

ensure the fastest and safest means of evacuation, or rescue of personnel. The goal of the rule is to initiate an appropriate response to a mine emergency, and to cause an immediate evacuation of miners when necessary.

Various comments were received recommending additional standards and requirements that are outside the scope of this rulemaking. These recommendations included the following: redesign self-contained self-rescuers; require new or separate secondary communication systems; require communications on all vehicles; redesign equipment batteries; improve roof control; require additional gas detectors; expand annual retraining to exceed eight hours; deploy atmospheric monitoring systems mine-wide; limit shift length; require dedicated transportation equipment; and provide continuous communications for anyone who might respond to an emergency. These recommendations are not incorporated into the final rule because they are outside the scope of this rulemaking.

One commenter also urged that the rulemaking be expanded to include underground metal and non-metal mines. Because this rulemaking deals with underground coal mine standards, the issue is beyond the scope of the rulemaking.

As a part of the ETS and proposed rule discussion, MSHA solicited comments on whether the rule should be broadened to address outbursts, massive roof falls, or other occurrences. Both affirmative and negative comments were received. Some comments indicated that coverage was already overly broad while others envisioned a wider scope of conditions that should result in evacuation. On balance, based on the rulemaking record, the Agency concludes that the conditions incorporated by the ETS and proposed rule were appropriate and should not be broadened at this time. Comments were considered, as well as the mine accident histories available to MSHA.

#### *B. Section-by-Section Discussion*

##### *Subpart P—Mine Emergencies*

##### *Section 75.1501 Emergency Evacuations*

Section 75.1501 addresses mine emergency evacuations. Like the ETS and the proposed rule, paragraph (a) of the final rule requires that for each shift that miners work underground, there shall be in attendance a responsible person designated by the mine operator to take charge during mine emergencies involving a fire, explosion, or gas or water inundation.

Under the ETS and proposed rule, the responsible person was required to be in attendance at the mine but was not limited to an underground or surface location. The final rule adopts the proposed rule language. A number of commenters suggested that the responsible person should be required to remain on the surface. Another commenter suggested that the responsible person should be located underground. Some commenters suggested that the responsible person should receive continuous output information or data from any mine monitoring system. Another commenter maintained that two responsible persons should be required with one located on the surface and one underground.

Although it is possible that a number of persons at a mine could be qualified for designation as the responsible person, many mines have elected to designate the mine foreman as the responsible person. This is an appropriate designation because the mine foreman is often the person most knowledgeable about the mine and the one who determines where people will be traveling. In such cases, prohibiting the foreman from traveling underground could have a detrimental effect on mine safety, as noted by one commenter. Conversely, requiring the mine foreman to remain underground for the entire shift would prevent performance of essential functions that may be required on the surface. MSHA concludes that it is appropriate to allow the responsible person to be either on the surface or underground.

A number of commenters requested clarification on whether the phrase “for each shift that miners work underground” applies to shifts other than production shifts. The proposed rule required that a responsible person be designated by the mine operator, and be in attendance at the mine. This standard applies whenever there is at least one miner working underground. The final rule adopts this language from the proposed rule. As with the proposed rule, there is no exemption for idle, partially-staffed, maintenance, construction, or other non-producing shifts.

Paragraph (a) of final § 75.1501, like the proposed rule, also requires that the responsible person shall have current knowledge of the assigned location and expected movements of miners underground, the operation of the mine ventilation system, the location of the mine escapeways, the mine communications system, any mine monitoring system if used, and the mine emergency evacuation and firefighting program of instruction. This

requirement in paragraph (a) is unchanged from the proposed rule. The purpose of this requirement is to ensure that during mine emergencies one responsible person responds by making informed decisions, and that mine evacuations are conducted rapidly, efficiently, and safely. The accidents of the recent past demonstrate the need for a responsible person to take charge during mine emergencies.

In taking charge during an emergency, the responsible person directs resources that may be required during the emergency and assures that all nonessential miners are evacuated safely. In addition, requiring that the responsible person be at the mine site during all shifts when miners are working underground assures that no delays result from off-site telephone calls.

A comment concerned the accessibility of the responsible person and the maximum length of time that the responsible person could be away from communications. Several commenters believed that continuous communication is needed, while another commenter stated that any short delay in communication is unacceptable. The final rule requires that the responsible person be able to initiate and conduct an immediate mine evacuation when necessary. This requirement would be met when the responsible person travels in working sections or within active areas of the mine because communication systems are readily available and could be used by the responsible person to carry out his or her duties. However, the need to travel in remote bleeder systems or worked-out areas where there is no communication could create a problem because the responsible person would be out of contact, unable to take charge during a mine emergency, and unable to initiate and conduct an immediate mine evacuation. In order to meet the requirements of this rule, the mine operator may need to assign another person to travel these areas, or redesignate another person who also meets the requirements of § 75.1501 as the responsible person. Miners must be informed of any such change in the identity of the responsible person.

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