

FREQUENTLY ASKED QUESTIONS

Safety Program for Surface Mobile Equipment

Compliance Date

- Q. Who must comply with the standard?
- A. Production operators and part 45 independent contractors must comply with the standard.
- Q. When will MSHA begin to enforce the standard?
- A. The final rule became effective on January 19, 2024. MSHA will begin to enforce the standard on July 17, 2024.
- Q. When are production operators and part 45 independent contractors required to develop a written safety program for surface mobile equipment?
- A. Production operators and part 45 independent contractors who develop their own safety programs have until July 17, 2024, to develop and implement a written safety program for surface mobile equipment.

Independent contractors

- Q. Who is a part 45 independent contractor?
- A. A part 45 independent contractor is a contractor who has a part 45 identification number and performs construction or services at the mine.
- Q. What are the responsibilities of part 45 independent contractors under the standard?
- A. MSHA expects production operators and part 45 independent contractors to communicate and coordinate with each other on their respective safety programs. MSHA expects most independent contractors will develop and implement their own safety program. Production operators and part 45 independent contractors can integrate their safety programs. If they agree to integrate their safety programs, the independent contractor does not need to develop a separate safety program.
- Q. I am a production operator with several contractors working at the mine site. Am I responsible for ensuring that contractors at the mine have a safety program?
- A. A production operator must ensure that the part 45 independent contractors have a safety program that complies with the standard or that the part 45 independent contractors' safety programs are integrated into the production operator's safety program.

Contractors without a part 45 identification number are not required to develop and implement a safety program under the standard. However, the production operator's safety program must include the contractors' surface mobile equipment in their safety program.

- Q. I am not a part 45 independent contractor, but I provide earthmoving services at several mines. Am I required to have a surface mobile equipment safety program?
- A. No, but your surface mobile equipment must be addressed in the production operator's safety program.
- Q. Does the standard apply to seasonal or intermittent mines?
- A. Yes.

Safety Program Requirements

Q. What are the written safety program requirements?

- A. The safety program must include actions that a production operator, part 45 independent contractor, or both take to:
- (1) Identify and analyze hazards and reduce the risks related to the movement and operation of surface mobile equipment;
 - (2) Develop and maintain procedures and schedules for routine maintenance and non-routine repairs for surface mobile equipment;
 - (3) Identify currently available and newly emerging feasible technologies that can enhance safety at the mine and evaluate whether to adopt them; and
 - (4) Train miners and other persons at the mine necessary to perform work to identify and address or avoid hazards related to surface mobile equipment.

A responsible person must evaluate and update the written safety program at least annually, or as mining conditions or practices change that may adversely affect the health and safety of miners or other persons, as accidents or injuries occur, or as surface mobile equipment changes or modifications are made.

In addition, production operators or part 45 independent contractors must solicit input from miners and their representatives in developing and updating the written safety program.

Responsible Person

Q. Who is a responsible person?

- A. A responsible person is an individual with the authority and responsibility to evaluate and update a written safety program for surface mobile equipment.
Production operators and part 45 independent contractors can designate multiple persons as the responsible person so long as the designated person has the authority and responsibility to evaluate and update the written safety program.

Q. Can the responsible person be the safety and health director?

A. Yes.

Q. Is the responsible person required to be present at the mine?

A. No.

Q. Is the responsible person authorized and empowered to take corrective action when a hazard is identified?

- A. Yes. The responsible person is designated by a production operator or a part 45 independent contractor to evaluate the safety program, take actions to correct any hazards, and update the safety program to address the hazards.

Q. Is the responsible person an agent of the mine operator?

A. Yes.

Q. What experience and knowledge are necessary to be a responsible person?

- A. The responsible person must have experience and knowledge about mining conditions and practices, including surface mobile equipment, necessary to evaluate and update the written safety program.

Surface Mobile Equipment

- Q. Will MSHA publish on the Agency's website a list of surface mobile equipment to be included in a safety program?
- A. MSHA will post examples of surface mobile equipment on the Agency's website. Surface mobile equipment includes wheeled, skid-mounted, track-mounted, or rail-mounted equipment capable of moving or being moved, and any powered equipment that transports people, equipment, or materials. Surface mobile equipment does not include belt conveyors and any manually powered tools such as wheelbarrows, hand carts, push carts, welding carts, cylinder carts, basic hand trucks, or dollies.
- Q. Does the standard apply to portable crushers and screening plants?
- A. Portable crushers and screening plants typically have their own Mine IDs and are "mine operators" subject to the rule. However, MSHA does not consider them to be surface mobile equipment because portable crushers and screening plants don't typically move during mining operations. Mobile equipment associated with portable crusher and screening plants, such as front end loaders and haul trucks, are surface mobile equipment and the program must cover it.
- Q. Does the standard apply to mobile equipment operated underground and brought to the surface for maintenance and repair?
- A. No. Mobile equipment used in underground mines and brought to the surface for maintenance or repair are not covered under the final rule.
- Q. Does the standard apply to equipment being towed?
- A. No. Towed equipment such as air compressors, welding machines, aerial lifts, and light towers mounted on wheel chasses are excluded. However, mobile equipment performing the towing are covered.
- Q. Does the standard apply to small vehicles?
- A. Yes, such as small pickup trucks.
- Q. Does the standard apply to autonomous vehicles?
- A. Yes.
- Q. Does the standard apply to boats or dredges?
- A. No, the standard does not apply to either boats or dredges.
- Q. Does the standard apply to a belt or other conveyor that is incorporated as a component of, or attached to, a piece of surface mobile equipment??
- A. Generally, no. The standard applies to hazards associated with the movement of mobile equipment rather than the movement of the conveyor when the equipment is stationary. Examples of excluded mobile conveyors when stationary include stacking conveyors and circular or longitudinal stackers and reclaimers.
- Q. Does the standard apply to leased or rented equipment?
- A. Yes, the standard applies to the operation, maintenance and repair of leased or rented mobile equipment operated on mine property.

Identify and Analyze Hazards

- Q. What actions must production operators or part 45 independent contractors take to identify and analyze hazards related to surface mobile equipment and are addressed in a safety program?
- A. Examples of actions to identify and analyze hazards can include: 1) a review of workplace examination records; 2) a review of accident data and information on close calls or near misses; 3) a review of best practices materials; and 4) consulting miners and their representatives about workplace hazards.
- Q. What kinds of mobile equipment hazards and risks should be considered when assessing mine hazards?
- A. When assessing surface mobile equipment hazards and risks, production operators and part 45 independent contractors should consider: collision and striking hazards (e.g., striking hazards posed by the interaction between mobile equipment and stationary objects, structures, or personnel); visibility issues (e.g., limited visibility for equipment operators due to blind spots, especially large haul trucks and heavy equipment); operational hazards (e.g., equipment malfunction or failure, such as brake failure, engine failure, or hydraulic system failure, as well as inadequate training); environmental factors (e.g., uneven or unstable terrain that may lead to tip-overs, especially on slopes or uneven ground, narrow or poorly maintained roadways, improperly placed or maintained berms, and adverse weather conditions that affects the performance of mobile equipment); and traffic management (e.g., poorly designed traffic management systems or lack of clear signs, procedures, and traffic rules).

MSHA developed guidance to help miners, production operators, and part 45 independent contractors prevent accidents caused by working on or near powered haulage equipment. The guidance includes best practices, and links to videos and training resources. The Powered Haulage Equipment Safety Guidance is found on MSHA's website. MSHA will post on its website additional guidance and compliance assistance materials to help production operators and part 45 independent contractors comply with the standard and to help miners better identify mobile equipment workplace hazards.

Procedures and Schedules for Maintenance and Non-routine Repair

- Q. What are the maintenance and repair requirements for the safety program?
- A. Operators should follow manufacturer maintenance schedules and repair procedures.
- Q. Does the production operator or part 45 independent contractor need to develop new maintenance and repair procedures?
- A. No, unless the operator does not have them already in place. The safety program can reference existing procedures and schedules for maintenance and repair.

Identify Available and New Technology

- Q. What are the requirements for identifying and evaluating currently available and newly emerging technology for the safety program?
- A. The standard requires that the production operators or part 45 independent contractors identify and evaluate currently available and newly emerging feasible technologies that can enhance safety at the mines. Production operators and part 45 independent contractors must consider feasible technologies that are capable of being used successfully at the mine. MSHA will offer educational and compliance assistance to production operators, part 45 independent contractors, and miners to help identify currently available and newly emerging technologies that can prevent accidents and injuries when working on or near surface mobile equipment.

- Q. How does a production operator or part 45 independent contractor demonstrate compliance with the standard to evaluate new and emerging technologies?
- A. Examples of actions that production operators or part 45 independent contractors could take to demonstrate compliance include 1) attending industry, NIOSH, MSHA, or other meetings that discuss available or newly emerging technologies; 2) attending mine safety and health conferences that include vendor exhibits and equipment demonstrations; 3) requesting and reviewing equipment vendor material; 4) interviewing or obtaining demonstrations from vendors or sales engineers; 5) obtaining vendor quotations; or 6) testing technologies on mine property to determine their effectiveness in improving safety.
- Q. Are production operators or part 45 independent contractors required to purchase any particular technology?
- A. No. Production operators or part 45 independent contractors are required to identify and evaluate currently available and newly emerging technologies that enhance miners' safety working on or near surface mobile equipment.
- Q. What are examples of currently available or newly emerging technologies?
- A. Currently available or newly emerging technology may include seat belt interlocks that affect equipment operation when a seat belt is not fastened; seatbelt notification systems that alert management when the seatbelts are not worn; collision warning systems and collision avoidance systems that may prevent accidents by alerting equipment operators to hazards located in blind areas; technologies that use global positioning systems to provide equipment operators with information regarding their location when pushing and dumping material; as well as cameras, curvilinear mirrors, and other vision enhancements. MSHA will post other technology-related informational material on its website.
- Q. Will MSHA take enforcement action against mine operators who are evaluating or have installed newly emerging feasible technologies and MSHA finds defects with those technologies?
- A. Generally, MSHA will not take enforcement action for defective technologies that are not used for compliance purposes with other existing standards.

Training Miners

- Q. Does the safety program include additional training requirements?
- A. No. The standard requires production operators or part 45 independent contractors to include actions taken to train miners to identify or avoid hazards related to working near or on surface mobile equipment. Production operators and part 45 independent contractors may integrate their existing training under part 46 or part 48 into their safety program. MSHA expects that operators will cover the requirements of the safety program with miners as part of their normal part 46 and part 48 training.
- Q. If production operators or part 45 independent contractors identify new hazards, or changes in equipment or mining conditions occur, does the operator modify the safety program, training plans, or both?
- A. The safety program. The production operators or part 45 independent contractors will include in their safety program the actions the operator will take to address the new hazards or changes in equipment or mining conditions at the mine. Since the inspector will evaluate the safety program separately from the mine's training plan, MSHA does not expect production operators or part 45 independent contractors to modify their existing part 46 or part 48 training plans. The safety program has no new training requirements. However, the production operators or part 45

independent contractors should state in the safety program the actions they took to address these newly identified hazards or changes in equipment or mining conditions that occurred.

- Q. How frequently are miners trained on hazards identified by the safety program?
- A. No changes in current procedures. Part 46 and part 48 training already requires training on the health and safety aspects and safe operating procedures for mobile equipment. The production operators or the part 45 independent contractors must state in the safety program the actions that they took, such as using the mine's current task training procedures or provisions to address hazards identified in developing or updating the safety program.
- Q. Will MSHA cite the safety program regarding the training requirements?
- A. The safety program has no new training requirements. MSHA will cite the safety program only if the production operators or part 45 independent contractors do not address or reference actions they will take to meet the requirements of written safety program. Since MSHA made no changes to the training provisions in parts 46 and 48 and is evaluating the training independent of the safety program, MSHA expects that production operators and part 45 independent contractors will continue to train miners and keep their training plans up-to-date, as applicable.
- Q. If I get a new piece of mobile equipment onsite or if mining conditions change, how long do I have before I must make changes in the safety program?
- A. This requirement does not change current practices for introducing new equipment or other changes at the mine. For this rule, the production operators or part 45 independent contractors must state the actions that they will take to introduce new equipment or other changes at the mine in the applicable sections of the safety program.

Updates to the Safety Program

- Q. How often does the safety program need to be updated?
- A. A safety program must be updated annually or when mining conditions and practices change that can adversely affect the health and safety of miners. A change in mining conditions and practices can include hazards identified after an accident or injury, changes in traffic patterns, when a piece of equipment is modified, or when new equipment is added.
- Q. If I get a new piece of mobile equipment onsite or if mining conditions change, how long do I have before I must make changes in the safety program?
- A. This requirement does not change current practices for introducing new equipment or other changes at the mine. Currently, when a new piece of mobile equipment is to be used at the mine, the operator must update their training and maintenance and repair procedures prior to use of the new equipment, as applicable. To effectively train miners on the use of the new equipment, the operator must evaluate the hazards and risks associated with introducing the new piece of equipment at the mine and then train miners to work safely around or operate the equipment. The operator's updates to the training plan, maintenance procedures, or both, are then integrated into the surface mobile equipment program.
- Q. How soon after an accident or injury occurs must the written safety program be updated?
- A. Accidents and injuries can be indicators of hazards. A safety program must be updated as soon as reasonably possible to address new hazards and to ensure that miners' safety and health are protected.

- Q. How can a production operator or a part 45 independent contractor demonstrate that they solicited input from miners and their representatives when developing and updating the written safety program?
- A. Examples of evidence of miner participation may include copies of written recommendations submitted by individual miners or department groups, signed meeting minutes, or verbal confirmation from miners that they were involved and what topics constituted their input.

Record and inspection

- Q. Are surface mobile equipment safety programs required to be made available to Secretary's authorized representative?
- A. Yes.
- Q. Is the production operator or part 45 independent contractor required to keep a copy of the safety program at the mine?
- A. No. Like MSHA's requirement at 30 C.F.R § 46.3(i) that the mine operator be able to produce training plans within one business day of an inspector's request to review them, the operator should also make the written safety program available in a timely manner. MSHA recommends that the mine, if it has computerized recordkeeping functionality onsite, keep an up-to-date copy of the safety program in an electronic format ready for review.
- Q. Are surface mobile equipment safety programs required to be made available to miners and their representatives?
- A. Yes.
- Q. Is a production operator or part 45 independent contractor required to make copies of the written safety program for miners and their representatives?
- A. Yes. An electronic or hard copy of the safety program must be provided, upon request, to miners and their representatives, at no cost.

Approval

- Q. Does the standard require MSHA approval of the written safety program?
- A. No, but MSHA will review the safety program during an inspection.
- Q. Can a production operator or part 45 independent contractor use a safety program developed by a recognized industry association or consensus standards organization or use a state safety program?
- A. Yes. However, the production operator or part 45 independent contractor must show that the recognized industry association or consensus standard, or the state safety program, addresses the mobile equipment at the mine and meets all requirements of the standard.