

DEPARTMENT OF LABOR**Mine Safety and Health Administration****30 CFR Parts 56 and 57****Safety Standards for First Aid at Metal and Nonmetal Mines**

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Proposed rule; notice of public hearings; close of record.

SUMMARY: This proposal would revise existing standards for metal and nonmetal mines requiring operators to have supervisors trained in first aid. The proposed rule is based on a petition for rulemaking from the National Mining Association (NMA).

If public hearings are requested by commenters, the Mine Safety and Health Administration (MSHA) will hold public hearings on its proposed rule.

DATES: Written comments must be submitted on or before December 11, 1995.

If requested, hearings will be held in Pittsburgh, Pennsylvania and Denver, Colorado in December 1995. Both hearings will begin at 9:00 a.m. The record for the rulemaking will close on January 8, 1996.

ADDRESSES: Send comments and requests to make oral presentations to the Mine Safety and Health Administration, Office of Standards, Regulations and Variances; Room 631, Ballston Towers No. 3; 4015 Wilson Boulevard, Arlington, Virginia 22203. The exact location of the public hearings, if held, will be contained in a later notice.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director; Office of Standards, Regulations, and Variances, MSHA; 703-235-1910. FAX: (703) 235-5551.

SUPPLEMENTARY INFORMATION:**I. Paperwork Reduction Act**

This proposed rule contains no information collection or paperwork requirements subject to the Paperwork Reduction Act of 1995.

II. Introduction and Rulemaking Background

Existing MSHA standards at §§ 56/57.18010 state, "Selected supervisors shall be trained in first aid. First aid training shall be made available to interested employees." The primary purpose of these standards is to assure that a responsible person, trained to provide first aid treatment, is available to render assistance in the event a miner

is injured. An additional purpose is to encourage first aid education among miners so they may be able to help an injured fellow worker.

These provisions were originally promulgated as advisory standards on July 31, 1969, by the United States Department of the Interior, Bureau of Mines, predecessor Agency to MSHA. The standards were made mandatory on August 29, 1973, following a recommendation by the Federal Metal and Nonmetal Mine Safety Advisory Committee, which was appointed pursuant to Section 7 of the Federal Metal and Nonmetallic Mine Safety Act and composed of mining industry and labor representatives. On March 19, 1975 a policy notice was issued giving guidance on the standard's application.

In response to determinations of repeated instances of noncompliance with §§ 56/57.18010, on October 3, 1994, MSHA issued Program Policy Letter (PPL) No. P94-IV-2, First Aid Training for Selected Supervisors, to underscore the standard's intent. The policy letter emphasized that the requirement for first aid training is separate from 30 CFR part 48, training and retraining for miners, and also addressed frequently asked questions concerning the standards.

MSHA received a number of objections and withdrew the October policy letter by Federal Register notice of February 22, 1995 (60 FR 9986). The Agency began a new process of seeking public comment on certain policies. In an accompanying notice, MSHA requested comments on the October policy letter for first aid training.

MSHA received written comments from labor and industry representatives and subsequently held two public meetings. Although the mining industry supported MSHA's new process for public input into the development of certain policies, it continued to object to the draft policy for first aid training as an expansion of the existing standard which should be addressed through rulemaking. Labor representatives requested a more expansive interpretation of the standard.

By letter of August 25, 1995, the NMA petitioned the Secretary of Labor requesting that MSHA institute rulemaking on the first aid issue and suggested language for a new standard. The recommended revision would require that an individual capable of providing first aid be available on all shifts. The NMA recommendation would also retain the existing requirement that first aid training be made available to all interested employees.

MSHA believes that NMA's recommendation promotes the original intent of the first aid training standard in a positive way. MSHA, therefore, is revising the existing standard, based in part on the NMA's petition, and will not finalize the draft policy letter. Notice of the Agency's decision not to finalize the draft policy is published elsewhere in this issue of the Federal Register.

Written comments previously submitted to MSHA concerning the Agency's draft policy letter on first aid will be included in the rulemaking record. Members of the public are encouraged to submit new comments pursuant to this notice.

III. Discussion and Summary of Proposed Rule**Sections 56/57.18010, First Aid**

Current MSHA standards require that selected supervisors be trained in first aid and that first aid training be made available to interested miners. Although the specific language of this standard does not preclude mine operators from using medical professionals and certified emergency medical technicians (EMT) in the treatment of injured miners, it does specify that "selected supervisors" receive first aid training.

The proposed standard would revise the language in the first sentence of the existing standards to require that mine operators have an "individual capable of providing first aid available on all shifts." The revision would broaden the scope of the persons who could meet the requirements of the rule. This change would recognize that many metal and nonmetal operations employ physicians, EMTs, first responders, and registered nurses who are trained to render first aid and in some cases medical treatment.

For clarity, MSHA is modifying the suggested language in the NMA petition. The proposal specifies what skills a person must be able to perform to be considered capable. These skills include: Patient assessment and artificial respiration; control of bleeding; treatment of shock, wounds, burns, and musculoskeletal injuries; and handling and transporting injured persons. Nationally recognized and other quality first aid courses include these in their programs and they have historically formed the basis for adequate first aid response.

During deliberations on the draft policy letter, commenters questioned whether part 48 training would provide persons with skills necessary to meet the first aid capability under the proposal. MSHA is concerned that part 48 training may not accomplish this

goal. Training under part 48 is intended to impart skills and knowledge to all miners in a broad range of job-related safety and health subjects. The first aid portion of this training is frequently an abridged course which would not develop the skills needed to achieve the objectives of the proposed rule. The agency believes that all part 48 training is important for the safety and health of miners. First aid training of sufficient duration to produce the necessary skill levels could impact the time allotted for other subjects important to miner safety.

Currently, MSHA determines compliance with the existing first aid training required by reviewing course documentation and, under the proposal, MSHA would continue this practice. The Agency believes it is not imposing any paperwork burden on the industry because MSHA accepts available documentation, such as course completion certificates, maintained in the normal course of a mine operator's business.

The proposed standard would require operators to have a person available on all shifts capable of providing first aid. MSHA anticipates applying this requirement consistent with the existing standard. The standard would not apply to off-shift activities such as those performed by a security person. At multi-shift operations, a person capable of providing first aid would be required to be available on each shift.

The proposal would retain the language in the second sentence of the existing rule, which requires operators to make first aid training available to all interested miners. Consistent with the

existing standard and past MSHA policy, this provision applies to mine employees and training must be offered at an accessible location. Operators are also expected to inform employees in a timely manner of scheduled first aid training so they may take the training.

IV. Executive Order 12866 and the Regulatory Flexibility Act

Executive Order 12866 requires that regulatory agencies assess both the costs and benefits of proposed regulations. MSHA has determined that this rulemaking is not a significant regulatory action and, therefore, has not prepared a separate analysis of costs and benefits. The Regulatory Flexibility Act requires regulatory agencies to consider a rule's impact on small entities. This proposed rule would not have a significant economic impact on a substantial number of small entities. The analysis contained in this preamble meets MSHA's responsibilities under Executive Order 12866 and the Regulatory Flexibility Act.

MSHA does not believe that this rule will result in any increased costs to the mining industry since the proposal broadens the scope of persons who could provide the first aid capability required by the standard. In some cases, this would mean that a mine operator could rely on existing personnel who possess these special skills.

Dated: October 20, 1995.
J. Davitt McAteer,
Assistant Secretary for Mine Safety and Health.

It is proposed to amend parts 56 and 57, subchapter N, chapter I, title 30 of the Code of Federal Regulations as follows:

PART 56—[AMENDED]

1. The authority citation for part 56 continues to read as follows:

Authority: 30 U.S.C. 811, 956 and 961.

2. Section 56.18010 is revised to read as follows:

§ 56.18010 First aid.

An individual capable of providing first aid shall be available on all shifts. The individual shall have the skills to perform patient assessment and artificial respiration; control bleeding; treat shock, wounds, burns, and musculoskeletal injuries; and handle and transport injured persons. First aid training shall be made available to all interested miners.

PART 57—[AMENDED]

3. The authority citation for part 57 continues to read as follows:

Authority: 30 U.S.C. 811, 956 and 961.

4. Section 57.18010 is revised to read as follows:

§ 57.18010 First aid.

An individual capable of providing first aid shall be available on all shifts. The individual shall have the skills to perform patient assessment and artificial respiration; control bleeding; treat shock, wounds, burns, and musculoskeletal injuries; and handle and transport injured persons. First aid training shall be available to all interested miners.

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