

Signed at Washington, DC this 11th day of December 2008.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E8-29938 Filed 12-17-08; 8:45 am]

**BILLING CODE 4510-FN-P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-64,229; TA-W-64,229A]

#### **Hanesbrands, Inc., Formerly Known as Sara Lee Branded Apparel, Including On-Site Leased Workers from Diversco Integrated Services, Eden, NC; Hanesbrands, Inc., Formerly Known as Sara Lee Branded Apparel, Including On-Site Leased Workers From Diversco Integrated Services, Forest City, NC; Notice of Termination of Investigation**

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on October 16, 2008 in response to a worker petition filed by a company official on behalf of workers of Hanesbrands, Inc., Eden, North Carolina (TA-W-64,229) and Hanesbrands, Inc., Forest City, North Carolina (TA-W-64,229A).

Due to existing certifications issued for Hanesbrands, Inc., Eden, North Carolina (TA-W-64,229) and Hanesbrands, Inc., Forest City, North Carolina (TA-W-64,229A), these certifications have been terminated.

Signed at Washington, DC this 9th day of December 2008.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E8-29937 Filed 12-17-08; 8:45 am]

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-64,287]

#### **Logistics Services, Inc., Fenton, MO; Notice of Termination of Investigation**

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on October 27, 2008 in response to a petition filed by an International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), Region 5 official on behalf of workers of Logistics Services, Inc., Fenton, Missouri.

The petitioning group of workers is covered by an active certification (TA-W-63,052 as amended) which expires on April 14, 2010. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 9th day of December 2008.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E8-29939 Filed 12-17-08; 8:45 am]

**BILLING CODE 4510-FN-P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-64,415]

#### **St. Louis Music a Division of LOUD Technologies, Inc., St. Louis, MO; Notice of Termination of Investigation**

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on November 13, 2008 in response to a petition filed by a company official on behalf of the workers at St. Louis Music, a Division of LOUD Technologies, Inc., St. Louis, Missouri.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 11th day of December 2008.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E8-29929 Filed 12-17-08; 8:45 am]

**BILLING CODE 4510-FN-P**

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

#### **Wireless Communications and Electronic Tracking Systems Guidance**

**AGENCY:** Mine Safety and Health Administration (MSHA), Labor.

**ACTION:** Notice of availability of Program Policy Letter; request for comments.

**SUMMARY:** This notice is announcing the issuance of a Program Policy Letter (PPL) to provide mine operators guidance for implementing the Mine Improvement and New Emergency Response Act (MINER Act) requirements for wireless communications and electronic tracking systems. Material in the guidance does not constitute a regulation.

**DATES:** All comments must be received by Midnight Eastern Standard Time on January 8, 2009.

**ADDRESSES:** Comments may be sent by any of the following methods:

(1) *Electronic mail:* [zzMSHA-Standards-Comments to Fed Reg Group@dol.gov](mailto:zzMSHA-Standards-Comments to Fed Reg Group@dol.gov).

(2) *Electronic mail:* [GoodGuidance@dol.gov](mailto:GoodGuidance@dol.gov).

(3) *Regular mail:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209-3939.

(4) *Hand Delivery or Courier:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia. Sign in at the receptionist's desk on the 21st floor.

Comments can be accessed electronically at <http://www.msha.gov/currentcomments.asp>. MSHA will post all comments on the Internet without change, including any personal information provided. Comments may also be reviewed at the Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia. Sign in at the receptionist's desk on the 21st floor.

#### **FOR FURTHER INFORMATION CONTACT:**

Patricia W. Silvey, [patricia.silvey@dol.gov](mailto:patricia.silvey@dol.gov) (E-mail), 202-693-9440 (Voice).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

On June 15, 2006, the President signed the MINER Act of 2006 (Pub. L. 109-236). The MINER Act requires that each underground coal mine operator have an approved Emergency Response Plan (ERP) that includes post-accident communications and post-accident tracking. Further, the MINER Act requires that by June 15, 2009, each operator must submit a plan that provides for "a post-accident communication system between underground personnel and surface personnel via a wireless two-way medium and an electronic tracking system that permits 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".

##### **II. Overview**

As of December 12, 2008, approved electronic tracking systems are available. However, fully wireless communications technology is not sufficiently developed at this time, nor is it likely to be technologically feasible by June 15, 2009.

In accordance with Executive Order (EO) 12866 on Regulatory Planning and

Review, as amended by EO 13422 (January 18, 2007), and the Bulletin for Agency Good Guidance Practices (Good Guidance Bulletin), adopted by the Office of Management and Budget, MSHA has issued a PPL to provide mine operators guidance for implementing MINER Act requirements for wireless communications and electronic tracking systems by June 15, 2009. Specifically, the guidance addresses electronic tracking systems and acceptable alternatives to fully wireless communication systems for use in mine emergencies. The guidance represents MSHA's current thinking with respect to two-way communication and electronic tracking for use in mine emergencies.

In accordance with the Good Guidance Bulletin, MSHA has made the PPL on "Guidance for Compliance with Post-Accident Two-Way Communications and Electronic Tracking Requirements of the MINER Act" publicly available on the Agency's Web site for comment. MSHA is also making available on the Agency's website preliminary estimates of costs associated with implementing the MINER Act requirements under the guidance in the PPL. MSHA invites the public to comment on the guidance in the PPL, as well as the preliminary cost estimates. MSHA's draft PPL and preliminary cost estimates are posted on the Internet at <http://www.msha.gov/regs/complian/pplmen.htm>. You may view all comments on the Agency's Web site at <http://www.msha.gov/currentcomments.asp>.

MSHA will consider initiating rulemaking on requirements for wireless post-accident communication systems and electronic tracking systems in the future. In the interim, MSHA is issuing the PPL to respond to underground coal mine operators' requests for guidance to assist them in implementing these requirements of the MINER Act in a timely and effective manner. MSHA will use comments received to help the Agency determine the most appropriate course of action.

**Richard E. Stickler,**

*Acting Assistant Secretary for Mine Safety and Health.*

Effective Date: \_\_\_\_\_

Expiration Date: \_\_\_\_\_

#### **Program Policy Letter No. P08-**

*From:* Kevin Stricklin, Administrator for Coal Mine Safety and Health; Mark Skiles, Director of Technical Support.  
*Subject:* Guidance for Compliance with Post-Accident Two-Way Communications and Electronic Tracking Requirements of the Mine

Improvement and New Emergency Response Act (MINER Act).

#### **Scope**

This program policy letter (PPL) is intended for Mine Safety and Health Administration (MSHA) personnel, equipment manufacturers, repair facilities, underground coal mine operators and independent contractors, miners' representatives, and other interested parties.

#### **Purpose**

This PPL is a general statement of policy that provides mine operators guidance in implementing: (1) Alternatives to fully wireless post-accident two-way communication between underground and surface personnel and (2) electronic tracking systems, both of which are required by the MINER Act. The two-way communication alternatives (or "partially wireless" systems) include infrastructure underground to provide untethered communications with miners.

#### **Policy**

The following guidance is provided to assist mine operators in developing post-accident two-way communication between underground and surface personnel and electronic tracking for their Emergency Response Plans (ERPs), as required by the MINER Act. The MINER Act requires, by June 15, 2009, a plan be submitted that provides for a post-accident communication system between underground personnel and surface personnel via a wireless two-way medium and an electronic tracking system that permits surface personnel to determine the location of any persons trapped underground. If these provisions cannot be adopted, the MINER Act requires that ERPs must set forth an alternative means of compliance that approximates, "as closely as possible, the degree of functional utility and safety protection provided by the wireless two-way medium and tracking system" referenced.

With respect to tracking, because electronic systems currently are available and MSHA approved, new ERPs and revisions to existing ERPs should provide for electronic tracking of persons underground.

However, because fully wireless communications technology is not sufficiently developed at this time, nor is it likely to be technologically feasible by June 15, 2009, this guidance addresses acceptable alternatives to fully wireless communication systems. New ERPs and revisions to existing

ERPs should provide for alternatives to fully wireless communication systems.

This guidance represents MSHA's current thinking with respect to two-way communication and electronic tracking for use in mine emergencies. It does not create or confer any rights for any person and it does not operate to bind mine operators or any other members of the public. Mine operators can use an alternative approach or system to provide two-way communication or electronic tracking, if the approach or system satisfies the requirements of applicable statutes and regulations. If you are a mine operator, miners' representative, or miner and want to discuss another approach or system, you may contact the MSHA District Manager for the area in which the mine is located. Other interested parties may contact the individuals identified in this PPL. References to the District Manager in this PPL refer to the Agency's existing consultative process for approving mine plans, as opposed to the process for enforcement decisions related to citations.

#### *Two-Way Communication System*

By June 15, 2009, in accordance with Section 2 of the MINER Act, until fully wireless systems are available, operators must set forth in their Emergency Response Plans the reasons that they are proposing alternative systems, that is, that wireless systems are not available, and provide an alternative that approximates, as closely as possible, the degree of functional utility and safety protection provided by a wireless two-way communications system. While operators and District Managers must consider mine-specific circumstances in determining appropriate two-way communications systems, this guidance outlines the features MSHA believes would best approximate the functional utility and safety protections of a fully wireless system, given the limitations of current technology. As noted, operators and others may propose other approaches or systems, and the District Manager will exercise his discretion in evaluating them. Communications systems that are already in use may need to be updated to comply with the MINER Act requirements to approximate the utility and safety protections of a fully wireless system.

1. General Considerations—An alternative to a fully wireless communications system used to meet the requirements of the MINER Act for post-accident communication either can be a system used for day-to-day operations or a stored system used in the event of an accident. Examples of currently available technologies that

may be capable of best approximating a fully wireless communications system include, but are not limited to, leaky feeder, mesh and medium frequency systems. Any alternative system generally should:

a. Have an untethered device that miners can use to communicate with the surface. The untethered device should be readily accessible to each group of miners working or traveling together and to any individual miner working or traveling alone.

b. Provide communication in the form of two-way voice and/or two-way text messages. If used, pre-programmed text messages should be capable of providing information to the surface necessary to determine the status of miners and the conditions in the mine, as well as providing the necessary emergency response information to miners.

c. Provide an audible, visual, and/or vibrating alarm that is activated by an incoming signal. The alarm should be distinguishable from the surrounding environment.

d. Be capable of sending an emergency message to each of the untethered devices.

e. Be installed to prevent interference with blasting circuits and other electrical systems.

#### 2. Coverage Area

a. The system must provide coverage for each working section in a mine including all intersections.

b. The system also generally should provide continuous coverage along the escapeways and a coverage zone both inby and outby strategic areas of the mine, such as belt drives and transfer points, power centers, loading points, refuge alternatives, SCSR caches and other areas identified by the District Manager. While a coverage zone of 200 feet inby and 200 feet outby strategic areas normally should be adequate, the District Manager may require longer or shorter distances given circumstances specific to the mine.

i. The District Manager may approve alternative coverage areas to those areas identified in 2(b), such as adjacent entries, for reasons such as radio frequency interference or other factors that may reduce the coverage area at the identified strategic areas.

ii. Miners should follow an established check-in/check-out procedure or an equivalent procedure when assigned to work in bleeders or other remote areas of the mine that are not provided with communications coverage.

3. Permissibility—The communication system must be

approved by MSHA to comply with 30 CFR part 23 and applicable policies.

#### 4. Standby Power for Underground Components and Devices

a. Stationary components (infrastructure) generally should be equipped with a standby power source capable of providing sufficient power to facilitate evacuation and rescue in the event the line power fails or is cut off. In many mining situations, at least 24 hours of standby power based on a 5% transmit time, 5% receive time, and 90% idle time duty cycle (denoted as 5/5/90) generally should be adequate, but mine-specific conditions may warrant more or less standby power capability.

b. Portable devices, such as hand-held radios, generally should provide sufficient power to facilitate evacuation and rescue following an accident. In many mining situations, at least 4 hours of operation in addition to the normal shift duration (12-hour minimum total duration) based on a 5/5/90 duty cycle generally should be adequate, but mine-specific conditions may warrant more or less capability.

#### 5. Surface Considerations

a. The communication system generally should include a line-powered surface component with a standby power source to ensure continued operation in the event the line power is interrupted.

b. The surface components of the communication system should be located at the communication facility required under 30 CFR 75.1600–1 where a person who is always on duty when persons are underground can receive incoming messages and respond immediately in the event of an emergency. The person should be trained in the operation of the communication system and knowledgeable of the mine's Emergency Response Plan.

#### 6. Survivability

a. The post-accident communication system generally should provide redundant signal pathways to the surface component.

b. Redundancy can be achieved by multiple systems installed in multiple entries, or one system with multiple pathways to the surface; provided that a failure in one system or pathway does not affect the other system or pathway.

c. Redundancy means that the system can maintain communications with the surface when a single pathway is disrupted. Disruption can include major events in an entry or component failure.

d. If system components must be installed in areas vulnerable to damage (such as in front of seals), protection against forces that could cause damage should be provided.

#### 7. Maintenance

a. The equipment manufacturer generally should provide a maintenance schedule and checklist to the mine operator.

b. The mine operator generally should:

i. Establish and follow a procedure to provide communications during system or component failures in the event that an accident occurs before the failure can be corrected.

ii. Check the standby power and functionality of the system and the untethered devices on a weekly basis as required by 30 CFR 75.512–2.

iii. Follow the manufacturer's maintenance recommendations.

#### Electronic Tracking System

Approved electronic tracking systems are available. While operators and District Managers must consider mine-specific circumstances in determining an appropriate electronic tracking system, this guidance outlines features MSHA believes would provide the protection contemplated in the MINER Act in many underground coal mining environments. As noted, operators and others may propose alternative approaches or systems, and the District Manager will exercise his discretion in evaluating them.

1. By June 15, 2009, a plan must be submitted that provides for determining the location of persons underground using an electronic tracking system pursuant to 30 U.S.C. 876(b)(2)(F)(ii).

#### 2. Performance

a. While the required capabilities of a particular tracking system will depend on mine-specific circumstances, an effective electronic tracking system generally should be capable of:

i. Determining the location of miners on a working section including all intersections to within 200 feet.

ii. Determining the location of miners in escapeways at intervals not exceeding 2,000 feet.

iii. Determining the location of miners within 200 feet of strategic locations such as belt drives and transfer points, power centers, loading points, refuge alternatives, SCSR caches, and other areas deemed appropriate by the District Manager (example: A reader is placed 200 feet or less from each strategic location).

iv. Determining direction of travel at key junctions in escapeways.

b. Electronic tracking systems generally should be installed to prevent interference with blasting circuits and other electrical systems.

3. Permissibility—The tracking system must be approved by MSHA under 30 CFR part 23 and applicable policies.

#### 4. Standby Power for Underground Components

a. Stationary components (infrastructure) should be capable of tracking persons underground during evacuation and rescue efforts, even upon loss of mine power. In many circumstances, the capacity to provide a minimum of 24 hours of continuous tracking operation after a power loss generally should be sufficient.

b. An individually-worn/carried tracking device (e.g., a tag) generally should provide a low power warning. To facilitate evacuation and rescue efforts, the individually-worn/carried tracking device generally should provide at least 4 hours of operation in addition to the normal shift duration (12-hour total minimum duration).

5. Capacity—Tracking system components (readers) must be capable of tracking the maximum number of persons, including visitors, expected to be in a coverage area.

6. Scanning rate—In order to provide timely and relevant information, the tracking system generally should be capable of updating (refreshing) location data at least every 60 seconds.

#### 7. Surface Considerations

a. The surface component of a tracking system should be located at the communication facility required under 30 CFR 75.1600–1 where a person is always on duty when miners are underground and should include a line-powered interface that can display the location of all miners underground. The person should be trained in the operation of the tracking system.

b. The surface tracking component should be equipped with standby power to ensure continuous operation in the event the line power is interrupted.

c. The tracking system interface should display the last known location of a miner when the tracking device is not communicating with the system.

d. Each miner should be uniquely identified.

e. Location data should be associated with a time stamp.

f. Location data should be stored for two weeks so that it will be available for evacuation and rescue of persons underground, as well as for accident investigations.

#### 8. Survivability

a. If system components must be installed in areas vulnerable to damage (such as in front of seals), protection against forces that could cause damage should be provided. For example, protection could be provided by installing enclosures in recessed areas, around corners, or other areas that reduce potential for damage, or routing

and protecting cables such that potential for damage is minimized.

b. Data storage should not be impacted by interruption of the data link between underground and surface components.

#### 9. Maintenance

a. The equipment manufacturer generally should provide a maintenance schedule and checklist to the mine operator.

b. The mine operator generally should:

i. Establish and follow a procedure to provide tracking during system or component failures in the event that an accident occurs before the failure can be corrected.

ii. Check the standby power and functionality of the system and the devices worn by the miner on a weekly basis as required by 30 CFR 75.512–2.

iii. Follow the manufacturer's maintenance recommendations.

#### Background

The MINER Act of 2006 included the following requirement for communications and tracking systems:

Not later than 3 years after the date of enactment of the Mine Improvement and New Emergency Response Act of 2006, a [n emergency response] plan shall, to be approved, 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. Where such plan sets forth the reasons such provisions can not be adopted, the plan shall also set forth the operator's alternative means of compliance. Such alternative shall approximate, as closely as possible, the degree of functional utility and safety protection provided by the wireless two-way medium and tracking system referred to in this subpart.

Since fully wireless communication systems technology is not currently available to mine operators, alternative means of compliance using partially wireless two-way communication is warranted.

In addition, the MINER Act requires:

Consistent with available technology and with the physical constraints, if any, of the mine, the plan shall provide for above ground personnel to determine the current, or immediately pre-accident, location of all underground personnel. Any system so utilized shall be functional, reliable, and calculated to remain serviceable in a post-accident setting.

As of the date of this PPL, electronic tracking is available and MSHA approved. As technological advances are made and become available, MSHA

will update this guidance, and District Managers will review existing Emergency Response Plans to consider the manner in which intervening advances in electronic tracking systems may enhance miners' ability to evacuate or otherwise survive in an emergency.

#### Authority

Section 316 of the Federal Mine Safety and Health Act of 1977, as amended, 30 U.S.C. 876; 30 CFR part 23 and 75.1600.

#### Filing Instructions

This program policy letter should be filed behind the tab marked "Program Policy Letters" at the back of Volume II of the Program Policy Manual.

#### 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 choosing "Compliance Info" and "Program Policy 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/MSHAApprovedPEDproducts.pdf>.

#### Issuing Offices and Contact Persons

MSHA, Approval and Certification Center, David Chirdon, (304) 547–2026, E-mail: [chirdon.david@dol.gov](mailto:chirdon.david@dol.gov). Coal Mine Safety and Health, Salwa El-Bassioni, (202) 693–9525, E-mail: [el-bassioni.salwa@dol.gov](mailto:el-bassioni.salwa@dol.gov).

#### Distribution

MSHA Program Policy Manual Holders;  
Manufacturers of Mining Equipment and Mine Equipment Repair Facilities;  
Miners' Representatives;  
Underground Mine Operators;  
Underground Independent Contractors;  
Special Interest Groups.

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#### DEPARTMENT OF LABOR

##### Occupational Safety and Health Administration

[Docket No. OSHA–2008–0049]

##### Hazardous Waste Operations and Emergency Response (HAZWOPER); Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.