

SUBCHAPTER H—EDUCATION AND TRAINING

PART 46—TRAINING AND RETRAINING OF MINERS ENGAGED IN SHELL DREDGING OR EMPLOYED AT SAND, GRAVEL, SURFACE STONE, SURFACE CLAY, COLLOIDAL PHOSPHATE, OR SURFACE LIMESTONE MINES.

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§ 46.1 Scope.

The provisions of this part set forth the mandatory requirements for training and retraining miners and other persons at shell dredging, sand, gravel, surface stone, surface clay, colloidal phosphate, and surface limestone mines.

§ 46.2 Definitions.

The following definitions apply in this part:

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

(b) *Competent person* means a person designated by the production-operator or independent contractor who has the ability, training, knowledge, or experience to provide training to miners in his or her area of expertise. The competent person must be able both to effectively communicate the training subject to miners and to evaluate whether the training given to miners is effective.

(c) *Equivalent experience* means work experience where the person performed duties similar to duties performed in

mining operations at surface mines. Such experience may include, but is not limited to, work as a heavy equipment operator, truck driver, skilled craftsman, or plant operator.

(d)(1) *Experienced miner* means:

(i) A person who is employed as a miner on April 14, 1999;

(ii) A person who has at least 12 months of cumulative surface mining or equivalent experience on or before October 2, 2000;

(iii) A person who began employment as a miner after April 14, 1999, but before October 2, 2000 and who has received new miner training under § 48.25 of this title or under proposed requirements published April 14, 1999, which are available from the Office of Standards, Regulations and Variances, MSHA, 1100 Wilson Blvd., Room 2352, Arlington, Virginia 22209-3939; or

(iv) A person employed as a miner on or after October 2, 2000 who has completed 24 hours of new miner training under § 46.5 of this part or under § 48.25 of this title and who has at least 12 cumulative months of surface mining or equivalent experience.

(2) Once a miner is an experienced miner under this section, the miner will retain that status permanently.

(e) *Independent contractor* means any person, partnership, corporation, subsidiary of a corporation, firm, association, or other organization that contracts to perform services at a mine under this part.

(f) *Mine site* means an area of the mine where mining operations occur.

(g)(1) *Miner* means:

(i) Any person, including any operator or supervisor, who works at a mine and who is engaged in mining operations. This definition includes independent contractors and employees of independent contractors who are engaged in mining operations; and

(ii) Any construction worker who is exposed to hazards of mining operations.

(2) The definition of “miner” does not include scientific workers; delivery workers; customers (including commercial over-the-road truck drivers); vendors; or visitors. This definition

also does not include maintenance or service workers who do not work at a mine site for frequent or extended periods.

(h) *Mining operations* means mine development, drilling, blasting, extraction, milling, crushing, screening, or sizing of minerals at a mine; maintenance and repair of mining equipment; and associated haulage of materials within the mine from these activities.

(i) *New miner* means a person who is beginning employment as a miner with a production-operator or independent contractor and who is not an experienced miner.

(j) *Newly hired experienced miner* means an experienced miner who is beginning employment with a production-operator or independent contractor. Experienced miners who move from one mine to another, such as drillers and blasters, but who remain employed by the same production-operator or independent contractor are not considered newly hired experienced miners.

(k) *Normal working hours* means a period of time during which a miner is otherwise scheduled to work, including the sixth or seventh working day if such a work schedule has been established for a sufficient period of time to be accepted as the common practice of the production-operator or independent contractor, as applicable.

(l) *Operator* means any production-operator, or any independent contractor whose employees perform services at a mine.

(m) *Production-operator* means any owner, lessee, or other person who operates, controls, or supervises a mine under this part.

(n) *Task* means a work assignment or component of a job that requires specific job knowledge or experience.

(o) *We* or *us* means the Mine Safety and Health Administration (MSHA).

(p) *You* means production-operators and independent contractors.

[64 FR 53130, Sept. 30, 1999, as amended at 67 FR 38384, June 4, 2002]

§ 46.3 Training plans.

(a) You must develop and implement a written plan, approved by us under either paragraph (b) or (c) of this section, that contains effective programs

for training new miners and newly hired experienced miners, training miners for new tasks, annual refresher training, and site-specific hazard awareness training.

(b) A training plan is considered approved by us if it contains, at a minimum, the following information:

(1) The name of the production-operator or independent contractor, mine name(s), and MSHA mine identification number(s) or independent contractor identification number(s);

(2) The name and position of the person designated by you who is responsible for the health and safety training at the mine. This person may be the production-operator or independent contractor;

(3) A general description of the teaching methods and the course materials that are to be used in the training program, including the subject areas to be covered and the approximate time or range of time to be spent on each subject area.

(4) A list of the persons and/or organizations who will provide the training, and the subject areas in which each person and/or organization is competent to instruct; and

(5) The evaluation procedures used to determine the effectiveness of training.

(c) A plan that does not include the minimum information specified in paragraphs (b)(1) through (b)(5) of this section must be submitted to and approved by the Regional Manager, Educational Field Services Division, or designee, for the region in which the mine is located. You also may voluntarily submit a plan for Regional Manager approval. You must notify miners or their representatives when you submit a plan for Regional Manager approval. Within two weeks of receipt or posting of the plan, miners and their representatives may also request review and approval of the plan by the Regional Manager and must notify the production-operator or independent contractor of such request.

(d) You must provide the miners' representative, if any, with a copy of the plan at least 2 weeks before the plan is implemented or, if you request MSHA approval of your plan, at least two weeks before you submit the plan to the Regional Manager for approval. At