



Natural building blocks for quality of life

June 8, 2010

The Honorable Joseph Main
Assistant Secretary of Labor for Mine Safety and Health
1100 Wilson Boulevard
Arlington, VA 22209

Dear Mr. Main:

As a follow-up to the NSSGA CEOs' meeting with you in January, I would like to provide examples of MSHA standards on which aggregates operators seek clarification for our industry's efforts on behalf of the safest possible work environment, and best possible compliance.

Horns 30 CFR § 56.14200 Safety Practices and Operational Procedures for moving equipment

The standard says that, before starting crushers or moving self-propelled mobile equipment, equipment operators shall sound a warning that is audible above the surrounding noise level or use other effective means to warn all persons who could be exposed to a hazard from the equipment.

Operators are unclear about recent enforcement actions requiring that, every time a vehicle moves (e.g., through five different fits and starts in line at a weigh station, for example), the driver must sound the horn. It's our contention that this would reduce the effectiveness of horn-honking as a system of alerting personnel of a potential hazard. Also, this creates nuisance noise. We seek clarification on when sounding of horns is genuinely required, and will make the operations safer, and where this applies.

Related questions include: Does this also apply to vendor vehicles, employee personal vehicles, or in the employee parking lots? In lieu of sounding the vehicle's horns, what "other means of audible warning" would be acceptable? Does the horn need to be sounded before initial movement, or every time there is a directional change? Does the horn need to be sounded before equipment goes backward – even if the equipment has a back-up alarm?

Has MSHA recently published a "Program Policy Letter," or is has there been a change made to the "Program Policy Manual?"

Barricades & Warning Signs 30 CFR § 56.20011

The standard says that in those areas where health or safety hazards exist that are not immediately obvious to employees, they shall be barricaded, or warning signs shall be posted at all approaches. Warning signs shall be readily visible, legible, and display the nature of the hazard and any protective action required.

Operators seek clarification because recent enforcement has changed in application. More warning signs and barricades are needed than before. Does MSHA have a new (different) interpretation of how this standard is now being applied? Has MSHA recently published a "Program Policy Letter" or is there has been a change made to the "Program Policy Manual?"

Parking procedures for un-attended equipment 30 CFR § 56.14207

The standard says that mobile equipment shall not be left unattended unless the controls are placed in the park position and the parking brake, if provided, is set. When parked on a grade, the wheels or tracks of mobile equipment shall be either chocked or turned into a bank. Operators seek clarification on the application of this standard for employee vehicles in employee parking areas.

MSHA requires that drivers of delivery, visitor, vendor and customer trucks chock their wheels while on mine property. We'd appreciate guidance on those locations and times at which vehicles must be chocked. Also, what are acceptable alternatives to comply with this standard?

Does MSHA have a new (different) interpretation of how this standard is now being applied? Has MSHA recently published a "Program Policy Letter" or is there has been a change made to the "Program Policy Manual?"

Seatbelts 30 CFR § 56.14130g

The standard states that seat belts shall be worn by equipment operators. Inspectors are now requiring operators to police customer truck drivers, and telling operators that they will be held responsible for customer compliance. Operators seek guidance for clarification.

The issue on replacement of seatbelts has been raised by recent enforcement action. The standard has been historically enforced as performance-based (visually inspecting the belt to ensure the clasps work). Yet, operators have been told that seatbelts have to be replaced based on the equipment manual provided by the equipment manufacturer (e.g., one manufacturer suggests seat-belts be replaced every three years). There are some manufacturers that recommend, but do not require, replacement. Also, is this a manufacturing standard or an MSHA requirement?

Does MSHA have a new (different) interpretation of how this standard is now being applied? Has MSHA recently published a "Program Policy Letter" or is there has been a change made to the "Program Policy Manual?"

Guards or Berms at Weigh Scales 30 CFR § 56.9300b

The standard says that berms or guardrails shall be at least mid-axle height of the largest self-propelled mobile equipment which usually travels the roadway.

Operators request direction based on recent enforcement that a lack of mid-axle height guarding, or berms, at weight-scales constitutes a violation. A scale serves a different purpose than that of a roadway. Scales are more akin to a parking spot than a roadway; scales are constructed so that a vehicle can be pulled onto it, and come to a complete stop.

Does MSHA have a new (different) interpretation of how this standard is now being applied? Has MSHA recently published a "Program Policy Letter," or is has there been a change made to the "Program Policy Manual"?

Machinery, equipment, and tools 30 CFR § 56.14205

The standard says that machinery, equipment, and tools shall not be used beyond the design capacity intended by the manufacturer where such use may create a hazard to persons.

This is an area with much subjectivity. Operators seek practical guidance to enable operators to more readily comply. Does MSHA have a new (different) interpretation of how this standard is now being applied? Has MSHA recently published a "Program Policy Letter" or is has there been a change made to the "Program Policy Manual?"

We would appreciate clarification on these matters so that compliance could be more readily attained, and so that the safety and health of our workers can be optimally protected. Of course, we would be pleased if this NSSGA response to your request for such requests for clarification could enable the new Alliance Technical Task Force discussed with Greg Wagner and you at our NSSGA CEOs meetings of November 6, 2009, and January 22, 2010, respectively, to provide constructive input. I can be reached at jcasper@nssga.org / (703) 526-1074.

Thank you for your attention, Mr. Main.

Sincerely,



Joseph S. Casper
Vice President, Safety

cc: Dr. Gregory Wagner, MSHA Deputy Assistant Secretary for Policy
Neal Merrifield, MSHA Acting Administrator, Metal/Non-Metal
Bill Schneider, NSSGA Board Chair, and President & CEO, Knife River
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