



FACT SHEET

MSHA's Proposed Rule for Examination of Working Places in Metal and Nonmetal Mines



Introduction

The Mine Safety and Health Administration's (MSHA) proposed rule would enhance the quality of working place examinations in Metal and Nonmetal (MNM) mines, improve protections for miners and save lives.

MSHA believes it has taken a common sense approach with this proposed rule – (1) Require mine operators to conduct working place examinations to identify hazards before work begins in an area, (2) record the hazards before the end of each shift, and also record the corrective action and the date they are corrected, and (3) make sure miners are aware of potential hazardous conditions.

Effective working place examinations are a fundamental accident prevention tool that under Section 2 of the Federal Mine Safety and Health Act (Mine Act), will “provide more effective means and measures for improving the working conditions and practices in the Nation’s ...mines in order to prevent death and serious physical harm...”

Recent fatal and other accidents at MNM mines make clear the need to do more to prevent mining deaths and injuries. These accidents support that miners would benefit from rigorous working place examinations, conducted by a competent person, to better identify hazards so they can be addressed before miners get injured or killed.

From January 2010 through mid-December 2015, there have been 122 miners killed in 110 accidents at MNM mines, and more than 60 percent of those deaths were linked to violations of the “Rules to Live By” standards, which are standards that most frequently cause mining deaths. Sixty miners have died just since October 2013. MSHA believes many of these fatalities could have been prevented with better working place examinations.

One of those deaths was Michael Jay Nickels, a haul truck driver, who was killed in March 2015 when his truck drove off an elevated haul road embankment and into the mine’s dredge pond. The roadway had no berm or barrier to stop the truck. An examination of the work area should have identified this hazardous condition.

MSHA believes that the additional communication that operators would be required to make under this proposed rule should encourage prompt corrective action and help prevent fatalities and other accidents. While MSHA has been encouraging the mining industry to improve mine workplace examinations to prevent these deaths, MSHA has concluded that the time has come to require these improved examinations.

MSHA will hold four public hearings during the comment period to provide the public with an opportunity to present their views on the proposed rule.

Major Provisions of the Proposed Rule

This proposed rule would strengthen and improve MSHA’s standards for MNM working place examinations by requiring that:

- A competent person examine the working place before miners begin work in that place;

- mine operators promptly notify miners of any conditions that may adversely affect their safety or health and promptly initiate appropriate corrective action;
- the competent person sign and date the examination record before the end of each shift;
- the examination record include a description of locations examined, conditions found and corrective actions taken; and
- records be made available for inspection by MSHA and miners' representatives, and operators provide a copy of the records upon request.

The proposed rule would build on existing concepts, definitions and responsibilities so that the new notification and recording requirements can be easily adopted by mine operators.

Background

Mining conditions change continuously as materials are mined, transported, and processed, exposing miners to new conditions and hazards. It is important that these changing conditions are constantly monitored and examined to protect the miners that may be exposed to them.

MSHA believes that making and maintaining a record of adverse conditions found and corrective actions taken would help mine operators, miners and their representatives to become more aware of dangerous and unhealthful conditions and more proactive in correcting these hazards before an accident, injury, or fatality occurs.

Section 2 of the Mine Act establishes that mine operators have a responsibility to prevent the existence of conditions and practices that lead to injury, illness and death and the resulting grief and suffering to miners and their families. As evidenced by the 122 deaths in the six-year period of 2010 – 2015 at MNM mines, greater actions by mine operators are needed to meet that Mine Act objective. Effective examinations of miners' workplaces to find and fix hazards before miners are exposed to them are just such actions.

Under MSHA's existing standards, a working place examination can be conducted at any time during the shift. The existing standards also do not address the contents of the examination record, do not require mine operators to promptly notify miners when adverse conditions are found and do not require operators to make the examination records available to miners' representatives.

Over the years, MSHA has issued Program Policy Letters regarding working place examinations and has taken the position that a meaningful record of an examination should contain the date the examination was made, the examiner's name, and the working places examined.

The Proposed Rule

This proposed rule clarifies and increases miners' protection by requiring the examination take place "prior" to miners being exposed to hazards, instead of after a miner is injured or dies from them. The proposed rule requires mine operators to notify miners of adverse conditions found in the work place, and make examination records available to miners' representatives.

The proposed rule would not change the existing definitions of competent person and working place used in §§ 56/57.18002 and defined in §§ 56/57.2. A competent person, as defined in

§§56/57.2, is a person having abilities and experience that fully qualify him to perform the duty to which he is assigned. A working place, as defined in §§ 56/57.2, is any place in or about a mine where work is being performed.

Current Industry Practices

Effective working place examinations are a fundamental accident prevention tool used by many mine operators. MSHA understands that some mine operators already are using best practices to ensure that hazards are identified and corrected. For example:

- Several mine operators set up in-mine exercises in which competent persons have to identify hazards that were created for the purpose of training; and
- Many operators make sure examinations take place before any work is performed in an area, as MSHA would require in the proposed rule.

Based on the success of these promising industry practices, the proposed rule would extend the benefits and protections provided by these kinds of proactive practices to all MNM miners.

Costs and Benefits

Costs:

- Total costs over 10 years would be:
 - \$86.2 million (3%) and
 - \$70.9 million (7%).
- The total annualized cost over 10 years would be:
 - \$9.8 million per year (3%) and
 - \$9.4 million per year (7%).

Benefits:

MSHA anticipates that there would be qualitative benefits from the proposed provisions such as faster correction of adverse conditions found during examinations, which would be expected to prevent accidents, injuries and deaths from occurring and improve miners' safety and health. MSHA is unable, however, to quantify the benefits from the proposed rule as it is not possible to determine with any certainty for purposes of quantifying benefits what injuries, illnesses or deaths may be avoided under proposed provisions.