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All On-site Fatalities Reportable to MSHA Within 15 Minutes – Even When Not the Result of Mining Activities

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Mine operators are required by law to report all mining accidents immediately – within 15 minutes of when the operator knew or should have known about the accident. The term accident is defined broadly by MSHA’s regulations to include a death of an individual at a mine.

A recent decision by the Federal Mine Safety and Health Review Commission (the “Commission”) explored scope of the reporting rule and limitations on the term “accident” in deciding whether a fatal heart attack – unrelated to work activities – is reportable to MSHA within 15 minutes of management learning of the fatality, pursuant to 30 C.F.R. Part 50.



In [Richmond Sand & Stone, LLC](#), Docket No. YORK 2018-31-M (Aug. 13, 2019), the employer received a single citation alleging a failure to notify MSHA of a fatal heart attack in a timely manner. The standard specifically requires operators to:

“immediately contact MSHA at once without delay and within 15 minutes . . . once the operator knows or should know that an accident has occurred involving:

[a] death of an individual at the mine.”

[30 C.F.R. § 50.10\(a\)](#)

The Commission decision came after an Administrative Law Judge (“ALJ”) initially found that the employer violated section 50.10(a) because a death occurred on-site and the operator did not report it until the next day. The ALJ interpreted the regulation to require the immediate reporting of **any** death at a mine.

On appeal, the employer argued that section 50.10(a) does not require the reporting of fatal heart attacks (or of any deaths due to natural causes) because such deaths do not fall within the ordinary meaning of “accident.” The employer argued that the ordinary meaning of “accident” should apply and that defining a natural cause of

death as an accident is contrary to the purpose of the Mine Act.

The Commission analyzed the regulatory language and determined the plain language is clear – that *any death* on a mine (regardless of circumstance) must be reported to MSHA within 15 minutes from when the operator knows or should know it occurred.

The Commission rejected the employer’s claim that the definition of accident in section [50.2\(h\)](#) does not actually define “accident.” To the contrary, the Commission found “accident” is defined explicitly to include any “death of an individual at a mine.” There are no qualifiers in the definition of “accident” (under MSHA) to limit the scope of the reporting requirement to deaths resulting from mining activities. The only qualifier is that a death occurs “at a mine.”

The Commission emphasized the importance of reporting all deaths, as it is intended to implement MSHA’s authority to investigate, and to obtain and utilize information pertaining to accidents, injuries, and illnesses occurring or originating in mines. Furthermore, the cause of death is not always immediately obvious, and it may not be initially clear whether the event resulted from a factor within the operator’s control or from natural causes. In simpler terms, the cause of a death is of no import on a mine operator’s duty to report a fatality that occurs at the mine.

This is not to say that after notification to MSHA, and a subsequent investigation, the Agency will determine a death by natural cause is not assignable to mine or mining industry, but no matter how likely any such future determination may be MSHA must be notified in accordance with section 50.10(a).

This case reiterates the broad application of the 15-minute rule by the Agency in the case of fatalities occurring at a mine, even where the facts are less black and white than the instance in the *Richmond Sand & Stone, LLC* case. In the event of a fatality, the 15-minute reporting timeframe is supposed to begin at the time management becomes aware (or should be aware) of the fatality. This decision provides even less latitude for employers to analyze the extent or cause of injury or death in situations where these questions remain unknown without a medical diagnosis. Ultimately, employers must report any death occurring at a mine within 15 minutes of becoming aware that an employee has died, or that an injury which has a reasonable potential to cause death occurred, or any other incident under MSHA’s definition of “accident” in section 50.2.

Operators which fail to report within 15 minutes will face enforcement from the Agency. MSHA has a mandatory penalty for violating the 15-minute rule – ranging anywhere from \$6,052 to \$76,620 per instance. Inspectors are directed to carefully review the degree of negligence associated with all Part 50 citations. Any violation of Part 50 considered to be the result of a high degree of negligence or other unique aggravating circumstances may be referred for special assessment.

Where circumstances indicate that there has been flagrant conduct surrounding a failure to report, such as attempting to conceal the fact that an injury occurred, serious consideration will be given to a reckless disregard negligence evaluation, which will likely be accompanied by inquiry into the personal civil or criminal liability of company management under Section 110 of the Mine Act

Employers should have reporting procedures in place to act in the event of an any accident at the mine, including those accidents involving company employees and independent contractors. Having swift procedures in place,

and training employees and management on the reporting requirements, will enable mine operators to evaluate the circumstances and act quickly to limit the potential for a reporting citation and penalties.

While this decision reaffirms the obligation of operators to consider **any** death at a mine site an “accident” for immediate reporting purposes, ambiguity remains regarding other provisions of MSHA’s definition. Future litigation is certain, especially regarding determinations of what injuries have a “reasonable potential to cause death” under section [50.10\(b\)](#), but that is a discussion for another day. For now, mine operators, including both production operators and independent contractors, must be prepared to promptly analyze and communicate internally, and when necessary with MSHA, in the event of an injury or “accident.”