§ 48.32 Appeals procedures.

The operator, miner, and miners’ representative shall have the right of appeal from a decision of the District Manager.

(a) In the event an operator, miner, or miners’ representative decides to appeal a decision by the District Manager, such an appeal shall be submitted, in writing, to the Administrator for Coal Mine Safety and Health or Administrator for Metal and Nonmetal Safety and Health, as appropriate, MSHA, 1100 Wilson Blvd., Room 2424 (Coal) or Room 2436 (Metal and Nonmetal), Arlington, Virginia, 22209–3939, within 30 days of notification of the District Manager’s decision.

(b) The Administrator may require additional information from the operator, the miners or their representatives, and the District Manager, if the Administrator determines such information is necessary.

(c) The Administrator shall render a decision on the appeal within 30 days after receipt of the appeal.

§ 49.2 Availability of mine rescue teams.

(a) Except where alternative compliance is permitted for small and remote mines (§ 49.3) or those mines operating under special mining conditions (§ 49.4), every operator of an underground mine shall assure the availability of mine rescue capability for purposes of emergency rescue and recovery.

(b) Each mine rescue team shall consist of five members and one alternate, who are fully qualified, trained, and equipped for providing emergency mine rescue service.

(c) To be considered for membership on a mine rescue team, each person
§ 49.3 Alternative mine rescue capability for small and remote mines.

(a) If an underground mine is small and remote, an operator may provide for an alternative mine rescue capability. For the purposes of this part only, consideration for small and remote shall be given where the total underground employment of the operator's mine and any surrounding mine(s) within two hours ground travel time of the operator's mine is less than 36.

(b) An application for alternative mine rescue capability shall be submitted to the District Manager for the district in which the mine is located for review and approval.

(c) Each application for an alternative mine rescue capability shall contain:

1. The number of miners employed underground at the mine on each shift;
2. The distances from the two nearest mine rescue stations;
3. The total underground employment of mines within two hours ground travel time of the operator's mine;
4. The operator's mine fire, ground, and roof control history;
5. The operator's established escape and evacuation plan;
6. A statement by the operator evaluating the usefulness of additional refuge chambers to supplement those which may exist;
7. A statement by the operator as to the number of miners willing to serve on a mine rescue team;
8. The operator's alternative plan for assuring that a suitable mine rescue capability is provided at all times when miners are underground; and
9. Other relevant information about the operator's mine which may be requested by the District Manager.

(d) A copy of the operator's application shall be posted at the mine. Where a miners' representative has been designated, the operator shall also provide the representative with a copy of the statement.

(e) In determining whether to approve an application for alternative compliance, the District Manager shall consider: