

**IMA-NA POSITION ON MSHA PPL
ESCAPEWAYS AND REFUGES
30 CFR 57.11050
DOCKET NO. MSHA-2018-0015**

Legend:

Language in MSHA PPL (Blue)

Language in 30 CFR 57.11050 (a) (Underlined in red)

Language in 30 CFR 57.11050 (b) (Italics in red)

EFFECTIVE DATE:

PROGRAM POLICY LETTER NO. P18-IV-

FROM: TIMOTHY WATKINS; Administrator for Enforcement Mine Safety and Health

SUBJECT: Escapeways and Refuges (30 CRF 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 57.1150(a). This PPL provides guidance regarding the placement of such refuges under the standard.

Purpose

The PPL provides guidance regarding the placement of refuges required by 30 CFR 57.11050 (a). The PPL provides administrative guidance regarding the existing standard that requires refuges to protect underground MNM miners in mines being developed or during the exploration or development of an ore body, and the location of such refuges.

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.

Text of 57.11050 (a)

Every mine shall have two or more separate, properly maintained escapeways to the surface from the lowest levels which are so positioned that damage to one shall not lessen the effectiveness of the others. A method of refuge shall be provided while a second opening to the surface is being developed. A second escapeway is recommended, but not required, during the exploration or development of an ore body.

Text of 57.11050 (b)

In addition to separate escapeways, a method of refuge shall be provided for every employee who cannot reach the surface from his working place through at least two separate escapeways within the time limit of one hour when using the normal exit method. These refuges must be positioned so that the employee can reach one of them within 30 minutes from the time he leaves his workplace.

IMA-NA Observations:

- The PPL asserts that miners must have access to a refuge while a second opening to the surface is being developed AND during the exploration or development of an ore body. This assertion is not clearly mandated by 30 CFR 57.11050.
- There are no distances stated in 30 CFR 57.11050 (a) or (b). Only time frames and the use of normal exit methods.
- MSHA's introduction of specific distances, a shorter than regulated time (10 minutes versus 30 minutes), and a travel time measured while walking and carrying an injured miner, even if only used as examples, depart from the plain wording of 30 CFR 57.11050 and are potential sources of confusion.
- Because MSHA policy guidance is binding on agency employees, IMA-NA supports making clear that the examples cited in the PPL do not constitute a basis for enforcement.
- IMA-NA is concerned that any new policy may constitute rulemaking through interpretation rather than through the notice and comment rulemaking required by the Federal Mine Safety and Health Act of 1977.
- IMA-NA supports MSHA's consideration of mine-specific conditions and factors when developing and reviewing the mine's escape and evacuation plan under 30 CFR 57.11053.