

These questions are numbered based on their numbering in the Compliance Guide

3. Q. Are state and federal personnel who visit a mine covered by the Part 46 training requirements?

A. Government officials visiting a mine site generally are not required to receive Part 46 training. However, we expect those government agencies whose personnel visit mine sites will ensure that their employees are provided with appropriate personal protective equipment, and receive adequate instruction and training. Where training is not provided, an experienced miner should accompany such government officials.

8. Q. What type of training is required for commercial over-the-road truck drivers, including customers who drive onto mine property and have their trucks loaded, and then deliver their load off the mine property?

A. Commercial over-the-road truck drivers are required to have Site-Specific Hazard Awareness training. Part 46 affords operators the discretion to tailor site-specific hazard awareness training to the unique operations and conditions at their mines. However, the training must in all cases be sufficient to alert affected persons to site-specific hazards. We intend that hazard awareness training be appropriate for the individual who is receiving it and that the breadth and depth of training vary depending on the skills, background, and job duties of the recipient.

9. Q. Are construction workers required to be trained before working on mine property?

A. Construction workers must receive comprehensive training if they are exposed to hazards of mining operations for frequent or extended periods. Comprehensive training includes new miner training or newly hired experienced miner training, as appropriate, annual refresher training and training in new tasks. If they are not at mine sites for frequent or extended periods, they are required to receive Site-Specific Hazard Awareness training appropriate for the hazards to which they are exposed.

10. Q. Is a competent person an Agent of the company?

A. A person who is designated by the production-operator or the independent contractor as a competent person who is qualified to instruct miners and evaluate whether training is effective does not become an agent of the operator under Sections 110(c) and 110(d) of the Mine Act solely because of that assignment. Section 46.9(b)(5) requires that the person designated by the operator in the MSHA-approved training plan as responsible for health and safety training must certify that each miner has completed the required training. If the competent person and the designated person are the same, then that person could be liable as an agent of a corporate operator for knowingly permitting miners to work who have not received applicable Part 46 training.

41. Q. If a mine operator must revise a plan immediately prior to training, must he go through the 2-week review before giving the training?

- A. Section 46.3(b)(4) requires that the production-operator and the independent contractor include in their approved training plan a list of persons who will provide the training, and the subject areas in which each person and/or organization is competent to instruct. Section 46.3(j) requires mine operators to comply with the procedures for plan approval under this section whenever the plan undergoes revision. This includes sharing the revised plan with miners or their representatives before implementing it.

If the mine operator has miners gathered for training and the competent person listed in the approved training plan cannot provide the training, the mine operator may substitute an unlisted competent person for the listed competent person without the 2-week advance notice as required in 30 CFR 46.3(d), provided that the operator informs all miners to be trained and their representatives prior to substituting the competent person, and provided that no miners or their representatives object to the substitution. This allows greater flexibility in the standard and upholds the spirit of the regulation.

57. Q. Can miners and miners' representatives simply request that MSHA review an operator's training plan, or must they give a reason for requesting the review?

- A. Part 46 does not require that miners or their representatives provide a reason before they request an MSHA review of an operator's plan.

70. Q. If a company uses a computer-based training (CBT) program for their Part 46 training, what are the monitoring requirements of the competent person?

- A. We consider computer-based or other interactive training technologies to be training "methods," to be used by a competent person effectively and appropriately. This would not necessarily require that the competent person be in the room at all times, however, the competent person must be available to evaluate the trainees progress, and answer questions as they arise.

71. Q. What training is required for a person who has only received the initial 4 hours of new miner training, does not have the required 12 months of mining or equivalent experience and goes to work at another mine?

- A. To be considered an experienced miner under Part 46, a person must have completed 24 hours of new miner training and have a total of 12 months of mining or equivalent experience. A person who only received the initial 4 hours of training as defined in section 46.5(b), must receive new miner training at subsequent mines.

As an example, a person receiving the initial 4 hours of training at a mine, and who works for 3 weeks, is not considered an experienced miner. Since this person only has 3 weeks of mining or equivalent experience and 4 hours of training, this person must receive the initial 4 hours of training at the next mine where he or she is employed.

As a reminder, you may use relevant training under Part 48 standards, the Occupational Safety and Health Administration (OSHA), or other federal or state agencies to meet the

training requirements of Part 46.

111. Q. Are training records required to be maintained on the mine site and why is there a difference in the time required to make a training plan available for inspection and the time required to make training certificates available for inspection?

- A. Operators and contractors must make available for inspection by MSHA and by miners and their representatives training plans, training records and certificates. If you do not physically keep the training plan, training records or certificates at the mine site, you must be able to produce them upon request; such as by having them sent from another location via fax machine or computer. Training plans must be made available within one business day, but training records, and certificates with the signature of the person responsible for health and safety training, must be made available before inspection activity at the mine concludes for the day. The reason for the difference is a matter of urgency. If a miner is untrained or improperly trained, it is a hazard to the miner and to other miners.

You must make the training records and certificates available to the inspector at the mine site. The inspector may choose, as a matter of convenience, to inspect the records at the office or location where the records are maintained or have them faxed to an MSHA office for his or her inspection that day.

117.Q. Is the Requirement to "Ensure" Independent Contractors Receive Site-Specific Hazard Awareness Training a Strict Liability Standard?

- A. Yes. Section 46.12(a)(1) establishes that the production-operator has primary responsibility for ensuring that Site-Specific Hazard Awareness training is given to employees of independent contractors, while Section 46.12(b)(1) establishes that each independent contractor who employs a miner under this Part has primary responsibility for complying with other required training. MSHA views Section 46.12 as a regulatory indication of whom the agency will cite for training violations under ordinary circumstances. Both the production-operator and the independent contractor share the responsibility that all miners receive all required training, and in extraordinary circumstances, MSHA may determine that both the production-operator and the independent contractor should be held liable for training violations.