

(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

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or factor materially affecting information submitted in the application for alternative mine rescue capability.

(h)(1) An approved plan for alternative mine rescue capability shall be subject to revocation or modification for cause by MSHA, where it is determined that a condition or factor has changed which would materially alter the operator's mine rescue capability. If such action is contemplated, the operator will be notified, and given an opportunity to be heard before the appropriate District Manager.

(2) If an application for alternative compliance is denied or revoked, the District Manager shall provide the reason for such denial or revocation in writing to the operator. The operator may appeal this decision in writing to the Administrator for Coal Mine Safety and Health or the Administrator for Metal and Nonmetal Mine Safety and Health, as appropriate, 1100 Wilson Blvd., Room 2424 (Coal) or Room 2436 (Metal and Nonmetal), Arlington, Virginia 22209-3939.

[45 FR 47002, July 11, 1980, as amended at 67 FR 38385, June 4, 2002]

§ 49.4 Alternative mine rescue capability for special mining conditions.

(a) If an underground mine is operating under special mining conditions, the operator may provide an alternative mine rescue capability.

(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) To be considered "operating under special mining conditions," the operator must show that all of the following conditions are present:

(1) The mine has multiple adits or entries;

(2) The mined substance is non-combustible and the mining atmosphere nonexplosive;

(3) There are multiple vehicular openings to all active mine areas, sufficient to allow fire and rescue vehicles full access to all parts of the mine in which miners work or travel;

(4) Roadways or other openings are not supported or lined with combustible materials;

(5) The mine shall not have a history of flammable-gas emission or accumulation, and the mined substance shall not have a history associated with flammable or toxic gas problems; and

(6) Any reported gas or oil well or exploratory drill hole shall be plugged to within 100 feet above and below the horizon of the ore body or seam.

(d) Each application shall contain:

(1) An explanation of the special mining conditions;

(2) The number of miners employed underground at the mine on each shift;

(3) The distances from the two nearest mine rescue stations;

(4) The operator's mine fire history;

(5) The operator's established escape and evacuation plan;

(6) The operator's alternative plan for assuring that a suitable mine rescue capability is provided at all times when miners are underground; and

(7) Other relevant information about the operator's mine which may be requested by the District Manager.

(e) 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.

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

(1) The individual circumstances of the mine operating under special mining conditions;

(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.

(g) 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 alternative plan.

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