



COALEX STATE INQUIRY REPORT - 270

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TOPIC: DEFINITION OF "A LOADED HOLE"

INQUIRY: Are there any federal decisions defining what constitutes "a loaded or charged hole"? Wyoming regulations require loaded holes to be guarded or the area sealed. Wyoming does not consider a hole loaded until the initiating device is placed in the hole along with the ammonium nitrate fuel-oil mixture (ANFU).

SEARCH RESULTS: COALEX and LEXIS were used to research this issue. No administrative, state or federal decisions were identified that defined "a loaded or charged hole". The retrieved cases that have loaded holes as part of their fact situations are insurance company cases alleging negligence for causing injury or liability cases alleging faulty products. What is listed below are relevant sections from OSHA, MSHA and SMCRA and relevant excerpts from Federal Register preambles to the rules. Copies of the materials listed below are attached.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA)

29 CFR 1926.905(s) (1992). Loading of explosives or blasting agents.

"No loaded holes shall be left unattended or unprotected."

MINE SAFETY AND HEALTH ADMINISTRATION (MSHA)

30 CFR 56.6313 (1992). Blast site security.

"Areas in which loading is suspended or loaded holes are awaiting firing shall be attended, barricaded and posted, or flagged against unauthorized entry."

30 CFR 77.1303(g) (1992). Explosives, handling and use.

"Areas in which charged holes are awaiting firing shall be guarded, or barricaded and posted, or flagged against unauthorized entry."



56 FR 2070 (JANUARY 18, 1991). 30 CFR Parts 56 and 57: Safety standards for explosives at metal and nonmetal mines.

Definitions. "Loading: The definition is added to standardize and clarify this important aspect of blasting activities. The use of 'charge' as synonymous with 'load' has resulted in some confusion within the mining community. MSHA has determined the exclusive use of 'load' to be descriptive of the process of placing explosive material in a hole or against material to be blasted."

56/57.6313 Blast site security. "This standard addresses hazards present where loading is completed and the hole is awaiting firing.... The term 'loaded' is substituted for 'charged' and the term 'attended' is substituted for 'guarded' for consistency with other standards. The existing standard allows alternatives to guarding. The area can be barricaded and posted, or flagged against unauthorized entry. Commenters indicated that it is appropriate to continue to allow these alternatives to 'attending' the site. MSHA agrees with these commenters and has allowed barricading and posting or flagging in situations where loading is suspended. The standard thereby allows mine operators flexibility in protecting loaded or partially loaded holes which are not ready to be initiated."

SMCRA

30 CFR 715.19(v) (Interim program regulations). Use of explosives.

"Areas in which charged holes are awaiting firing shall be guarded, barricaded and posted, or flagged against unauthorized entry."

44 FR 14902 (MARCH 13, 1979). Preamble to Section 816.65(e).

"Although several commenters supported the proposed version of this section, other comments suggested that either it be deleted, or the wording changed to agree with relevant MSHA regulations. Several commenters recommended deletion on the grounds that the guarding of charged holes is already covered by MSHA and that an additional rule covering the same item is merely duplicative. MSHA does, in fact, cover the protection of charged holes under 30 CFR 77.1303(g).... The Office believes that the MSHA rule is adequate, so that the Office's proposed rule is redundant. MSHA's regulation will apply to surface coal mining operations throughout the active phase of mining. Blasting is not ordinarily conducted at other times in the surface mining of coal, and the flagging/guarding of holes is related solely to worker protection, not those outside the mine-site."

816.65 was removed March 8, 1983 (48 FR 9788).

48 FR 9788 (MARCH 8, 1983). 816.66 Use of explosives: Blasting signs, warnings, and access control.



816.66(a)(2): "At all entrances to the permit area from public roads or highways, place conspicuous signs which state 'Warning! Explosives in Use,' which clearly list and describe the meaning of the audible blast warning and all-clear signals that are in use, and which explain the marking of blasting areas and charged holes awaiting firing within the permit area."

WY

WY Chap 6 Sec 4(a)(vi) (1989).

"Areas in which charged (loaded) holes are awaiting firing shall be guarded against unauthorized entry."

55 FR 23703 (JUNE 12, 1990). West Virginia Permanent Regulatory Program.

Section 38-3-6: Blasting "Comment: MSHA recommends that, due to inconsistencies in interpretations of the term 'charged holes,' West Virginia revise the subsection 6.5(b)(3) to require that all boreholes containing explosives be guarded or posted against unauthorized entry.

"Response: Because the Federal regulations at 30 CFR 816.11(a)(2) and 817.66(a)(2) also use the term 'charged holes,' the Secretary finds that proposed State rule no less effective than its Federal counterparts."

ATTACHMENTS

- A. 29 CFR 1926.905(s) (1992). Loading of explosives or blasting agents.
- B. 30 CFR 56.6313 (1992). Blast site security.
- C. 30 CFR 77.1303(g) (1992). Explosives, handling and use.
- D. 56 FR 2070 (JANUARY 18, 1991). 30 CFR Parts 56 and 57: Safety standards for explosives at metal and nonmetal mines.
- E. 30 CFR 715.19(v) (Interim program regulations). Use of explosives.
- F. 44 FR 14902 (MARCH 13, 1979). Preamble to Section 816.65(e).
- G. 48 FR 9788 (MARCH 8, 1983). 816.66 Use of explosives: Blasting signs, warnings, and access control.
- H. WY Chap 6 Sec 4(a)(vi) (1989).
- I. 55 FR 23703 (JUNE 12, 1990). West Virginia Permanent Regulatory Program. Section 38-3-6: Blasting.