

This requirement is unchanged from the proposed rule and ETS.

Final paragraph (b)(2) requires the mine operator to ensure that each operator of attended equipment specified in § 75.1107–1(c)(1), and each miner assigned to perform job duties at the job site in the direct line of sight of attended equipment as described in § 75.1107–1(c)(2), is proficient in the use of fire suppression devices installed on such attended equipment. This requirement recognizes that the class of equipment referenced in this paragraph has been determined to warrant fire suppression devices and attendance. As reflected in final (b)(2), if attended equipment catches fire, all miners operating such equipment and performing job duties in the direct line of sight of such equipment will have the requisite knowledge to suppress or extinguish the fire. This requirement is unchanged from the proposed rule and ETS.

Final paragraph (b)(3) requires that the shift foreman and at least one miner for every five miners working underground on a maintenance shift are proficient in the use of fire suppression equipment available in the mine, and know the location of such fire suppression equipment. The requirement found in paragraph (b)(3) recognizes that a mine emergency due to fire may also occur on a maintenance shift where the locations of the miners may be more dispersed. This situation would differ from a production shift where there is generally a set number of miners near the face area. Therefore, rather than requiring the miners to be proficient within a geographical area of the mine, this provision focuses on ensuring that an adequate number of miners know the location of firefighting equipment and are proficient in using the fire suppression equipment.

One commenter requested that paragraph (b)(3) require every miner to be proficient in the use of fire suppression equipment and know the location of firefighting equipment. MSHA has determined that miners will be adequately protected by the requirement that the shift foreman and at least one miner for every five miners working underground on a maintenance shift be proficient in the use of fire suppression equipment. While the shift foreman will move throughout the mine, requiring at least one miner for every five to be proficient in the use of fire suppression equipment, will approximate the requirement in (b)(1). As in final paragraph (b)(1), MSHA recognizes that the mine emergency evacuation program of instruction will require other miners to be assigned to

various other duties necessary to extinguish the fire. This requirement recognizes that there will be a coordinated response among miners performing various tasks, including the shift foreman and one miner for every five proficient in using the fire suppression equipment. This requirement is unchanged from the proposed rule and ETS.

Paragraph (c) requires each operator of an underground coal mine to require all miners to participate in mine emergency evacuation drills, which shall be held at periods of time so as to ensure that all miners participate in such drills at intervals of not more than 90 days. This paragraph was derived from previous § 75.1101–23, and the final rule is unchanged from the ETS and the proposed rule. The final rule differs from previous § 75.1101–23 to the extent that drills conducted in accordance with the final rule will simulate actions required in mine emergency evacuations, whereas previous § 75.1101–23 only required a simulation of actions required in the event of emergencies due to fire. One commenter suggested that a grace period be provided to accommodate for any miners who may have been absent on the day of the drill. This comment was not adopted in the final rule because MSHA believes that the performance of drills every 90 days is essential to maintain miners' readiness to act, and familiarity with measures to be taken in the event of a mine emergency. Mine operators may exercise flexibility in meeting the requirement of this provision. For example, a mine operator may wish to conduct a drill only when he or she is certain that there is 100 per cent section attendance on a given shift, so long as all miners participate at intervals not exceeding 90 days.

Final paragraph (c)(1) requires that the mine operator certify by signature and date that the mine emergency evacuation drills were held in accordance with the requirements of this section. This paragraph is derived from former § 75.1101–23. Certifications shall be kept at the mine for one year and made available on request to an authorized representative of the Secretary and to the representative of the miners. One comment noted that, unlike most other recordkeeping requirements, this paragraph did not expressly provide the miners and the representatives of miners an opportunity to inspect the record. MSHA agrees that the record should be made available to the representatives of the miners. Accordingly, the final rule is revised to include a provision that requires the records be available on

request to the representatives of miners. The final rule adds a new requirement to keep the evacuation drill certifications at the mine for one year. This language is consistent with other recordkeeping requirements in the standards and ensures that records are retained for a sufficient amount of time to verify that the mine emergency evacuation drills were properly conducted in accordance with § 75.1501(c).

Paragraph (c)(2) requires that for purposes of paragraph (c), a mine emergency evacuation drill must consist of a simulation of the actions required by the approved mine emergency evacuation and firefighting plan described in paragraph (a)(1) through (4) of this section. The proposed rule contained a printing error that was corrected by the **Federal Register** on December 26, 2002 (67 FR 78713). However, the preamble to the proposed rule correctly noted that paragraph (c) of § 75.1502 “essentially retains the same requirements as existing § 75.1101–23(c). * * *” (67 FR 76662.) The final paragraph (c) of § 75.1502 is unchanged from the ETS and proposed rule.

Several comments were received on proposed paragraph (c)(2). Commenters requested guidance on the content of mine emergency evacuation drills. Requirements for mine emergency evacuation drills defined in § 75.1502(a)(1), as well as paragraphs (a)(2), (a)(3), and (a)(4), are explicitly referenced in this section.

Several commenters asked for clarification of what would constitute a “simulation.” A “simulation” means a mock fire or emergency that results in firefighting actions and mine evacuation. Some mine operators currently conduct simulations using artificial smoke to imitate a fire at various locations. Other operators believe that a discussion during safety meetings is sufficient to meet this requirement, noting that the contents of the MSHA Program Policy Manual lists “group discussions” as one type of training for a fire drill. Although group discussions are listed in the manual as one possible element of a drill, discussions during safety meetings alone do not satisfy the requirement to conduct a drill consisting of a simulation of the actions required by the mine emergency evacuation plan. Demonstrations, discussions, and task-oriented training may be included as part of a comprehensive drill.

Several commenters suggested that guidance was needed on the contents of mine emergency evacuation drills. There are two aspects to the drills: firefighting and evacuation. Both should