

Compliance Guideline for MSHA's Part 46 Training Regulations

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Training and Retraining of Miners Engaged in Shell Dredging or Employed at Sand, Gravel, Surface Stone, Surface Clay, Colloidal Phosphate, or Surface Limestone Mines.

We developed this guide to provide information to the surface nonmetal mining community about the new Part 46 training regulations. This is the second edition of this Compliance Guide. We have added additional questions and answers based on questions we have received since the release of the first guide.

We (MSHA) also wrote this Compliance Guideline in the more personal style advocated by the President's executive order on "Plain Language." In this guideline "you" refers to the mine operator and independent contractor, and "we" and "us" refer to MSHA.

Part 46 is a performance-oriented rule and many of the requirements allow you to decide how and when your training will be conducted, select the topics appropriate for your mining operations, and choose the instructor(s). With a performance-oriented rule, like Part 46, there is more than one way to meet its requirements, and the way you comply may differ from another mining operation.

Although we believe that Part 46 is clearly written and easy to understand, we developed this compliance guide to answer typical questions about the rule. As we continue to work with mine operators and miners, we will learn from our experience and share this information with you through updates to this guide. We recognize that the safety and health hazards associated with mining are site-specific and mine operators need flexibility to achieve the new regulation's objectives. Part 46 was written with this in mind.

Please contact your local MSHA office if you have any questions about the applicability of Part 46 requirements at your operation.

General

§ 46.1 Scope

- 1. Q. Are other commodities not listed in the title to this regulation covered under Part 46?**
 - A.** Yes. Part 46 also covers surface mining operations at the following commodities: marble, granite, sandstone, slate, shale, traprock, kaolin, cement, feldspar, and lime.

- 2. Q. Which training regulations apply — Part 48 or Part 46 — to miners who are employed in the surface area of an underground mine, e.g., the surface area of an underground limestone mine?**
 - A.** Surface areas of underground mines are and have been covered by Part 48. The Part 46 regulations therefore do not apply to training for miners who work in those areas. Miners who

work in such areas must continue to receive training that complies with the Part 48 training regulations.

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

- A. No. Government officials visiting a mine site 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, such government officials should be accompanied by an experienced miner.

General

4. Q. When will MSHA begin to enforce the provisions of the Part 46 training rules?

- A. The Part 46 training rules become effective October 2, 2000, and will then be subject to enforcement.

5. Q. Do I have any responsibilities or obligations under Part 46 training rules between October 1999 and October 2, 2000?

- A. The regulations will become effective on **October 2, 2000**. At that time, you must have a training plan developed and in place. In addition, beginning at that time, you must:

- & train any new miners who have never worked at a mining operation before,
- & make sure that your “experienced” miners are on schedule to receive their annual refresher training,
- & make sure all miners are experienced based on one of the criteria listed in the regulation for becoming an experienced miner, and
- make sure all people requiring site-specific hazard training are receiving this training.

6. Q. Are there any “key” dates in the rule that I should know about?

- A. The key dates to keep in mind are October 2, 2000, when you must have a training plan in place, that is being implemented, and March 30, 2001, when all of your experienced miners, who were employed before March 30, 2000, must receive annual refresher training (unless you’ve been providing annual refresher training all along, in which case you may continue using the 12 month schedule already established).

7. Q. If a crusher that typically operates at mines that fall under the Part 46 regulations is moved onto a mine site where Part 48 regulations apply, what set of regulations would apply?

- A. If the crusher is being operated at a mine site where the Part 48 regulations apply, the workers who operate the crusher are required to receive Part 48 training. MSHA’s Educational Policy and Development group has anticipated such an overlap between parts 46 and 48 and are available to

assist with training plans to minimize any unnecessary redundancy in complying with both training rules.

- 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.

46.2 Definitions

General

- 9. Q. Are construction workers required to be trained before working on mine property?**
- A. Yes. Construction workers must receive comprehensive training if they are exposed to mine hazards at 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 they are exposed to while at the mine.

“Competent Person”

- 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.
- 11. Q. What are the criteria for becoming a competent person?**
- A. A competent person is a person who is 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 to effectively communicate the training subject to miners, and evaluate whether the training given to miners is effective.

12. Q. Are persons who provide instruction to miners in mining subjects required to be approved by MSHA?

- A.** No. Part 46 does not require that instructors be approved by us. Under § 46.4(a)(2), training must be provided by a “competent person.” Section 46.2(b) defines “competent person” as 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 subjects to miners and to evaluate whether the training is effective.

Production-operators and independent contractors are responsible for determining who is competent to instruct in the subjects listed in the training plan.

13. Q. Can a "competent person" who provides training to miners be credited with the training they provide?

- A.** Yes. A competent person may be credited for receiving any training provided toward their own training requirements.

- 14. Q. The definition of “competent person” does not specifically require the person to be experienced in a task. Does this mean a task training instructor is not required to be a “competent person”?**
- A. No. A person who provides task training must be a “competent person,” which means that the person must have the ability, training, knowledge, or experience to provide training in his or her area of expertise. To provide miners with training in a particular task, the person must have the necessary expertise. In most cases, the person will acquire this expertise through experience in the task, but the necessary expertise may be acquired in other ways. For example, a person who receives formal training as an equipment operator may acquire enough knowledge to be competent to train miners in the operation of the equipment. The “competent person” must also be able to effectively communicate the information and be capable of evaluating whether the training is effective.
- 15. Q. Must a person have worked in all areas of a mine before he or she can be designated as a "competent person"?**
- A. No. Under Part 46, a person may be a "competent person" and allowed to provide training to miners, even if the person has knowledge or experience in a limited subject area. However, the competent person can only provide training in these areas.
- 16. Q. Can the list of “competent persons” in the training plan include a training institution or state grantee? Can the institution conduct the site-specific portions of the training?**
- A. Yes. Under § 46.4(b), you may arrange with an organization to provide all or part of your training, including site-specific hazard awareness training, if the organization has access to the site and is knowledgeable about the site-specific hazards at the mine. Some portions of Part 46 training are more site-specific than others. As example, a training institution or state grantee will not usually have the necessary information to conduct task or site-specific hazard awareness training. Section 46.3(b) specifically provides that you must indicate in your training plan the organization and/or competent person(s) who will provide the training.
- 17. Q. If I arrange with an outside organization, such as a state grantee, to provide training to my miners, does the record of training need to indicate the competent person who provided the training for each subject?**
- A. Yes. Even though operators may indicate in their training plan the organization that will provide training rather than the individual competent person, the record of training must list the specific competent person who conducted the training.
- 18. Q. Can I list more than one "competent person" as the instructor for a specific subject on my training plan?**
- A. Yes. You may choose to identify more than one “competent person” as an instructor in a specific subject, and Part 46 allows this practice. You should be aware, however, that § 46.9 requires the record of training to include the identity of the competent person who actually provided the training.

19. Q. May an operator add additional "competent persons" to the training plan at any time?

A. Yes. You can make revisions to your training plan at any time, as long as the procedures set forth in § 46.3 are followed.

20. Q. Will the operator have to document the background of the "competent person" or explain the rationale for designating the individual as a "competent person"?

A. Part 46 does not require operators to document the background of the competent person. In cases where we have reasonable concerns that an individual who is designated as a "competent person" does not have the necessary expertise to instruct or to evaluate the effectiveness of the training, we may question the operator about the basis for this designation.

21. Q. If I choose to designate someone to only conduct one portion of site-specific hazard awareness training, such as electrical hazards, do I need to list this limitation in the training plan?

A. Yes. If a competent person is limited to conducting only a portion of site-specific hazard awareness training, such as electrical hazards, the training plan needs to identify that limitation. If there are no limitations, only the name of the competent person needs to be listed for conducting site-specific hazard awareness training.

"Equivalent Experience"

22. Q. What is equivalent experience?

A. "Equivalent experience" is defined in Part 46 as work experience where the person performed duties similar to duties performed in mining operations at surface mines. This could include working as a heavy equipment operator, truck driver, skilled craftsman, or plant operator. "Equivalent experience" includes such things as working at a construction site or other types of jobs where the miner has duties similar to the duties at the mine where he or she is employed in a work environment outside the mining industry.

23. Q. Who decides what constitutes "equivalent experience"?

A. Production-operators and independent contractors must evaluate the work history of newly-hired employees in determining whether the employees are "experienced" miners. This determination is subject to review by us as part of our verification that production-operators and independent contractors have complied with the training requirements of Part 46.

24. Q. Does a miner need to have accrued experience within a certain time frame in order for the experience to be counted as “equivalent experience”?

- A. No. Part 46 does not require a miner to accrue experience within a certain time frame, whether it is mining experience or equivalent experience.

“Experienced Miner”

25. Q. Are the miners working at my mine now considered experienced miners?

- A. An experienced miner is a person who:

1. Is employed as a miner on April 14, 1999; or
2. Has at least 12 months of cumulative surface mining or equivalent experience on or before October 2, 2000; or
3. Began employment as a miner after April 14, 1999, but before October 2, 2000 and who has received new miner training under § 48.25 or under the proposed requirements published April 14, 1999; or
4. Is 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.

26. Q. I hired a new inexperienced miner in May, 2000. This person had no previous training or equivalent work experience. What training is required?

- A. Since this person does not have the necessary 12 months of mining or equivalent experience, or new miner training, this person is required to receive new miner training by October 2, 2000.

27. Q. An individual worked as a surface miner five years ago and has accrued 12 months or more of mining experience. Will this person be considered an “experienced miner” under Part 46?

- A. Yes. An individual who has accrued at least 12 months of surface mining experience by October 2, 2000, is an “experienced miner.”

28. Q. Who is responsible for providing new miner training or newly hired experienced miner training to construction workers who are employees of an independent contractor?

- A. Under § 46.12, the employers of construction workers are primarily responsible for providing comprehensive training to their employees who are “miners” under Part 46. This does not prevent the independent contractor from arranging with the production-operator to provide the training to the contractor’s employees. Production-operators retain the same responsibility for ensuring that everyone who comes onto mine sites has received the necessary site-specific hazard awareness training.

29. Q. What type of training must be provided to maintenance or service employees of an independent contractor who come to the mine site to provide service on mining equipment?

- A. If these employees maintain and/or repair mining equipment at mine sites for “frequent” or “extended” periods, they are engaged in "mining operations" under Part 46, and are considered miners for training purposes. However, if these employees are not at mine sites for “frequent” or “extended” periods, they will not be considered miners for training purposes and must receive site-specific hazard awareness training at each mine.

"Frequent" exposure is defined as a pattern of exposure to hazards at mining operations occurring intermittently and repeatedly over time. "Extended" exposure means exposure to hazards at mining operations of more than five consecutive work days.

30. Q. Once a miner has become an "experienced miner" under the Part 46 regulations, would that individual also be considered an "experienced miner" under the Part 48 regulations?

- A. Not necessarily. Although it is possible for a miner to be considered an "experienced miner" under both regulations, it is not automatic. A miner must satisfy one of the definitions of "experienced miner" in Part 48 in order to be considered experienced under that rule. Also, the training would have to be conducted according to an MSHA approved Part 48 training plan by an MSHA approved instructor.

31. Q. If a miner becomes an "experienced miner" under Part 46, is that status good at other mines where the miner may work?

- A. Once a miner becomes an "experienced miner" under Part 46, the miner is considered an "experienced miner" at any mine where Part 46 applies.

32. Q. Once a person becomes an "experienced miner," what type of training is required?

- A. An experienced miner hired by a mine operator must receive newly-hired experienced miner training prior to beginning work at any different mine, training for any new tasks assigned, and at least 8 hours of annual refresher training every 12 months.

If the experienced miner is an independent contractor, site-specific hazard awareness training is required at each mine. Also, the independent contractor must receive training for any new tasks and at least 8 hours of annual refresher training every 12 months.

33. Q. What kind of documentation is needed to establish a miner’s 12 cumulative months of surface mining or equivalent experience.

- A. Part 46 does not impose any specific requirements for tracking or recording the accumulated experience. It is the responsibility of production-operators and independent contractors to determine the miner's experience, based on the miner's work and training history.

“Mining Operations”

34. Q. What training is required for an independent contractor performing maintenance and repair on mining equipment that is shutdown, and not in close proximity to active mining operations?

- A. If the work performed is on a frequent or extended basis, the independent contractor will be considered a miner and require comprehensive training. “Frequent” exposure is a pattern of exposure to hazards at mining operations occurring intermittently and repeatedly over time. “Extended” exposure means, exposure to hazards at mining operations of more than five consecutive work days. Even though the mining equipment may be shutdown, and the work performed away from mining activities, the rule includes maintenance and repair of mining equipment as part of the "mining operations.” These activities are a routine part of mining activities and expose repair and maintenance people to many of the same hazards as other miners.

“Newly Hired Experienced Miner”

35. Q. What training is required for 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?

- A. Miners who move from one mine site to another, but remain employed by the same employer are required to receive site-specific hazard awareness training at each mine where they work.

36. Q. What training is required for experienced miners who are permanently transferred from one mine to another, but who remain employed by the same production-operator?

- A. Miners who are permanently transferred from one mine to another, but remain employed by the same employer are not considered “newly hired experienced miners” and are required to receive site-specific hazard awareness training at the mine where they are transferred.

37. Q. I am an independent contractor who employs miners who, as a regular part of their job, work at multiple mine sites. What type of training do these miners need?

- A. Miners must receive new miner or newly hired experienced miner training when they are initially hired, appropriate task training, and no less than 8 hours of refresher training every 12 months. Additionally, miners who move from one mine to another mine while remaining employed by the same production-operator or independent contractor must receive site-specific hazard awareness training for each mine where they work.

“Normal Working Hours”

38. Q. What are normal working hours?

- A. Section 46.10 provides that training must be conducted during “normal working hours,” which is defined in § 46.2(k) as “a period of time during which a miner is otherwise scheduled to work.”

39. Q. Does Part 46 allow training to be conducted on a Saturday, provided that the miners are paid?

- A. Training given under Part 46 must be provided during "normal working hours." For example, if miners usually work on Saturday, they can be trained on Saturday. Part 46 also requires that miners who are being trained be paid at a rate of pay they would have received had they been performing their normal work tasks.

§ 46.3 Training Plans

40. Q. Where can I get a copy of a sample training plan?

- A. Sample plans are available on our Internet Home Page at www.msha.gov, and can be obtained from MSHA’s Educational Field Services Division, MSHA’s National Mine Health and Safety Academy in Beckley, West Virginia, your local MSHA office, and most states participating in the MSHA State Grants Program. These sample plans can be used by operators and independent contractors as a basis for developing their own mine-specific plans.

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.

42. Q. I am an independent contractor who provides training to my employees under Part 48. Is there anything else I need to do before my employees work at mine sites where the Part 46 regulations apply?

- A. It is possible for an operator to develop a training program that complies with both sets of regulations. An operator can easily adjust a training plan developed under Part 48 to address the new Part 46 training requirements, by making the following changes:

Designate and list in the plan a competent person who will teach each subject, including task training; List the approximate time or range of time that will be spent on each subject area listed on the training plan; and

Describe the evaluation procedures used to determine the effectiveness of all required safety and health training.

- 43. Q. In section 46.3(b)(1), the regulation requires an independent contractor to list the MSHA independent contractor number on the training plan. As an independent contractor, do I need to have an MSHA independent contractor number in order to have an approved training plan?**

A. If you have or get an MSHA independent contractor number, you must put it on your training plan. Unless required for other purposes under Title 30 CFR, MSHA does not require an independent contractor to get an MSHA contractor ID number for the purpose of having an approved Part 46 training plan.

- 44. Q. Is every independent contractor who employs miners required to develop and implement a training plan?**

- A. Yes. Independent contractors who employ “miners” are primarily responsible for providing comprehensive training to their employees. This requires them to develop a training plan containing effective programs for providing this training. If arrangements are made to receive training from the production-operator, it must be indicated in the independent contractor's training plan.

- 45. Q. Can an independent contractor use a production-operator’s training plan when the contractor’s employees are required to have newly hired experienced miner training?**

- A. Yes. There is nothing in Part 46 that would prevent an independent contractor from arranging with the production-operator to have the production-operator provide training to the independent contractor’s employees. However, the independent contractor’s plan should clearly indicate that the training for the independent contractor’s employees will be conducted by the production-operator. Further, the independent contractor must ensure that the plan approval requirements are followed with respect to his or her employees. For example, the independent contractor must provide the miners or their representative with a copy of the plan at least 2 weeks before the plan is implemented.

- 46. Q. Can more than one person be designated by the operator in the training plan as responsible for health and safety training at the mine?**

- A. Yes. We recognize that some operators, particularly those that operate large facilities, may want the flexibility of having more than one person who can certify that training has been given under § 46.3(b)(5). There is nothing in the Part 46 regulations that would prevent an operator from giving this responsibility to more than one person.
- 47. Q. If a production-operator has multiple mining operations that are several miles apart, is it acceptable under Part 46 to have only one person designated as the person responsible for miner health and safety training at all of the operator's mines?**
- A. Part 46 allows the operator flexibility in making these designations. For example, it is acceptable if the operator designates only one person as the person responsible for training at all mines. On the other hand, the operator may choose to designate a responsible person at each individual mine. In either case, this person is responsible at each individual mine for ensuring that training is effective and provided according to the training plan.
- 48. Q. Can I have one plan that covers multiple mines?**
- A. Yes. A training plan can be used for more than one mine. The plan would need to cover all the appropriate training requirements, including site-specific hazard awareness training, at each mine listed on the plan.
- 49. Q. Must the person who is designated as responsible for health and safety training at the mine also be listed as a "competent person" on the training plan?**
- A. No. Part 46 does not require that the person who is designated as responsible for training also be a "competent person" for training purposes.
- 50. Q. Is the person who is designated as responsible for training at the mine required to be a supervisor or manager?**
- A. No. However, mine operators and independent contractors must choose someone who has the authority to verify and certify that the training was effective and done in accordance with the training plan and the regulations.

51. Q. Must the person who is designated as responsible for training actually observe the training before he or she certifies the record?

- A. No. However, this person must understand what training is being given, since this person is ultimately responsible for certifying that the training was completed. Further, this person is certifying to the fact that the training indicated on the certification was conducted in accordance with the training plan.

52. Q. Section 46.3(b)(3) requires that the training plan indicate the subject areas to be covered in the training and the approximate time to be spent on each subject area. What does “approximate time” mean?

- A. “Approximate time” means the operator’s reasonable estimate of the amount of time that will be spent on a particular subject. For example, the training plan could indicate that the course will last over a specified range of time, such as from one to two hours. The plan could also indicate that training in a particular subject may last “approximately 3 hours,” recognizing that when the training is actually given it may require more or less time than is indicated in the training plan. This flexibility allows for adjustments based on changing mine conditions or operations, including the needs and experience of the individuals who receive the training.

53. Q. In the regulation, the section on annual refresher training lists recommended subjects that could be included in the training. Can I list all of these subjects in my training plan and select different subjects from this list each year?

- A. No. The training plan needs to accurately represent each subject which you plan to cover during annual refresher training. As a reminder, if you modify this list, you must provide the miners' representative, if any, with a copy of the plan at least 2 weeks before the plan is implemented. If no miners' representative has been designated, you must post a copy of the plan at the mine or provide a copy to each miner at least 2 weeks before you implement the training.

54. Q. How should a mine operator evaluate the effectiveness of training?

- A. The rule allows the mine operator to select the method that they will use to decide if training has been effective. Possible evaluation methods include administering written or oral tests, or a demonstration by the miner that he or she can perform all required duties or tasks in a safe and healthful manner.

In addition, periodic work observations can be used to identify areas where additional training may be needed and such observations, along with feedback from the miners, could be used to modify and enhance the training program.

- 55. Q. If MSHA reviews a plan for approval, what are the guidelines for the appropriate amount of time that should be devoted to each subject?**
- A. Part 46 takes a performance-oriented approach to training and provides operators with flexibility to design training programs that are appropriate for their workforce and operations. For these reasons, there are no specific requirements as far as how much time should be spent on training in certain subjects. However, § 46.3(a) requires that the plan contain “effective” programs for training, and the time devoted to each subject should be adequate to cover the necessary subject area. Where the times allotted do not appear to be appropriate for the subjects listed, we will ask for additional information on the justification for the time specified. Where the time allotted is clearly inadequate, we will ask for additional time to be provided.
- 56. Q. If our plan has been submitted to and approved by MSHA, do we need to send our plan to MSHA for approval of any subsequent revisions to the plan?**
- A. No. Obtaining traditional MSHA approval of your plan does not lock you into traditional approval procedures thereafter. You may follow the informal plan approval procedures in § 46.3(b) rather than request traditional MSHA approval under § 46.3(c), even if MSHA has formally approved previous versions of your training plan.
- 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 MSHA review of an operator's plan.
- 58. Q. What do the regulations require in an approved training plan?**
- A. A training plan must address all the elements of training that miners must receive. This includes new miner training, newly-hired experienced miner training, annual refresher training, new task training, and site-specific hazard awareness training for those persons coming onto your site. The plan must also include the following:
1. The name of your operation, and the mine ID number or independent contractor ID number (if the contractor has an ID number);
 2. The name of the person and position of the person who is responsible for the health and safety training at the mine;
 3. A general description of the teaching methods and course materials that will be used in each training program, including the subjects and the approximate time to be spent on each subject;
 4. A list of the persons and/or organizations who will be providing the training and the subjects that they can teach; and
 5. The evaluation procedures used to determine the effectiveness of training.
- 59. Q. Is the training plan required to list the name of a person who will provide only one type of task training — as an example, someone who only provides task training for a dozer operator?**

- A. Yes. The training plan must include the “competent person” who will instruct in **all** subjects, including the name of the person who will provide only one type of task training. It is acceptable to indicate the names of several potential instructors for one subject or course, where the operator may call on one of several competent persons to provide the training.

60. Q. When is a training plan required to be revised?

- A. Part 46 does not set a specific time period for plan revision. However, the training plan must provide accurate and up-to-date information about the details of an operator’s training programs. For example, if you add a new task, add a new competent person, or change some of the subjects in annual refresher training, then your training plan must be revised. Additionally § 46.3(j) requires operators to comply with the Part 46 plan approval procedures, including sharing the plan with miners or their representatives, whenever the training plan undergoes revisions.

61. Q. Section 46.3(i) requires a copy of the training plan to be produced within one business day of a request by us or the miners or their representatives. How long is “one business day”?

- A. If we request that an operator produce a training plan for examination on Tuesday at 1:00 p.m., the deadline for producing the plan would be 1:00 p.m. on Wednesday. If we request that an operator produce a plan at 2:00 p.m. on Friday at a mine that does not operate over the weekend, the deadline for producing the plan would be 2:00 p.m. on Monday.

§ 46.4 Training Plan Implementation

62. Q. Do informal safety and health meetings have to last a certain length of time before they can be credited toward new miner training, newly-hired experienced miner training, or annual refresher training?

- A. No. Part 46 does not impose a minimum duration for training sessions. However, Part 46 training must be documented in accordance with the requirements of § 46.9 for records of training. This section requires a record showing the printed full name of the person trained; the type of training; the duration of training; the date the training was received; and the name of the competent person who provided the training.

Only the portion of the session actually spent in training can be included when indicating the duration of the training. For example, when 10 minutes of a work crew’s normal 15-minute weekly safety meeting is devoted to training, the 10 minutes can be recorded and credited toward required training. You cannot count the time spent before a training session begins when the miners are assembling and socializing.

63. Q. Can miners at similar mining operations receive their mandatory training together?

- A. Yes. The requirements of Part 46 would not prohibit miners at similar mining operations from receiving training at the same time, so long as the training complies with all applicable requirements of Part 46.

Many subjects, such as miners' rights, recognition and avoidance of electrical hazards, and first aid, are common to different operations. Other subjects, such as introduction to the work environment, traffic patterns and controls, task training, escape and emergency evacuation plans, are specific to each mine site and would have to be addressed separately.

64. Q. My mine is very small, and I just don't have the personnel to conduct the training. Are there other organizations that I can go to?

A. Yes. There are many organizations capable of providing training. Forty-four States and the Navajo Nation receive grants from us and have been providing training to small mine operators for many years. These grant programs are a resource for training and can help in developing your plans. A list of the grantees can be found through our homepage at www.msha.gov. Click on the blue tab on the right side of the screen for "Education & Training," and then click on "State Grant Program Information." However, these organizations do not generally provide "site-specific", or "task" training. An operator or contractor must still develop or adopt a plan that addresses the hazards at the mine and fits the needs of their miners.

65. Q. Can training that is given to satisfy OSHA requirements, such as hazard communication training, be credited as part of the annual refresher training under § 46.8?

A. You may substitute health and safety training required by OSHA or other federal or state agencies to meet Part 46 requirements. The training must be relevant to the subjects required under Part 46, and documented accordingly.

66. Q. Section 46.4(a)(3) requires that training be presented in a language understood by the miners who are receiving the training. Does this mean that if you have an employee who speaks and understands little or no English, the training must be presented in a language the employee can understand?

A. Yes. If the employee is not fluent in English, training must be given in a language the employee understands. Our concern is that employees who are not sufficiently fluent in English will not be effectively trained if the training is in English.

67. Q. Does the requirement that training be presented in a language understood by the miners who are receiving the training apply to site-specific hazard awareness training?

A. Yes. In addition, if warning signs at the mine serve as a component of the site-specific hazard awareness training, the signs must be in a language or languages that are understood by the persons who come onto the mine site.

68. Q. If a competent person is providing training to a group, and some individuals are not fluent in English, is it permissible to use a person who is not a competent person as a translator?

A. Yes. The translator would not need to be a "competent person" under the Part 46 definition. However, when using a translator, the operator or contractor should ensure the translator has the

ability to translate the information accurately and completely. Further, the translator should be familiar with the subject and terminology in the language being translated, not just in English.

69. Q. If a company uses a computer-based training (CBT) program for their Part 46 training, who is considered the competent person?

- A. While we encourage the use of innovative training methods, Part 46 requires that a “competent person” oversee the training. This would not necessarily require that the competent person be in the room at all times, but would require monitoring the student’s progress to ensure the training was effective and completed.

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.

§ 46.5 New Miner Training

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.

72. Q. What courses are mandatory in new miner training?

- A. There are 9 mandatory subjects. Before a new miner begins work, he or she must receive a minimum of 4 hours of training in the following 7 subjects, which must also address site-specific hazards—

1. An introduction to the work environment, including a visit and tour of the mine, or portions of the mine that are representative of the entire mine (walk around training). The method of mining or operation utilized must be explained and observed;
2. Instruction on the recognition and avoidance of electrical hazards and other hazards present at the mine, such as traffic patterns and control, mobile equipment (e.g., haul trucks and front-end loaders), and loose or unstable ground conditions;
3. A review of the emergency medical procedures, escape and emergency evacuation plans, in effect at the mine, and instruction on the firewarning signals and firefighting procedures;
4. Instruction on the health and safety aspects of the tasks to be assigned, including the safe work procedures of such tasks, and the mandatory health and safety standards pertinent to such tasks;
5. Instruction on the statutory rights of miners and their representatives under the Act;
6. A review and description of the line of authority of supervisors and miners' representatives and the responsibilities of such supervisors and miners' representatives; and
7. An introduction to your rules and procedures for reporting hazards.

A new miner must receive instruction in the following subjects, no later than 60 days after beginning work—

8. Instruction and demonstration on the use, care, and maintenance of self-rescue and respiratory devices, if used at the mine; and
9. A review of first aid methods.

- 73. Q. Section 46.5 requires new miners to receive training in specific subjects within 60 days of beginning work, and also requires that new miners receive all 24 hours of the required training within 90 days. Are these deadlines measured in calendar days or working days?**
- A. Both the 60-day and 90-day periods prescribed by Part 46 are calendar days.
- 74. Q. How much of new miner training must be in a classroom environment?**
- A. Part 46 does not specifically require that any portion of new miner training be presented in a classroom environment. Section 46.4(d) provides that training methods may consist of classroom instruction, instruction at the mine, interactive computer-based instruction or other innovative training methods, alternative training technologies, or any combination of training methods. The most effective training will probably include a variety of methods.
- 75. Q. How much of the 24 hours of new miner training can be devoted to training on the health and safety aspects of new tasks?**
- A. Part 46 leaves discretion to the production-operator and independent contractor to determine the appropriate amount of time to be spent on this aspect of training. Although Part 46 does not specify the amount of time that must be devoted to particular subjects, all required subjects must be adequately covered. In some cases, a substantial amount of time may be devoted to training a new miner in the health and safety aspects of new tasks, if he or she has little or no previous experience. In other cases, the time spent on health or safety aspects of new tasks may be less.
- 76. Q. Miners who have not completed the 24 hours of new miner training must work where an experienced miner can observe that the new miner is performing his or her work in a safe and healthful manner. Does this mean one-on-one?**
- A. No. However, the experienced miner needs to be in a position to be able to appropriately observe the new miner's job performance. In some cases, the experienced miner may also be the "competent person" designated to conduct the training.
- 77. Q. Section 46.5(e) requires that new miners be under the "close observation" of a competent person when practicing as part of the health and safety aspects of an assigned task. What does "close observation" mean?**
- A. "Close observation" means that the competent person must have the ability to observe a new miner's work practices during task training ensuring the miner is not jeopardizing his or her own health and safety or the health and safety of others. We do not mean that the competent person must completely abandon his or her normal duties, as long as the competent person can adequately monitor the work practice. However, in some situations, the competent person may have to cease normal work duties to ensure that this performance-based standard is met.
- 78. Q. Is a new miner, who has not completed 24-hours of training, required to work under the close observation of a competent person after receiving training on a specific task?**

- A. No. If the training is completed for the specific task, the miner no longer needs to be under the close observation of a **competent person**. However, since the miner has not completed the 24 hours of “New Miner Training,” the miner is required to work where an **experienced miner** can observe his or her work practices until the 24 hours of training is completed.
- 79. Q. We have pieces of mobile equipment that only has a place for the equipment operator, and no space for a passenger. How can a competent person "closely observe" a miner who is being trained in the health and safety aspects of operating that piece of equipment?**
- A. When available, the passenger seat is the best location for a competent person providing training to a miner in safe operation of the equipment. However, when a passenger seat is not available, the competent person should be positioned in a safe location in close proximity to the equipment being operated. The competent person should closely observe and monitor the miner's actions from that location.
- 80. Q. If new miners receive hands-on training in the jobs they will be performing, can the time spent on this training be counted toward the 24 hours of training required for new miners under § 46.5?**
- A. Yes. Part 46 allows practice under the "close observation of a competent person" to be used to fulfill the requirements for training on the health and safety aspects of assigned tasks required for new miners under § 46.5(b)(4). Hazard recognition training specific to the assigned task must be given before the miner performs the task. The time spent in training may be credited toward the 24 hours of required new miner training.
- 81. Q. Am I required to use an approved/certified first aid instructor to teach a review of first aid methods under § 46.5(b)?**
- A. No. The review of first aid methods for new miners under Part 46 does not require comprehensive first aid training, however, the training must be conducted by a competent person.
- 82. Q. What constitutes a “review of first aid methods?” What must this review include to comply with the requirement?**
- A. Consistent with the performance-oriented approach taken in the rule, Part 46 does not specify what areas must be covered as part of this review. However, it would be appropriate to address basic first aid techniques as part of the review. Compliance with this requirement does not require you to hire an approved first aid instructor or obtain first aid teaching equipment. This review is not a substitute for the first aid requirements in 56.18010 “first-aid.”
- 83. Q. I am an independent contractor with employees that are required to have 24 hours of new miner training under Part 46. Is it acceptable for me to provide the 24 hours of training at my own facility, or must I provide some of the training on a mine property where my employees will be working?**
- A. Part 46 does not require an independent contractor to provide its employees with any of the 24 hours of new miner training on mine property. However, when an employee of an independent

contractor goes to a mine site, he or she must receive appropriate site-specific hazard awareness training applicable to the miner's exposure to mine hazards.

This site-specific hazard awareness training could include site-specific health and safety risks, such as geologic or environmental conditions, recognition and avoidance of hazards such as electrical and powered-haulage hazards, traffic patterns and control, and restricted areas; and warning and evacuation signals, evacuation and emergency procedures, or other special safety procedures.

§ 46.6 Newly Hired Experienced Miner Training

84. Q. Who is an experienced miner under Part 46?

- A. The definition of "experienced miner" under § 46.2 includes—
1. A person who is employed as a miner on April 14, 1999; or
 2. A person who has at least 12 months of cumulative surface mining or equivalent experience on or before October 2, 2000; or
 3. A person who began employment as a miner after April 14, 1999, but before October 2, 2000, and who has received new surface miner training under Part 48 or new miner training under the Part 46 proposed requirements; or
 4. A person who began employment as a miner on or after October 2, 2000 who has completed new miner training under Part 46 or new surface miner training under Part 48, and who also has at least 12 months of cumulative mining or equivalent experience.

85. Q. What subjects are required for newly hired experienced miner training?

- A. Section 46.6(b) requires that newly hired experienced miners receive training in the following seven subjects before the miner begins work at the mine—
1. An introduction to the work environment, including a visit and tour of the mine, or portions of the mine that are representative of the entire mine (walkaround training). The method of mining or operation utilized must be explained and observed;
 2. Instruction on the recognition and avoidance of electrical hazards and other hazards present at the mine, such as traffic patterns and control, mobile equipment (e.g., haul trucks and front-end loaders), and loose or unstable ground conditions;
 3. A review of the emergency medical procedures, escape and emergency evacuation plans, in effect at the mine, and instruction on the firewarning signals and firefighting procedures;
 4. Instruction on the health and safety aspects of the tasks to be assigned, including the safe work procedures of such tasks, and the mandatory health and safety standards pertinent to such tasks;

5. Instruction on the statutory rights of miners and their representatives under the Act;
6. A review and description of the line of authority of supervisors and miners' representatives and the responsibilities of such supervisors and miners' representatives; and
7. An introduction to your rules and procedures for reporting hazards.

You must also provide the miner with an instruction and demonstration on the use, care, and maintenance of self-rescue and respiratory devices, if used at the mine, no later than 60 days after the miner begins work.

86. Q. How much time do I need to spend training a newly hired experienced miner?

- A. Part 46 does not specify a minimum length of time that must be devoted to this training. The duration of the training needed by a newly hired experienced miner depends on the occupational experience of the miner, the work duties that the miner will perform, and the methods of mining and workplace conditions at the mine where the miner will be working. In all cases, the seven subjects listed in Part 46.6(b) must be covered before assigning the miner to work.

87. Q. If I hire a person, what kind of proof is necessary to determine if that person is an experienced miner?

- A. We do not require documentation. However, you need to make a reasonable effort to justify previous experience. This may include talking to previous employers, reviewing a resume', pay records, certificate of training records, etc.

46.7 New Task Training

88. Q. How much time is required to train a miner in a new task?

- A. Part 46 does not specify the amount of time that must be spent on specific areas of training. The performance-oriented approach of Part 46 allows for the needs of individual miners to be taken into account when determining the amount of time for particular aspects of training, including new task training. A reasonable amount of time must be allotted for training in each task, based on the individual needs of the miner and the complexity of the assigned task.

89. Q. If an experienced miner was trained on a Caterpillar D8, and is then assigned to operate a similar piece of equipment made by Komatsu, is he or she required to receive new task training on the new piece of equipment?

- A. Yes. Although there may be similarities among different types of equipment, each type of equipment has unique operational characteristics. Miners must be trained on the unique characteristics of each piece of equipment that they are assigned to operate.

90. Q. Under Part 46 must the written plan address each specific task training subject?

- A. Section 46.3 requires that the training plan include a list of the tasks, general description of the teaching methods and course materials that are to be used in the training program, and the approximate time or range of time to be spent on each subject area. Additionally, the plan must also contain a description of the evaluation procedures used to determine the effectiveness of the training.

91. Q. Do I need to list the time spent conducting task training on the certificate of training form?

- A. Yes. Section 46.9(b)(3) requires the duration of training be listed on the certificate of training form for each type of training.

92. Q. Can task training be a part of new miner training?

- A. Yes, although it has a slightly different name. New miners must receive instruction on the health and safety aspects of the tasks to be assigned, including the safe work procedures of such tasks, and the mandatory health and safety standards pertinent to such tasks. The training should be recorded appropriately at the completion of training.

93. Q. Can hands-on training be used to complete task training?

- A. The regulation provides that; “practice under the close observation of a competent person may be used to fulfill the requirement for task training.” While training under close observation may be done in a production mode, emphasis should be placed on the training and not the production.

94. Q. Does task training have to be recorded and certified each time you train an employee in a specific task?

- A. A “record” of task training must be made at the completion of each task training session. The training must be “certified” at least once every 12 months, or upon request by the trained miner.

§ 46.8 Annual Refresher Training

95. Q. I understand that I must provide my current workers with some annual refresher training; do I have until October 2001 to complete that training?

- A. No. Any of your miners who have not been receiving regular refresher training must receive 8 hours of annual refresher training by March 30, 2001.

96. Q. How much refresher training must I give my employees each year?

- A. Part 46 specifies a minimum of 8 hours each year. The subjects to be addressed and the length of each session is up to you, as long as you address any changes, such as new procedures, new mining equipment, or new health hazards that could affect the health and safety of the miners. If you want to provide the annual training in a single 8-hour session every year, that is acceptable. If you would rather provide your miners’ refresher training in smaller blocks of time, such as weekly toolbox talks, that is OK, too. The total training time must add up to at least 8 hours.

97. Q. What subjects must be covered as part of annual refresher training?

- A. Section 46.8 requires that annual refresher training include instruction on changes at the mine that could adversely affect the miners’ health or safety. In addition, refresher training must also address other health and safety subjects that are relevant to mining operations at the mine. Section 46.8 includes an extensive list of recommended subjects for refresher training. The flexibility of the performance-based approach of Part 46 allows production-operators and independent contractors to determine the subjects to be covered in annual refresher training based on the needs of their workforce and their operations.

98. Q. Must the subjects that will be covered in annual refresher training be included in the training plan?

- A. Yes. The training plan must identify the subject areas to be covered and the approximate time to be spent on each subject area.

99. Q. Is it possible to provide annual refresher training that satisfies both Part 46 and Part 48 requirements?

A. Yes. You can design your annual refresher training program to satisfy the requirements of both Part 48 and Part 46. You should be aware that there are several differences in refresher training requirements for these two regulations. For example, Part 48 requires that training sessions last a minimum of 30 minutes; Part 46 does not. Part 48 specifies a number of required subjects. Finally, Part 48 requires that training be conducted by MSHA-approved instructors. Part 46 does not require an MSHA-approved instructor to provide training, but rather provides that training must be given by a competent person, who has been designated by the production-operator or independent contractor.

100. Q. Are training anniversary dates for annual refresher training tracked by the day the training is completed or by the month?

A. By the month. For example, if a miner completed annual refresher training some time in February, the next annual refresher training must be completed by the end of the following February.

§ 46.9 Records of Training

101. Q. Part 46 requires that operators record and certify the training that miners receive. What does this mean?

A. Recording means creating a written record of the training. The record must include:

- & the full name of the person trained;
- & the type of training;
- & duration of training;
- & the date the training was received;
- & the name of the competent person who provided the training;
- & name of mine or independent contractor;
- & MSHA mine identification or independent contractor number (if applicable); and
- & location of training (if an institution, the name and address of institution).

Certifying means verifying, by signature, that the training listed on the written record was completed as indicated on the form. Part 46 requires that this certification be done by the person who has been designated by the operator as responsible for health and safety training at the mine and whose name appears on the training plan. Certifying is required at the completion of training, such as at the end of the 24 hours of new miner training.

102. Q. When do training records need to be certified?

A. Training records must be certified at:

- & the completion of new miner training;
- & the completion of newly hired experienced miner training;
- & the completion of the 8 hours of annual refresher training;
- & least once every 12 months for new task training or upon request by the miner; and

& the completion of site-specific hazard awareness training for miners.

103. Q. Do the records of training have to be kept on a Certificate of Training Form (MSHA Form 5000-23)?

- A. No. Training records and certificates may be maintained in any format that you choose, provided that it contains the information listed in § 46.9(b). We have developed a sample form which you may use. You may also use a “Certificate of Training Form”(MSHA Form 5000-23) if you wish. Use of either of these forms is voluntary. Both of these (5000-23, sample forms) are available from MSHA’s Internet Home Page (www.msha.gov), from MSHA’s Educational Field Services Division, or from MSHA District and Field offices.

104. Q. If I provide my employees with both Part 46 and Part 48 annual refresher training at the same time, do I have to keep two sets of training records?

- A. Part 46 allows the use of the MSHA Certificate of Training form (Form 5000-23), which is used to document and certify training conducted under Part 48. However, Part 46 requires additional information not collected on Form 5000-23: 1) the duration of the training; and 2) the name of the competent person who provided the training. Part 46 also requires that the person designated to be responsible for the health and safety training at the mine, as listed on the Part 46 training plan, sign the certificate. If you wish to keep one set of training records to comply with both sets of regulations, you should use Form 5000-23, and include the additional information required by Part 46 on the form.

105. Q. If one competent person conducted training in one subject and another conducted training in another subject (e.g., first aid), are the names of each subject and competent person required to be recorded?

- A. Yes. Under § 46.9(b), the records of training must include the name of the competent person who provided the training. If more than one competent person provided the training, the names of all persons must be included.

106. Q. Is it acceptable to list more than one miner on a record or certificate of training?

- A. Yes. Part 46 allows operators flexibility in choosing the appropriate form for records of training, provided that the form used includes the minimum information specified in § 46.9(b)(1) through (b)(5).

107. Q. Section 46.9(b) requires that the training certificate indicate the “location of training.” What does “location of training” mean?

- A. “Location of training” means the site where the training was provided. If training was given at the mine site, the record should indicate this. If training was given at a local community college, the training record should list the name and address of the community college.

108. Q. Who is responsible for certifying that training has been completed?

- A. The person who has been designated by the operator or independent contractor as responsible for health and safety training is required to certify, by signature, that training has been completed. This should not be confused with the “competent person” who conducts the training. For example, a state, vocational school, or cooperative instructor, listed in a training plan, may conduct the training and be recorded as the competent person for each subject they teach. The person who is designated as the person responsible for Part 46, as indicated on the training plan, must certify that the training was completed.

109. Q. Are these records required to be made available to MSHA?

- A. Yes. You must make available at the mine a copy of each miner's training records and certificates for inspection by us and for examination by miners and their representatives. This includes both certified training records and records that have not yet been certified.

110. Q. Are training records required to be maintained on the mine site?

- A. Part 46 requires that training records and certificates be "available" for inspection by MSHA and by miners and their representatives. This means that if you do not physically keep these records at the mine site, you must be able to quickly produce them upon request, such as by having them sent from another location via fax machine or computer. Records that are certified, need to be presented with a signature of the person responsible for health and safety training.

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.

112. Q. Are new miners required to keep copies of their training certificates on their person for inspection by MSHA personnel?

- A. No. Production-operators and independent contractors, not miners, are responsible for making and maintaining required miner training records and certificates, and producing the records and certificates upon request by MSHA or by miners or their representatives.

113. Q. Are training certificates required for people who are not considered miners under Part 46?

- A. No. You are not required to make records of site-specific hazard awareness training for persons who are not miners under section 46.2. However, you must be able to provide evidence to us, upon request, that the training was provided. This evidence may include the training materials used, including appropriate warning signs, written information distributed to persons, or a visitor log book that reflects that site-specific hazard awareness training has been given.

§ 46.10 Compensation for Training

114. Q. How much must miners be compensated while they take training?

- A. Training under Part 46 must be conducted during normal working hours, and the miner must receive the same rate of pay he or she would have received if performing normal tasks at that time.

115. Q. If a miner works 5 days and is paid an overtime rate on Saturday, does Part 46 require the miner to be paid an overtime rate for training that takes place on Saturday?

- A. Yes. The miner must receive his or her normal rate of pay for time spent receiving training. This means that if a miner is paid at time and a half for working on Saturday, the miner must be paid at that same rate for receiving training on Saturday.

§ 46.11 Site-Specific Hazard Awareness Training

116. Q. What options do I have in delivering site-specific hazard awareness training?

- A. Part 46 provides that site-specific hazard awareness training may be provided through the use of written hazard warnings, oral instruction, signs and posted warnings, walkaround training, or other appropriate means that alert affected persons to site-specific hazards at the mine. Part 46 allows you the flexibility to tailor your hazard awareness training to the specific conditions and practices at your mine. In many cases, an effective site-specific hazard awareness training program will include a combination of different types of training. The training must be sufficient to alert affected persons to site-specific hazards.

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.

118. Q. Who is responsible for providing required site-specific hazard awareness training to employees of independent contractors?

- A. Each production-operator is primarily responsible for ensuring that employees of independent contractors receive site-specific hazard awareness training. This means that production-operators must ensure that the training has been given, although they do not need to provide the training themselves. Production-operators may provide independent contractors with site-specific hazard awareness information or training materials and arrange for the independent contractors to provide the training to the contractors' employees.

119. Q. How often must a person receive site-specific hazard awareness training? Annually? Once every 2 years?

- A. A person requiring site-specific hazard training must receive this training prior to going on the mine property. Beyond that, Part 46 does not require that a person receive site-specific hazard awareness training at specific intervals. Part 46 requires that the training be sufficient to alert persons to the hazards they will encounter at the mine. This means that there may be cases where a person should receive additional site-specific hazard awareness training.

For example, if a person is away from the mine site for a period of time, it would be prudent to provide that person with refresher site-specific training. Additionally, if conditions at the mine undergo some change, some form of site-specific hazard awareness training must be given to alert persons of these changes.

120. Q. Is a record of training required for a non-miner who receives site-specific hazard awareness training?

- A. No. A training record is not required for non-miners who receive site-specific hazard awareness training. However, you must be able to provide evidence to MSHA, upon request, that the training was provided, such as by indicating the training materials that are used; providing copies of written information distributed to persons upon their arrival at the mine; or providing visitor log books that indicate that training has been provided.

121. Q. If warning signs are used to provide site-specific hazard awareness training, is the training required to be recorded for each person the sign is intended for?

- A. No. Section 46.9(i) provides that records of site-specific hazard awareness training are not required for persons who are not “miners” under § 46.2. However, you must be able to provide evidence to MSHA, upon request, that the training was provided. This evidence could include training materials that are used; copies of written information distributed to persons upon their arrival at the mine; appropriate warning signs; or visitor log books that indicate that training was provided.

122. Q. Section 46.11(b)(6) provides that maintenance and service workers who do not work at a mine site for “frequent and extended periods” are required to receive site-specific hazard awareness training. What constitutes “frequent or extended periods”?

- A. “Frequent” exposure is a pattern of exposure to hazards at mining operations occurring intermittently and repeatedly over time. “Extended” exposure means, exposure to hazards at mining operations of more than five consecutive work days.

123. Q. What type of training is required for independent contractors who perform construction work on a mine property, but who are not actively engaged in mining operations?

- A. Construction workers who are not exposed to hazards of mining operations as defined in section 46.2(h) are required to receive site-specific hazard awareness training.

§ 46.12 Responsibility for Independent Contractor Training

124. Q. Can a production-operator require an independent contractor to conduct site-specific hazard awareness training?

- A. Under § 46.12, production-operators have the primary responsibility to ensure that site-specific hazard awareness training has been given. Consistent with § 46.4, production-operators may provide independent contractors with site-specific hazard awareness information or training materials and arrange for the contractors to provide the training to the contractors’ employees. However, production-operators retain the primary responsibility of ensuring that everyone who comes onto mine sites has received the necessary site-specific hazard awareness training.

125. Q. Are production operators responsible for looking at contractor plans to see if they are ok?

- A. No. As it applies to independent contractors, production operators are not responsible for looking at an independent contractor's training plan.

126. Q. As a contractor, do I have to carry records and certificates of all employees when, for instance, we are called out on an emergency belt replacement?

- A. Yes. Independent contractors who are miners as defined by Part 46, must make available at the mine site where they are working, a copy of each miner's training certificate for inspection.

For assistance, call your local Metal & Nonmetal MSHA office or call Toll Free: MSHA's Educational Field Services Eastern Region, 1-800-678-6746 or email EFS_East@MSHA.GOV; or the Western Region, 1-800-579-2647 or email EFS_West@MSHA.GOV.