

(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 23640, May 28, 1982; 71 FR 16666, Apr. 3, 2006]

Subpart B—Training and Retraining of Miners Working at Surface Mines and Surface Areas of Underground Mines

§ 48.21 Scope.

The provisions of this subpart B set forth the mandatory requirements for submitting and obtaining approval of programs for training and retraining miners working at surface mines and surface areas of underground mines. Requirements regarding compensation for training and retraining are also included. The requirements for training and retraining miners working in underground mines are set forth in subpart A of this part. This part does not apply to training and retraining of miners at shell dredging, sand, gravel, surface stone, surface clay, colloidal phosphate, and surface limestone mines, which are covered under 30 CFR Part 46.

[43 FR 47459, Oct. 13, 1978, as amended at 64 FR 53130, Sept. 30, 1999]

§ 48.22 Definitions.

For the purposes of this subpart B—

(a)(1) *Miner* means, for purposes of §§ 48.23 through 48.30 of this subpart B, any person working in a surface mine or surface areas of an underground mine and who is engaged in the extraction and production process, or engaged in shaft or slope construction, or who is regularly exposed to mine hazards, or who is a maintenance or service worker employed by the operator or a maintenance or service worker contracted by the operator to work at the mine for frequent or extended periods. This definition shall include the operator if the operator works at the mine on a continuing, even if irregular,

basis. Short-term, specialized contract workers, such as drillers and blasters, who are engaged in the extraction and production process or engaged in shaft or slope construction and who have received training under § 48.26 (Experienced miner training) of this subpart B, may in lieu of subsequent training under that section for each new employment, receive training under § 48.31 (Hazard training) of this subpart B. This definition does not include:

(i) Construction workers under subpart C of this Part 48;

(ii) Any person covered under paragraph (a)(2) of this section.

(2) *Miner* means, for purposes of § 48.31 (Hazard training) of this subpart B, any person working in a surface mine, including any delivery, office, or scientific worker or occasional, short-term maintenance or service worker contracted by the operator, and any student engaged in academic projects involving his or her extended presence at the mine. This definition excludes persons covered under paragraph (a)(1) of this section and subpart C of this part.

(b) *Experienced miner* means:

(1) A miner who has completed MSHA-approved new miner training for surface miners or training acceptable to MSHA from a State agency and who has had at least 12 months of surface mining experience; or

(2) A supervisor who is certified under an MSHA-approved State certification program and who is employed as a surface supervisor on October 6, 1998; or

(3) An experienced surface miner on February 3, 1999.

(4)(i) A person employed as a surface shaft or slope construction worker on the June 28, 2006; or,

(ii) A person who has six months of surface shaft or slope experience within 24 months before June 28, 2006.

(c) *New miner* means a miner who is not an experienced miner.

(d) *Normal working hours* means a period of time during which a miner is otherwise scheduled to work. This definition does not preclude scheduling training classes on the sixth or seventh working day if such a work schedule

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has been established for a sufficient period of time to be accepted as the operator's common practice. Miners shall be paid at a rate of pay which shall correspond to the rate of pay they would have received had they been performing their normal work tasks.

(e) *Operator* means any owner, lessee, or other person who operates, controls, or supervises a surface mine or surface area of an underground mine; or any independent contractor identified as an operator performing services or construction at such time.

(f) *Task* means a work assignment that includes duties of a job that occur on a regular basis and which requires physical abilities and job knowledge.

(g) *Act* means the Federal Mine Safety and Health Act of 1977.

[43 FR 47459, Oct. 13, 1978; 44 FR 1980, Jan. 9, 1979, as amended at 63 FR 53759, 53760, Oct. 6, 1998; 70 FR 77727, Dec. 30, 2005]

§ 48.23 Training plans; time of submission; where filed; information required; time for approval; method for disapproval; commencement of training; approval of instructors.

(a) Except as provided in paragraph (o) of this section, each operator of a surface mine shall have an MSHA-approved plan containing programs for training new miners, training experienced miners, training miners for new tasks, annual refresher training, and hazard training for miners as follows:

(1) In the case of a mine which is operating on the effective date of this subpart B, the operator of the mine shall submit such plan for approval within 150 days after the effective date of this subpart B.

(2) Within 60 days after the operator submits the plan for approval, unless extended by MSHA, the operator shall have an approved plan for the mine.

(3) In the case of a new mine which is to be opened or a mine which is to be reopened or reactivated after the effective date of this subpart B, the operator shall have an approved plan prior to opening the new mine, or reopening or reactivating the mine unless the mine is reopened or reactivated periodically using portable equipment and mobile teams of miners as a normal method of operation by the operator. The operator to be so excepted shall

maintain an approved plan for training covering all mine locations which are operated with portable equipment and mobile teams of miners.

(b) The training plan shall be filed with the District Manager for the area in which the mine is located.

(c) Each operator shall submit to the District Manager the following information:

(1) The company name, mine name, and MSHA identification number of the mine.

(2) The name and position of the person designated by the operator who is responsible for health and safety training at the mine. This person may be the operator.

(3) A list of MSHA approved instructors with whom the operator proposes to make arrangements to teach the courses, and the courses each instructor is qualified to teach.

(4) The location where training will be given for each course.

(5) A description of the teaching methods and the course materials which are to be used in training.

(6) The approximate number of miners employed at the mine and the maximum number who will attend each session of training.

(7) The predicted time or periods of time when regularly scheduled refresher training will be given. This schedule shall include the titles of courses to be taught, the total number of instruction hours for each course, and the predicted time and length of each session of training.

(8) For the purposes of § 48.27 (New task training of miners) of this subpart B, the operator shall submit:

(i) A complete list of task assignments to correspond with the definition of "task" in § 48.22(f) of this subpart B.

(ii) The titles of personnel conducting the training for this section.

(iii) The outline of training procedures used in training miners in those work assignments listed according to paragraph (c)(8)(i) of this section.

(iv) The evaluation procedures used to determine the effectiveness of training under § 48.27 of this subpart B.

(d) The operator shall furnish to the representative of the miners a copy of the training plan 2 weeks prior to its