

**From:** Larry Evans <Larry.Evans@oildri.com>  
**Sent:** Friday, January 05, 2018 4:01 PM  
**To:** zzMSHA-OSRVRegulatoryReform  
**Subject:** MSHA Regulations to Repeal, Replace or Modify

We are writing in response to your request on October 23, 2017 to identify “regulations that could be repealed, replaced, or modified without reducing miners’ safety or health.” We believe that additional clarity in the meaning of the words in existing regulations would not impair miners’ safety or health, but would substantially reduce the compliance costs of existing regulations that are currently hopelessly unclear, and which have been used by inspectors to impose penalties in an arbitrary manner. These suggested changes are identified in red below:

## **PART 56--SAFETY AND HEALTH STANDARDS SURFACE METAL/ NONMETAL MINES**

### **30 CFR § 56.2 Definitions.**

*Adequate First-Aid materials.* MSHA shall not penalize a mine for lacking “adequate first-aid materials if miners have access on site to the minimum materials identified in a MSHA policy or regulation.

*Barricaded* means obstructed to prevent the passage of persons, vehicles, or miners from being struck by flying materials.

*Berm* means a pile or mound of material along an elevated roadway capable of moderating or limiting the force of a vehicle in order to impede, in so far as feasibly possible, the vehicle's passage over the bank of the roadway.

*Cable* means having at least two conductors and may include an uninsulated equipment safety grounding conductor, all of which are encased in an outer protective shield.

*Conductor* means a bare or insulated wire or combination of wires not insulated from one another, suitable for carrying an electric current.

*Circuit breaker* means a device designed to open and close a circuit by non-automatic means and to open the circuit automatically on a predetermined over-current setting without injury to itself when properly applied within its rating, and is not a “principle power switch” unless specifically designed by the manufacturer to be a manual on/off switch as well as a means to deenergize an electrical circuit for lock out / tag out purposes.

*Designated* means [ADD DEFINITION AS EXISTING REGULATIONS FAIL TO PROVIDE ONE]

*Explosion hazard* means [ADD DEFINITION AS EXISTING REGULATIONS FAIL TO PROVIDE ONE].

*Fire hazard* means [ADD DEFINITION AS EXISTING REGULATIONS FAIL TO PROVIDE ONE]

*Hazard to persons* means [ADD DEFINITION AS EXISTING REGULATIONS FAIL TO PROVIDE ONE]

*High-Pressure* means [ADD DEFINITION AS EXISTING REGULATIONS FAIL TO PROVIDE ONE]

*Infrequently* means [ADD DEFINITION AS EXISTING REGULATIONS FAIL TO PROVIDE ONE]

*Major electrical installation* means an assemblage of stationary electrical equipment for the generation, transmission, distribution, or conversion of electrical power. For electrical purposes, the word “major” means substations, switchyards and motor control centers.

*Mechanical damage* means physical damage caused by vehicles, falling objects, misdirected excavation, water, chemicals, bursting pipelines, broken conveyor belts, failure of adjacent mechanical systems and adverse ambient conditions. Minor or cosmetic damage that does not reduce the protective function of the jacket would not be mechanical damage. Reference IEEE Standard 242.

*Milling* means [ADD DEFINITION AS EXISTING REGULATIONS FAIL TO PROVIDE ONE]

*Principal power switch* means a device used to open and close an electrical circuit by non-automatic means, controls a single unit, and is the primary device used during normal operation. Examples of “principal power switches” are as follows: [INSERT EXAMPLES]

*Regularly used* means [ADD DEFINITION AS EXISTING REGULATIONS FAIL TO PROVIDE ONE]

*Securely in place* means [ADD DEFINITION AS EXISTING REGULATIONS FAIL TO PROVIDE ONE]

*Service room* means [ADD DEFINITION AS EXISTING REGULATIONS FAIL TO PROVIDE ONE]

*Storeroom* means [ADD DEFINITION AS EXISTING REGULATIONS FAIL TO PROVIDE ONE]

*Strategically located* means [ADD DEFINITION AS EXISTING REGULATIONS FAIL TO PROVIDE ONE]

*Substantial construction* means construction of such strength, material, and workmanship that the object will withstand all reasonable shock, wear, and usage, to which it will be subjected. Normal wear and tear, dents, dings, minor deflections, etc. should not be considered as having diminished the overall integrity.

*Suitable clearance* is the minimum working spaces derived from the National Fire Protection Association, Inc. (NFPA), 70 E. Table

### INSERT TABLE

*Timely manner* means [ADD DEFINITION AS EXISTING REGULATIONS FAIL TO PROVIDE ONE]

*Travelway* means a passage, walk or way regularly used, other than for solely maintenance purposes, and designated for persons to go from one place to another; not every passage, walk or surface that can be walked on is a “travelway”.

*Unattended* means [ADD DEFINITION AS EXISTING REGULATIONS FAIL TO PROVIDE ONE]

*Working place* means any place in or about a mine where work is being performed; if work is not being performed in a particular place or portion of the mine, then a working place does not exist there.

**30 CFR § 56.4101 Warning signs.**

Readily visible signs prohibiting smoking and open flames shall be posted where a fire or explosion hazard exists. [There is currently no definition of “fire hazard” and “explosion hazard” in definitions section making this section coverage vague and impossible to anticipate what will be covered or cited as a violation].

**30 CFR § 56.4102 Spillage and leakage.**

Flammable or combustible liquid spillage or leakage shall be removed in a timely manner or controlled to prevent a fire hazard. [There is currently no definition of “timely manner” in definitions section, making this section vague].

**30 CFR § 56.4130 Electric substations and liquid storage facilities.**

(a) If a hazard to persons could be created, no combustible materials shall be stored or allowed to accumulate within 25 feet of the following: [There is currently no definition of “hazard to persons” in definition section].

**30 CFR § 56.4200 Firefighting Equipment General requirements.**

(b) This onsite firefighting equipment shall be

(1) Of the type, size, and quantity, determined by the mine operator's review of fire prevention authoritative materials, that can extinguish fires of any class which could occur as a result of the hazards present; and

(2) Strategically located, readily accessible, plainly marked, and maintained in fire-ready condition. [There is currently no definition of “strategically located” in the definitions section.]

**30 CFR § 56.4230 Self-propelled equipment.**

(c) Fire extinguishers or fire suppression systems shall be of a type and size, determined by the mine operator's review of fire prevention authoritative materials, that can extinguish fires of any class in their early stages which could originate from the equipment's inherent fire hazards. Fire extinguishers or manual actuators for the suppression system shall be located to permit their use by persons whose escape could be impeded by fire.

**30 CFR § 56.4502 Battery-charging stations.**

Add:

(d) This standard does not apply to batteries that are installed or contained within equipment, such as a car/truck battery, battery powered tools, radios, cap lights, etc.

**56/57.5001(a) Nuisance Particulates.**

The only nuisance particulates for which a citation can be issued are those that are listed specifically as nuisance particulates in Appendix E of the 1973 TLV Booklet and exceed the 10 mg/m<sup>3</sup> TLV. At mines where the commodity produced is an unlisted nuisance particulate, and there is no silica hazard, such as sorptive minerals excluded by OSHA, continue to sample and analyze airborne dusts for listed toxic substances and take appropriate enforcement action.

### **30 CFR § 56.9100 Traffic control.**

To provide for the safe movement of self-propelled mobile equipment

(a) Rules governing speed, right-of-way, direction of movement, and the use of headlights to assure appropriate visibility, shall be established and followed at each mine, **but need not be posted to satisfy this standard**; and

### **30 CFR § 56.9300 Berms or guardrails.**

(a) Berms or guardrails shall be provided and maintained on the banks of roadways **used for haulage, service and access within areas associated with the excavation of mine ore** where a drop-off exists of sufficient grade or depth to cause a vehicle to overturn or endanger persons in equipment.

(d) Where elevated roadways are infrequently traveled and used only by service or maintenance vehicles, berms or guardrails are not required when all of the following are met: **[Define “infrequently” in the definitions section.]**

### **30 CFR § 56.11012 Protection for openings around travelways.**

Openings above, below, or ~~near~~ **immediately adjacent to** travelways through which persons or materials may fall **completely through** shall be protected by railings, barriers, or covers. Where it is impractical to install such protective devices, adequate warning signals shall be installed.

### **30 CFR § 56.11026 Protection for inclined fixed ladders.**

Fixed ladders 70 degrees to 90 degrees from the horizontal and 30 feet or more in length shall have backguards, cages or equivalent protection, starting at a point not ~~more~~ **less** than seven feet from the bottom of the ladders, **nor more than eight feet from the bottom of the ladders.**

### **30 CFR § 56.12004 Electrical conductors.**

Electrical conductors shall be of a sufficient size and current-carrying capacity to ensure that a rise in temperature resulting from normal operations will not damage the insulating materials. Electrical conductors exposed to mechanical damage shall be protected. **[Define “mechanical damage” in the definitions section.]**

### **30 CFR § 56.12016 Performing electrical work on electrically-powered equipment.**

Electrically powered equipment shall be deenergized before mechanical work is done on such equipment. Power switches shall be locked out or other measures taken which shall prevent the equipment from being energized without the knowledge of the individuals working on it. Suitable warning notices shall be posted at the power switch and signed by the individuals who are to do the work. Such locks or preventive devices shall be removed only by the persons who installed them or by authorized personnel.

### **30 CFR § 56.12018 Identification of power switches.**

Principal power switches shall be labeled to show which units they control, unless identification can be made readily by location. **[Define “principal power switches” in the definition section.]**

### **30 CFR § 56.12019 Access to stationary electrical equipment or switchgear.**

Where **When** access is necessary, suitable clearance **for safe working space around energized electric equipment** shall be provided at stationary electrical equipment or switchgear **to prevent electric shock**.

### **30 CFR § 56.12028 Testing grounding systems.**

Continuity and resistance of grounding systems shall be tested immediately after installation, repair, and modification; and annually thereafter **and only on electrically powered mining and milling (processing) equipment, hand tools and extension cords**. A record of the resistance measured during the most recent tests shall be made available on a request by the Secretary or his duly authorized representative.

### **30 CFR § 56.12030 Correction of dangerous conditions.**

**Prior to energization**, when a potentially dangerous condition is found **or already known by the mine operator**, it shall be corrected before equipment or wiring is energized.

### **30 CFR § 56.12032 Inspection and cover plates.**

Inspection and cover plates on electrical equipment and junction boxes, **which allow access to electric connections**, shall be kept in place at all times except during testing or repairs.

### **30 CFR § 56.12034 Guarding around lights.**

Portable extension lights, and other lights that by their location, **less than 8 feet away, which** present a shock or burn hazard, shall be guarded.

### **30 CFR § 56.12047 Guy wires.**

Guy wires of poles supporting high-voltage transmission lines, **equal to or greater than 650 volts**, shall meet the requirements for grounding or insulator protection of the National Electrical Safety Code, part 2, entitled "Safety Rules for the Installation and Maintenance of Electric Supply and Communication Lines" (also referred to as National Bureau of Standards Handbook 81, November 1, 1961) and Supplement 2 thereof issued March 1968, which are hereby incorporated by reference and made a part hereof.

### **30 CFR § 56.13015 Inspection of compressed-air receivers and other unfired pressure vessels.**

**ADD:**

**(c) Inspections are required on a timeframe established by State jurisdiction. Installation of newly manufactured vessels are exempt until the established timeframe is met.**

### **30 CFR § 56.13021 High-pressure hose connections.**

Except where automatic shutoff valves are used, safety chains or other suitable locking devices shall be used at connections to machines of high-pressure hose lines of 3/4-inch inside diameter or larger, and between high-pressure hose lines of 3/4-inch inside diameter or larger, where a connection failure would create a hazard. [**Define "high-pressure" in the definitions section.**]

**30 CFR § 56.14100 Safety defects; examination, correction and records.**

- (a) Self-propelled mobile equipment to be used during a shift shall be inspected by the **an** equipment operator before being placed in operation on that shift.
- (b) Defects on any equipment, machinery, and tools that **may** affect safety; **such as wipers, lights, etc.** shall be corrected in a timely manner to prevent the creation of a hazard to persons.
- (c) When defects; **such as: steering components, service brakes, parking brakes, horns and other audible warning devices, and seatbelts,** make continued operation hazardous to persons, the defective items including self-propelled mobile equipment shall be taken out of service and placed in a designated area posted for that purpose, or a tag or other effective method of marking the defective items shall be used to prohibit further use until the defects are corrected.
- (d) Defects on self-propelled mobile equipment **that may** affecting safety, which are not corrected immediately, shall be reported to and recorded by the mine operator. The records shall be kept at the mine or nearest mine office from the date the defects are recorded, until the defects are corrected. Such records shall be made available for inspection by an authorized representative of the Secretary.

**30 CFR § 56.14107 Moving machine parts.**

**ADD:**

- (c) Guarding shall prevent inadvertent, careless or accidental contact or deliberate or purposeful work-related actions. The standard does not address deliberate or purposeful, non-work-related actions.
- (d) Guarding is required for smooth shaft ends if the shaft extends more than ½ of the shaft's diameter.
- (e) Any gap outside of a guard which may allow for possible contact with moving machine parts shall not exceed 1 ½ inches.
- (f) Compliance with MSHA's guidance materials, including but not limited to, Guarding Conveyor Belts at Metal & Nonmetal Mines, June 2010 and Guarding Machinery at Metal & Nonmetal Mines, Oct. 2012 is a complete defense to a charge of inadequate guarding.

**30 CFR § 56.14130 Roll-over protective structures (ROPS) and seat belts.**

- (c) *ROPS labelling.* ROPS shall have a label permanently affixed to the structure identifying
- (1) The manufacturer's name and address;
  - (2) The ROPS model number; and
  - (3) The make and model number of the equipment for which the ROPS is designed.
  - (4) **Unreadable labels shall be replaced by the mine operator.**

**30 CFR § 56.14132 Horns and backup alarms.**

- (b)(2) Alarms shall be audible above the surrounding noise level **at a distance of no less than 25 feet from the rear of the equipment.**

**30 CFR § 56.14205 Machinery, equipment, and tools.**

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. **A mine operator may modify machinery, equipment and tools as long as the modification does not create a hazard to persons.**

**30 CFR § 56.14207 Parking procedures for unattended equipment.**

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, **which will cause the mobile equipment to roll when the controls are in the neutral position and the parking brake, if provided, is not set**, the wheels or tracks of mobile equipment shall be either chocked or turned into a bank.

**30 CFR § 56.14213 Ventilation and shielding for welding.**

(a) Welding operations shall be shielded when performed at locations where arc flash could be hazardous to persons **that are within 100 feet of the arc flash.**

**30 CFR § 56.15001 First-aid materials.**

Adequate first-aid materials, including stretchers and blankets, shall be provided at places convenient to all working areas. Water or neutralizing agents shall be available where corrosive chemicals or other harmful substances are stored, handled, or used. **[Define "adequate first-aid materials" in the definitions section.]**

**30 CFR § 56.15020 Life jackets and belts.**

Life jackets or belts shall be worn where there is danger from falling into water. **If the miner is on a stable and/or non-moving surface, and handrails or another barrier exist between the miner and the water, life jackets or belts are not required.**

**30 CFR § 56.16009 Suspended loads.**

Persons shall stay clear of **the fall zone of** suspended loads.

**30 CFR § 56.17001 Illumination of surface working areas.**

Illumination sufficient to provide safe working conditions, **which is at the minimum lumens which follows**, shall be provided in and on all surface structures, ~~paths~~ **travelways**, walkways, stairways, switch panels, loading and dumping sites, and work **places** areas.

<b>Illumination</b>	
<b>Area</b>	<b>Lumens</b>

**30 CFR § 56.18002 Examination of working places. No changes needed to current standard.**

**30 CFR § 56.19000 Application.**

(a) The hoisting standards in this subpart apply to those hoists and appurtenances used for hoisting persons, **with the exception of man baskets or similar enclosures hoisted by a crane.** However, where persons may be endangered by hoists and appurtenances used solely for handling ore, rock, and materials, the appropriate standards should be applied.

**ADD:**

**(d) See MSHA Program Policy Manual for 56/57.14211 for hoisting personnel with cranes.**

**30 CFR § 56.20001 Intoxicating beverages and narcotics**

Intoxicating beverages and narcotics shall not be permitted or used in or around mines. Persons under the influence of alcohol, narcotics, **chemical substances (including THC) or other substances likely to cause significant mental or physical impairment of normal faculties** shall not be permitted on the job.

**30 CFR § 56.20003 Housekeeping.**

At all mining operations--

(a) ~~Workplaces~~ **Working places**, ~~passageways~~ **travelways**, storerooms, and service rooms shall be kept clean and orderly; [**Define "storeroom" and "service room" in the definitions section.**]

(b) The floor of every ~~workplace~~ **working place** shall be maintained in a clean and, so far as possible, dry condition. Where wet processes are used, drainage shall be maintained, and false floors, platforms, mats, or other dry standing places shall be provided where practicable; and

(c) Every floor, working place, and ~~passageway~~ **travelway** shall be kept free from protruding nails, splinters, holes, or loose boards, as practicable.

<p><b>Larry R. Evans</b> Corporate Health &amp; Safety Manager Oil-Dri Corporation of America P.O. Box 380, 28990 Georgia Hwy 3 N Ochlocknee, GA 31773 Office 229-574-4270 Fax 229-574-4260 Toll Free 800-634-0315 x4270 Cell 229-200-9006 <a href="mailto:larry.evans@oildri.com">larry.evans@oildri.com</a></p>		<p><b>PLEASE NOTE:</b> The information transmitted in this e-mail message and any attachments may be privileged or otherwise confidential communication, and it is intended only for the use of the person(s) or entity(ies) named above. Distribution to, or review by, any other person or entity is prohibited. All personal messages express solely my own views, which are not to be attributed to Oil-Dri Corporation of America or any of its affiliates. If you have received this message in error, please notify me immediately and permanently delete this message (and any attachments) from your computer system.</p>
---	---	--

Disclaimer

The information contained in this communication from the sender is confidential. It is intended solely for use by the recipient and others authorized to receive it. If you are not the recipient, you are hereby notified that any disclosure, copying, distribution or taking action in relation of the contents of this information is strictly prohibited and may be unlawful.

This email has been scanned for viruses and malware, and may have been automatically archived by **Mimecast Ltd**, an innovator in Software as a Service (SaaS) for business. Providing a **safer** and **more useful** place for your human generated data. Specializing in; Security, archiving and compliance. To find out more [Click Here](#).