

**ROLLOUT
Questions & Answers**

– Final Rule –

Q1. Why is MSHA issuing this rulemaking?

A1. Under the Federal Mine Safety and Health Act of 1977, mine operators have a responsibility to prevent the existence of conditions and practices that lead to injury, illness and death.

MSHA has determined that examinations of working places are an important part of an effective accident prevention strategy. Under MSHA's existing standards, the examination could be made at any time during the shift --- exposing miners to hazardous conditions. In addition, there are not provisions for miners to be notified of the hazards found during the examination, or for recording the hazards found in the examination record.

MSHA has taken a common sense approach with this final rule. It improves miners' safety and health by requiring mine operators to: (1) conduct working place examinations to identify hazards before work begins in an area; (2) notify affected miners of hazardous conditions that are not corrected immediately; and (3) record the locations examined, the adverse conditions found, and the date of the corrective actions.

A record of adverse conditions found will help mine operators and miners and miners' representatives become more aware of dangerous and unhealthful conditions. This can also lead them to be more proactive in correcting these hazards before an accident, injury, or fatality occurs and in preventing the same or similar conditions from recurring. The existing standards already require that these records be made available to MSHA.

Q2. When is the final rule effective?

A2. The rule takes effect on May 23, 2017.

Q3. The existing standards for metal and nonmetal mines require an examination of working places at least once per shift. Why do we need this final rule?

A3. From January 2010 through mid-December 2015, there have been 122 miners killed in 110 accidents at MNM mines. For 16 of these accidents (18 fatalities), mine operators were issued citations for unwarrantable failure to comply under Section 104(d) of the Mine Act.

These accidents indicate that miners would benefit from timely and rigorous working place examinations, conducted by a competent person, to better identify hazards so these conditions can be addressed before miners get injured or killed.

Under the existing standards for MNM mines, mine operators can perform the workplace examination anytime during the shift, which exposes miners to adverse conditions during the shift before corrective action is taken.

In addition, the existing standards do not address the contents of the examination record, do not require operators to promptly notify miners when adverse conditions are found, and do not require operators to make the examination records available to miners' representatives.

Q4. What does the final rule require?

A4. This final rule strengthens existing working place examination standards by adding requirements that:

- 1) A competent person conduct an examination of the working place before miners begin work there (§§ 56/57.2- any place in or about a mine where work is being performed);
- 2) Mine operators promptly notify miners of any conditions that may adversely affect their safety or health that are not corrected immediately;
- 3) The examination record be made before the end of the shift;
- 4) The examination record include: i) the name of the person conducting the examination, ii) date and locations of the examination, iii) a description of the adverse conditions found; and iv) the date of corrective actions taken for adverse conditions found; and
- 5) Examination records are made available to MSHA and miners' representatives, and a copy provided upon request.

Q6. What are the major differences between the proposed and final rules?

A6. The final rule is the result of a deliberative process in which the Agency closely examined the rulemaking record, weighed the facts and arguments presented, and ultimately incorporated many of the suggestions and concerns of commenters.

As a result, in response to a number of comments, the final rule does not require that the competent person conducting the working place examination sign the record. Instead, the record must include only the name of the competent person who conducted the exam. In addition, the final rule does not require that the examination record contain a description of the corrective action taken or the name of the person making the record of the corrective action; only the date of the corrective action is required.

Q7. What are the major similarities between the existing and final rules?

- A7. Both rules require at least one working place examination for each shift. The final rule builds on existing concepts, definitions and responsibilities so that the new notification requirements can be easily adopted by mine operators. The final rule does not change the existing definitions of “competent person” and “working place” used in §§ 56/57.18002 and §§ 56/57.2.

The final rule also retains the existing requirement that conditions noted during the examination that may present an imminent danger be brought to the attention of the mine operator.

In addition, like the existing rule, the final rule requires a record of the examination, that these records be maintained for one year, and that the records be made available to MSHA.

Q8. What are the costs and benefits of the final rule?

- A8. MSHA estimates that the final rule will result in \$34.5 million in annual costs for the MNM industry: \$10.6 million for mines with 1-19 employees; \$22.2 million for mines with 20-500 employees; and \$1.7 million for mines with 501+ employees. The Agency estimates that the total undiscounted cost of the final rule over 10 years will be \$345.1 million; at a 3 percent discount rate, \$294.4 million; and at a 7 percent discount rate, \$242.4 million.

MSHA is not claiming a monetized benefit for this rule because the prior examinations rule had already anticipated all the benefits of effective examinations. However, all of those benefits have not been realized, and this rule is expected to improve the effectiveness of examinations. MSHA anticipates this rule will result in benefits due to more effective and consistent work place examinations that will help to ensure that adverse conditions will be timely identified, communicated to miners, and corrected.

In addition, MSHA anticipates that the enhanced record requirements will improve accident prevention by helping mine operators: 1) identify any patterns or trends of adverse conditions and 2) preventing these conditions from reoccurring by addressing root causes.