Chapter 33

INSPECTION OF MINING AND MILLING OPERATIONS, SHAFTS AND TUNNEL-RELATED PROJECTS

Policy Statement: It is the policy of the Division of Occupational Safety and Health (DOSH), also known as Cal/OSHA or the Division, to delineate the jurisdictional authority of compliance personnel in the Mining and Tunneling (M&T) Unit with regard to working conditions in (1) underground and surface mineral extraction (mining); (2) related mining operations; (3) milling operations involving the preparation of extracted minerals; (4) shafts; and (5) tunneling operations and related operations, in order to more efficiently allocate compliance resources within the various administrative units of the Division.

Authority: DOSH will administer this policy in compliance with all applicable laws, rules, and guidance:

- California Labor Code, Sections 7950 through 7955 and an Interagency Agreement between the Occupational Safety and Health Administration and the Mine Safety Health Administration in the United States Department of Labor (44 Federal Register 22827- 22830).

PROCEDURES:

A. INVESTIGATION OF COMPLAINTS, ACCIDENTS AND REFERRALS, AND ISSUANCE OF CONSTRUCTION ACTIVITY PERMITS

1. M&T Unit Jurisdiction

   All compliance personnel and District Managers in the Division of Occupational Safety and Health shall be familiar with the jurisdictional authority of the M&T Unit so that the investigation of complaints, accident and referrals and the issuance of construction activity permits in the mining and tunneling industries in California can be efficiently coordinated.

2. Compliance District Referral to the M&T Unit
    a. When a compliance District Office receives a complaint or referral, or is notified about an accident at a worksite under the jurisdiction of the M&T Unit, the District Manager shall refer the complaint, accident or referral to the M&T Unit Senior Safety Engineer at the nearest M&T Unit Office by telephone and fax. See Chapter 2, Chapter 3 and Chapter 4.

        NOTE: If a complaint received by the District alleges an imminent hazard, or an accident has resulted in a fatal injury, the District Manager who received the complaint or was notified of the accident shall telephone the M&T Unit Senior Safety Engineer to offer assistance. If M&T Unit safety engineers are not able to get to the worksite in a timely fashion, the M&T Unit Senior Safety Engineer may request assistance from the District Manager. If assistance is requested, the District Manager shall direct compliance personnel from the District Office to go to the worksite and communicate upon arrival with the Senior Safety Engineer at the M&T Unit Office which has jurisdiction over the worksite.

    b. If compliance personnel from a local District Office inadvertently respond to a complaint, referral or an accident at a worksite which is under the jurisdiction of the M&T Unit, the M&T Unit Senior Safety Engineer who has jurisdiction over the worksite shall be notified immediately by telephone and fax by the District Office. As soon as possible after notification, the M&T Unit shall assure an orderly transition of jurisdictional authority and effective exchange of investigative information.
3. Referral from the Mining and Tunneling Unit to a District Office

    When a M&T Unit Office receives a complaint or referral, or is notified about an accident, at a worksite not under the jurisdiction of the M&T Unit, the M&T Unit Senior Safety Engineer shall immediately refer by telephone and fax the complaint, accident or referral to the Manager of the nearest local District Office. See Chapter 2, Chapter 3 and Chapter 4.

4. Issuance of Construction Activity Permits

    Any Annual or Activity Permit required for construction activities at worksites under the jurisdiction of the M&T Unit, as set forth in Section B below, shall be issued by the M&T Unit.

B. MINING AND TUNNELING UNIT JURISDICTION

1. Mining and Milling
    a. General Rule

The general rule for determining whether the M&T Unit has jurisdiction over certain mining and milling operations is as follows:

Where the Mine Safety and Health Administration (MSHA), as opposed to the Occupational Safety and Health Administration (OSHA), has investigative authority over mining and milling operations, the M&T Unit (Region V), as opposed to Regions I through IV or VI, has jurisdiction over the same worksites.

DEFINITION ONE: The term "mining" refers to the science, technique and business of mineral discovery and exploitation and includes underground and surface mineral extraction and related mining operations.

DEFINITION TWO: The term "milling" refers to the processing of extracted crude from the earth's crust to separate the valuable constituents of the crude from the undesirable contaminants with which it is associated and to prepare them for sale.

b. Specific Mining and Milling Operations Under M&T Unit Jurisdiction
    1. Underground mines;
    2. Quarries and aggregate (sand & gravel) processing plants of a permanent nature associated with open-pit mining and quarrying;
    3. Portable aggregate (sand & gravel) processing plants when the product produced by the plant is introduced into commerce for sale;
    4. Cement plants;
    5. Any type of contractors performing work on mine property; and
    6. Concrete batch plants, asphalt plants, hot mix or recycle plants located on mine property.

2. Tunneling Operations Under M&T Unit Jurisdiction
    a. Tunnels in which employees are working to advance the heading of the tunnel or to provide structural support for the surrounding ground;
    b. Surface work which is physically proximate to tunnel portals or shafts, including bore and receiving pits, or incidental work which is under contract to the same general contractor, or one of the general contractor's boring subcontractors, responsible for the underground tunneling work;
    c. Tunnel excavation, construction, alteration, renovation, demolition and maintenance;
    d. Cut and cover operations, i.e., any excavation which is decked over, directly related to a tunneling operation;
    e. Cut and cover excavations while excavation or construction continues with employees or equipment working beneath the covered excavation;
    f. Pipejacking and new pipeline construction where the pipe is thirty (30) inches in diameter or greater and where employees enter the pipe or

casing to perform work, e.g., welding, cutting, grouting, grinding, drilling and blasting; and

g. Any tunneling operation for which the answer to any of the following questions is "yes:"
    1. Is tunneling compliance experience required to investigate the complaint, accident or referral?
    2. Is the employer involved primarily a tunneling contractor?
    3. Do any of the activities at, or related to the particular worksite, involve tunneling or excavation of shafts under the scope of the Tunneling Safety Orders?

3. Underground or Below Ground Chamber, Structure or Shaft Under the Jurisdiction of the M&T Unit
    a. Any underground chamber or structure where the hazards to employees are similar to those hazards present in tunnels, shafts or underground mines;

        EXCEPTION: Underground vaults, or similar types of structures, which are entered by utility employees to perform work are not under the jurisdiction of the M&T Unit.

    b. Pipejacking and new pipeline operations where employees enter the pipe or casing to perform work;
    c. The following types of excavations into which employees must enter to perform work:
        1. Any shaft;

            DEFINITION: Shaft is a type of excavation more than 20 feet in depth whose depth to width ratio is five (5) to one (1) or greater.

        2. Any type of excavation more than fifty (50) feet in depth which has vertical or nearly vertical walls; and

            EXCEPTION: An excavation with one or more open sides.

    d. Any below ground chamber, structure or shaft for which the answer to any of the following questions is "yes:"
        1. Is tunneling compliance experience required to investigate the complaint, accident or referral?
        2. Is the employer involved primarily a tunneling contractor?
        3. Do any of the activities at, or related to the particular worksite, involve tunneling or excavation of shafts under the scope of the Tunneling Safety Orders?

C. COMPLIANCE DISTRICT OFFICE JURISDICTION

1. Concrete batch plants, asphalt plants and hot mix or recycle plants not located on mine property;
2. Brick manufacturing plants not located on mine property;

   NOTE: If the brick manufacturing plant is connected to a mine, the jurisdiction of the Mining and Tunneling Unit ends at the point where milling of the crude ceases and actual brick manufacturing begins.

3. Gypsum processing plants not located on mine property;

   NOTE: If the gypsum manufacturing plant is connected to a mine, the jurisdiction of the Mining and Tunneling Unit ends at the point where milling of the crude ceases and actual gypsum manufacturing begins.

4. Clay pipe and refractory plants and ceramic manufacturing plants;
5. Salt processing plants not located on mine property;

   NOTE: If the salt manufacturing plant is connected to a mine, the jurisdiction of the Mining and Tunneling Unit ends at the point where milling of the crude ceases and actual salt processing begins.

6. Pipejacking and new pipeline construction where the pipe is less than thirty (30) inches in diameter;

   NOTE: If employees enter a pipe less than thirty (30) inches in diameter to perform work, compliance personnel shall refer the activity to the M&T Unit for evaluation.

7. Bore or jacking and receiving pits, which are excavated and provided with support as part of work not performed by a boring contractor; and
8. Borrow pits where no milling is involved.

D. RESOLVING JURISDICTIONAL ISSUES

a. If compliance personnel or District Managers have questions about whether a particular worksite or operation is under the jurisdiction of the M&T Unit, the appropriate Regional Manager shall be consulted.
b. If a Regional Manager is unable to determine whether M&T Unit has jurisdiction, the Principal Engineer of the M&T Unit shall be consulted. All jurisdictional issues which cannot be decided at the Regional Manager/Principal Safety Engineer level shall be referred to the Deputy Chief for Field Operations and the Chief of the Division for resolution.