronic Tracking Requirements of the Mine Improvement and New Emergency Response Act (MINER Act)*" contained guidance for mine operators regarding the post-accident communication and electronic tracking requirements of the MINER Act. In accordance with the MINER Act, all underground coal mine operators were required to submit revised ERPs by June 15, 2009, that contained provisions for the use of post-accident communications and electronic tracking systems.

In most cases, operators timely filed revised ERPs, and most of the revised ERPs have been approved by District Managers. However, most mine operators still do not have post-accident communication and electronic tracking systems installed and operating in their mines.

The MINER Act requires that an operator's ERP be approved. Once approved, the ERP must be reviewed at least once every six months. Among other things, to be approved, an ERP must "make use of current commercially available technology." In addition, MSHA interprets the MINER Act's June 15, 2009, deadline for submitting revised ERPs to require that post-accident communication and electronic tracking systems be installed in a timely manner in order to protect miners. In conducting initial and periodic ERP reviews, District Managers must evaluate dates by which the communication and tracking systems will be delivered to the operator so that the systems can be installed and operational.

Based on information provided by communication and tracking system manufacturers, MSHA has determined that a sufficient number of approved systems will be commercially available in time to permit mine operators with existing approved ERPs to have post-accident communication and electronic tracking systems installed and operational by June 15, 2011. During a periodic review, if there is reasonable basis for concluding that the communication and/or tracking system specified in an existing ERP cannot be installed and operational in the mine by June 15, 2011, the District Manager should take steps to assure the prompt submission of a revised ERP that includes currently available communication and tracking technology. In reviewing an ERP, any communication or tracking system that is not reasonably expected to be installed and operational in the mine by June 15, 2011, should be considered "unavailable" under the MINER Act. MSHA may consider approving the use of a system that cannot be installed and operational by June 15, 2011, in unusual circumstances, e.g., where use of other systems would be inappropriate for mine-specific conditions or where switching to another system would cause additional delay.

Mine operators must install post-accident communication and electronic tracking systems promptly upon receipt from the manufacturer/supplier and in accordance with the provisions of their ERPs. Nothing in this PIL should be construed to justify any delay in the installation of currently available communication and tracking systems that are specified in existing, approved ERPs. District Managers should take appropriate steps to assure that mine operators are making good-faith and reasonable efforts to obtain and install the systems specified in their ERPs as soon as they are available from the manufacturers.

### **Background**

While the MINER Act requires that, to be approved, ERPs must specify a post-accident, two-way communication system and electronic tracking system by June 15, 2009, it does not explicitly provide a date on which such systems must be installed. However, MSHA interprets the MINER Act as requiring that these systems be available in a timely manner in order to protect miners.

While most underground coal mine operators currently have revised and approved ERPs, only a small percentage of mines currently have complete installations of post-accident communication and electronic tracking systems. Many mine operators have reported that they are waiting for equipment to be delivered or for the system manufacturers to begin installation activities. However, systems that are not installed and operational are not capable of protecting miners.

MSHA hosted a communication and tracking manufacturer summit meeting at the National Mine Academy in Beckley, West Virginia, on May 12, 2010. At that meeting, many manufacturers indicated that they believed that they could fill existing orders relatively soon, while others offered compelling explanations for needing additional time to fill all existing orders. However, based on information that MSHA has received from communication and tracking system manufacturers, MSHA has determined that a sufficient number of post-accident communication and electronic tracking systems will be commercially available in time to permit mine operators with existing, approved ERPs to have these systems installed and operational by June 15, 2011.

#### **Authority**

Section 316 of the Federal Mine Safety and Health Act of 1977, as amended, 30 U.S.C. § 876; 30 C.F.R. § 75.1600.

#### **Internet Availability**

This PIL may be viewed by accessing the MSHA home page <http://www.msha.gov> and choosing "Compliance Info" and "Procedure Instruction Letters." A list of MSHA-approved two-way communications systems and a list of MSHA-approved electronic tracking systems may be found at:

<http://www.msha.gov/techsupp/PEDLocating/CommoandTrackingMINERActCompliant.pdf>.

#### **Issuing Offices and Contact Persons**

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