

§ 48.32

(Training plans: Submission and approval) of this subpart B and shall include a statement on the methods of instruction to be used.

(d) In accordance with § 48.29 (Records of training) of this subpart B, the operator shall maintain and make available for inspection, certificates that miners have received the instruction required by this section.

[43 FR 47459, Oct. 13, 1978, as amended at 47 FR 23641, May 28, 1982]

§ 48.32 Appeals procedures.

The operator, miner, and miners' representative shall have the right of appeal from a decision of the District Manager.

(a) In the event an operator, miner, or miners' representative decides to appeal a decision by the District Manager, such an appeal shall be submitted, in writing, to the Administrator for Coal Mine Safety and Health or Administrator for Metal and Nonmetal Safety and Health, as appropriate, MSHA, 1100 Wilson Blvd., Room 2424 (Coal) or Room 2436 (Metal and Nonmetal), Arlington, Virginia, 22209-3939, within 30 days of notification of the District Manager's decision.

(b) The Administrator may require additional information from the operator, the miners or their representatives, and the District Manager, if the Administrator determines such information is necessary.

(c) The Administrator shall render a decision on the appeal within 30 days after receipt of the appeal.

[43 FR 47459, Oct. 13, 1978, as amended at 47 FR 23641, May 28, 1982; 67 FR 38384, June 4, 2002]

PART 49—MINE RESCUE TEAMS

Sec.

- 49.1 Purpose and scope.
- 49.2 Availability of mine rescue teams.
- 49.3 Alternative mine rescue capability for small and remote mines.
- 49.4 Alternative mine rescue capability for special mining conditions.
- 49.5 Mine rescue station.
- 49.6 Equipment and maintenance requirements.
- 49.7 Physical requirements for mine rescue team.
- 49.8 Training for mine rescue teams.
- 49.9 Mine emergency notification plan.

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49.10 Effective date.

AUTHORITY: 30 U.S.C. 811, 825(e), 957.

SOURCE: 45 FR 47002, July 11, 1980, unless otherwise noted.

§ 49.1 Purpose and scope.

This part implements the provisions of Section 115(e) of the Federal Mine Safety and Health Act of 1977. Every operator of an underground mine shall assure the availability of mine rescue capability for purposes of emergency rescue and recovery.

§ 49.2 Availability of mine rescue teams.

(a) Except where alternative compliance is permitted for small and remote mines (§ 49.3) or those mines operating under special mining conditions (§ 49.4), every operator of an underground mine shall:

(1) Establish at least two mine rescue teams which are available at all times when miners are underground; or

(2) Enter into an arrangement for mine rescue services which assures that at least two mine rescue teams are available at all times when miners are underground.

(b) Each mine rescue team shall consist of five members and one alternate, who are fully qualified, trained, and equipped for providing emergency mine rescue service.

(c) To be considered for membership on a mine rescue team, each person must have been employed in an underground mine for a minimum of one year within the past five years. For the purpose of mine rescue work only, miners who are employed on the surface but work regularly underground shall meet the experience requirement. The underground experience requirement is waived for those miners on a mine rescue team on the effective date of this rule.

(d) Each operator shall arrange, in advance, ground transportation for rescue teams and equipment to the mine or mines served.

(e) Upon the effective date of this part, the required rescue capability shall be present at all existing underground mines, upon initial excavation of a new underground mine entrance, or the re-opening of an existing underground mine.

(f) Except where alternative compliance is permitted under § 49.3 or § 49.4, no mine served by a mine rescue team shall be located more than two hours ground travel time from the mine rescue station with which the rescue team is associated.

(g) As used in this part, mine rescue teams shall be considered available where teams are capable presenting themselves at the mine site(s) within a reasonable time after notification of an occurrence which might require their services. Rescue team members will be considered available even though performing regular work duties or in an off-duty capacity. The requirement that mine rescue teams be available shall not apply when teams are participating in mine rescue contests or providing services to another mine.

(h) Each operator of an underground mine who provides rescue teams under this section shall send the District Manager a statement describing the mine's method of compliance with this part. The statement shall disclose whether the operator has independently provided mine rescue teams or entered into an agreement for the services of mine rescue teams. The name of the provider and the location of the services shall be included in the statement. A copy of the statement shall be posted at the mine for the miners' information. Where a miners' representative has been designated, the operator shall also provide the representative with a copy of the statement.

§ 49.3 Alternative mine rescue capability for small and remote mines.

(a) If an underground mine is small and remote, an operator may provide for an alternative mine rescue capability. For the purposes of this part only, consideration for small and remote shall be given where the total underground employment of the operator's mine and any surrounding mine(s) within two hours ground travel time of the operator's mine is less than 36.

(b) An application for alternative mine rescue capability shall be submitted to the District Manager for the district in which the mine is located for review and approval.

(c) Each application for an alternative mine rescue capability shall contain:

- (1) The number of miners employed underground at the mine on each shift;
- (2) The distances from the two nearest mine rescue stations;
- (3) The total underground employment of mines within two hours ground travel time of the operator's mine;
- (4) The operator's mine fire, ground, and roof control history;
- (5) The operator's established escape and evacuation plan;
- (6) A statement by the operator evaluating the usefulness of additional refuge chambers to supplement those which may exist;
- (7) A statement by the operator as to the number of miners willing to serve on a mine rescue team;
- (8) The operator's alternative plan for assuring that a suitable mine rescue capability is provided at all times when miners are underground; and
- (9) Other relevant information about the operator's mine which may be requested by the District Manager.

(d) A copy of the operator's application shall be posted at the mine. Where a miners' representative has been designated, the operator shall also provide the representative with a copy of the application.

(e) In determining whether to approve an application for alternative compliance, the District Manager shall consider:

- (1) The individual circumstances of the small and remote mine;
- (2) Comments submitted by, or on behalf of, any affected miner; and
- (3) Whether the alternative mine rescue plan provides a suitable rescue capability at the operator's mine.

(f) Where alternative compliance is approved by MSHA, the operator shall adopt the alternative plan and post a copy of the approved plan (with appropriate MSHA mine emergency telephone numbers) at the mine for the miners' information. Where a miners' representative has been designated, the operator shall also provide the representative with a copy of the approved plan.

(g) The operator shall notify the District Manager of any changed condition