



4520.43-P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. MSHA-2018-0015]

Escapeways and Refuges in Underground Metal and Nonmetal Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of availability of Program Policy Letter; request for comments.

SUMMARY: The Mine Safety and Health Administration (MSHA) announces the issuance of a Program Policy Letter (PPL) to provide mine operators guidance regarding the existing requirement to provide escapeways for underground metal and nonmetal (MNM) miners to enable them to escape in an emergency and, when they cannot escape, for refuges to enable miners to shelter safely in place until they can be rescued. This guidance responds to questions concerning the location of such refuges under the standard. This guidance is not a rulemaking.

DATES: Comments must be received or postmarked by midnight Eastern Daylight Time (EDT) on **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit comments and informational materials, identified by Docket No. MSHA-2018-0015, by one of the following methods:

□ *Federal E-Rulemaking Portal:* <https://www.regulations.gov>.

Follow the on-line instructions for submitting comments.

□ *Email:* zzMSHA-comments@dol.gov.

□ *Email:* GoodGuidance@dol.gov

□ *Mail:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202-5452.

□ *Hand Delivery or Courier:* 201 12th Street South, Suite 4E401, Arlington, Virginia, between 9:00 a.m. and 5:00 p.m. Monday through Friday, except Federal holidays. Sign in at the receptionist's desk on the 4th floor East, Suite 4E401.

□ *Fax:* 202-693-9441.

Instructions: All submissions must include Docket No.

MSHA-2018-0015. Do not include personal information that you do not want publicly disclosed.

Email Notification: To subscribe to receive email notification when MSHA publishes rulemaking documents in the Federal Register, go to <https://www.msha.gov/subscriptions>.

FOR FURTHER INFORMATION CONTACT:

Sheila A. McConnell, Director, Office of Standards, Regulations, and Variances, MSHA, at mcconnell.sheila.a@dol.gov (email), 202-693-9440 (voice), or 202-693-9441 (fax). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

Availability of Information

MSHA will post all comments without change, including any personal information provided. Access comments and information electronically at <https://www.regulations.gov>, or <https://www.msha.gov/currentcomments.asp>. Review comments in person at MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Arlington, Virginia, between 9:00 a.m. and 5:00 p.m. Monday through Friday, except Federal holidays. Sign in at the receptionist's desk on the 4th floor East, Suite 4E401.

I. Overview

Title 30 CFR 57.11050, *Escapeways and Refuges*, requires escapeways in underground MNM mines to enable miners to escape in an emergency and, when they cannot escape, the standard requires refuges to enable miners to shelter safely in place until they can be rescued. Based on questions from underground MNM operators, MSHA believes that this PPL addresses a significant safety issue regarding the placement of a refuge in a location that provides miners access if they cannot escape.

In accordance with Executive Order 12866 on Regulatory Planning and Review and the Office of Management and Budget's (OMB) Final Bulletin for Agency Good Guidance Practices, MSHA has determined that the guidance would not be economically significant as there would be no new costs. MSHA has

determined, however, that the guidance is significant because it may reasonably be anticipated to raise novel legal or policy issues. MSHA is therefore issuing this PPL for public comment to clarify the existing standard regarding placement of refuges required by 30 CFR 57.11050(a), and will review all comments received.

David G. Zatezalo,

Assistant Secretary for

the Mine Safety and Health Administration.

EFFECTIVE DATE: _____

PROGRAM POLICY LETTER NO. P18-IV-__

FROM: TIMOTHY WATKINS
Administrator for Enforcement Mine Safety and Health

SUBJECT: Escapeways and Refuges (30 CFR § 57.11050)

Scope

This Program Policy Letter (PPL) applies to underground metal and nonmetal (MNM) mine operators, miners, miners' representatives, Mine Safety and Health Administration (MSHA) enforcement personnel, and other interested parties.

Background

Recently, underground MNM operators have raised questions regarding the placement of refuges required by 30 CFR § 57.11050(a). This PPL provides guidance regarding the placement of such refuges under the standard.

Purpose

This PPL provides guidance regarding the existing standard that requires refuges to protect underground MNM miners in mines while a second escapeway is being developed or during the exploration or development of an ore body, and the location of such refuges.

Policy

Title 30 CFR § 57.11050, Escapeways and Refuges, requires two or more separate, properly-maintained escapeways in underground MNM mines to enable miners to escape in an emergency and, when they cannot escape, the standard requires refuges to enable miners to shelter safely in place until they can be rescued.

The standard at 30 CFR § 57.11050(a) recognizes two exceptions to the requirement that underground MNM miners be provided at least two separate escapeways from their working places to the surface. First, miners must be provided a method of refuge while a second escapeway is being developed. Second, during the exploration or development of an ore body, a second escapeway is "recommended, but not required." MSHA consistently has interpreted these two exceptions to mean that if, in either of these situations, miners have only one escapeway from their working place, miners must have access to a refuge.

This refuge should be located near the miners so that they promptly and reliably can enter the refuge if they cannot escape. In determining an appropriate distance, MSHA considers mine-specific factors in each case. MSHA recognizes that it may not be practicable for most working places near the portal (for example, within 300 feet) in a horizontal configuration (as opposed to vertical) to have refuges. On the other hand, MSHA believes that in most cases a refuge located, for example, 1500 feet from miners on a relatively level surface (or, for example, reachable within a 10-minute walk in any configuration while carrying an injured miner) would generally be close enough to provide the protection the standard intends. Mine operators are encouraged to consult with their MSHA District Manager to determine appropriate refuge locations given mine-specific conditions and factors (e.g. steeply pitched, narrow, uneven, low-height, or wet travelways) when developing and reviewing the mine's escape and evacuation plan under 30 CFR § 57.11053.

Authority

The Federal Mine Safety and Health Act of 1977, as amended, 30 U.S.C. §§ 801 et seq; 30 CFR §§ 57.11050 and 57.11053.

Filing Instructions

This program policy letter should be filed behind the tab marked "Program Policy Letters" at the back of Volume IV of the Program Policy Manual.

Internet Availability

This program policy letter may be viewed on the Internet by accessing MSHA's homepage at www.msha.gov and then choosing "Regulations," "Policy and Procedures," and selecting "Program Policy Letters."

Issuing Office and Contact Person

Metal and Nonmetal Mine Safety and Health

Deputy Administrator for Metal and Nonmetal

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Distribution

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Miners' Representatives

Metal and Nonmetal Mine Operators

Special Interest Groups

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