



DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 75

RIN 1219-AB84

Refuge Alternatives for Underground Coal Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Reopen the record and extend the comment period.

SUMMARY: The Mine Safety and Health Administration (MSHA) is reopening the rulemaking record for MSHA's existing rule on Refuge Alternatives for the limited purpose of obtaining comments on the frequency for motor task (also known as "hands-on" training), decision-making, and expectations training for miners to deploy and use refuge alternatives in underground coal mines. The U.S. Court of Appeals for the District of Columbia Circuit remanded a training provision in the Refuge Alternatives rule, directing MSHA to explain the basis for requiring motor task (hands-on), decision-making, and expectations training annually rather than quarterly or to reopen the record and allow public comment. MSHA published a notice reopening the record on

August 8, 2013, with comments due by October 7, 2013. Due to the government shutdown, the public requested additional time to comment. This notice reopens the rulemaking record to provide an additional opportunity for public comment.

DATES: Comments must be received by midnight Eastern Standard Time on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit comments, identified by "RIN 1219-AB84", by any of the following methods:

- *Federal e-Rulemaking Portal:*
<http://www.regulations.gov>. Follow the instructions for submitting comments.
- *E-mail:* zzMSHA-comments@dol.gov. Include "RIN 1219-AB84" in the subject line of the message.
- *Mail:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209-3939.
- *Hand Delivery/Courier:* MSHA, 1100 Wilson Boulevard, 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 21st floor.

Instructions: All submissions must include the Agency name "MSHA" and "RIN 1219-AB84" and will be posted without change on <http://www.regulations.gov> and on

<http://www.msha.gov/currentcomments.asp>, including any personal information provided.

Docket: For access to the docket to read background documents or comments, go to <http://www.regulations.gov> or <http://www.msha.gov/currentcomments.asp>. Review the docket in person at the Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, 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 21st floor.

Availability of Information: To subscribe to receive an e-mail notification when MSHA publishes rulemaking documents in the *Federal Register*, go to <http://www.msha.gov/subscriptions/subscribe.aspx>.

FOR FURTHER INFORMATION CONTACT: George F. Triebsch, Director, Office of Standards, Regulations, and Variances, MSHA, at triebsch.george@dol.gov (e-mail); 202-693-9440 (voice); or 202-693-9441 (facsimile). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

MSHA published a final rule on refuge alternatives on December 31, 2008 (73 FR 80656), establishing requirements for refuge alternatives in underground coal mines. On January 13, 2009, the United Mine Workers of America (UMWA)

petitioned the U.S. Court of Appeals for the District of Columbia Circuit (Court) to review MSHA's refuge alternatives final rule. The Court issued its decision on October 26, 2010, holding that the Secretary had not adequately explained the basis for requiring motor task (hands-on), decision-making, and expectations training only annually, rather than quarterly. The Court remanded the training provision and ordered MSHA to either "provide an explanation ... or ... reopen the record, and afford interested parties an opportunity to comment." [*United Mine Workers v. MSHA*, 626 F.3d 84, 86, and 90-94 (D.C. Cir. 2010)]

In response to the Court's decision, MSHA reopened the record on August 8, 2013 (78 FR 48592) and the comment period closed on October 7, 2013. MSHA received a request from the public that, because of the confusion that occurred during the government shutdown from October 1 to October 17, 2013, the Agency allow additional time to address the issues described in the reopening notice. In support of the request, the requester stated that the public had 7 fewer days to comment. The requester believed that MSHA staff would not be available to receive or verify receipt of the comments.

This notice reopens the record to provide the public an additional opportunity to comment. Please limit your

comments to the questions in the notice published on August 8, 2013 (78 FR 48592). MSHA will review the comments to determine an appropriate course of action for the Agency in response to comments. MSHA will publish its response in the *Federal Register* addressing the public comments and either explaining the reason that it is leaving the existing rule unchanged or modifying the rule as the result of the public comment process.

List of Subjects

30 CFR Part 75

Coal mines, Mine safety and health, Reporting and recordkeeping requirements, Safety, Training programs, Underground mining.

AUTHORITY: 30 U.S.C. 811.

Dated: November 12, 2013.

Joseph A. Main,
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Mine Safety and Health.*

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