

From: morgan@molimestone.com
To: [zzMSHA-OSRVRegulatoryReform](#)
Subject: MLPA comments on regulations to repeal or replace
Date: Monday, April 30, 2018 11:39:51 AM

To: Mine Safety Health Administration
From: Morgan Mundell, Executive Manger
Date: 4/18/2018
Re: MSHA review of existing regulations

The Missouri Limestone Producers Association (MLPA) is the statewide service organization for 47 companies engaged in the production of crushed stone aggregate for commercial, residential, agricultural and infrastructure needs. The total amount of crushed stone produced in Missouri is nearly 70 million tons, representing a value of about \$550 million. MLPA also represents 113 companies that provide products and services to our industry.

Please see below for a compilation of comments by MLPA members in response to MSHA's call for assistance in identifying regulations that could be repealed, replaced, or modified without reducing miners' safety or health

SUBCHAPTER G

- **Subpart C, 41.30– Notification of Legal Identity** – When typographical errors occur they should not result in citations

SUBCHAPTER H

- **Part 46** – Please differentiate in the training requirements between people who are not miners vs. ones who physically work in the mine. People who do not work in an actual mine should not be required to take the full 24 hours of new miner training.
- **46.9 – Records of Training** - The same form should be used between Part 46 and Part 48.
- **Part 46** – There are no regulations that specify that copies of contractor training plans/training certificates are to be maintained onsite. If there are no regulations, then mine operators should not be issued citations for this.
- **Part 47** – Subparts E and F are out-of-date and should be rewritten to conform with OSHA regulations.

SUBCHAPTER I

- **Subpart B, 50.10 – Immediate notification** – 15 minutes does not allow personnel the time it takes to adequately make decisions when an injury occurs. When an injury does occur, the safety and health of a miner is the most important task at hand. Allow more time to report injuries.
- **Subpart D, 50.30 – Preparation and submission of MSHA Form 7000-2** - There should be a clear standard on how hours worked should be recorded. This standard should not be left open to interpretation by inspectors.

SUBCHAPTER K

- **Subpart D, 56.5006 – Restricted use of chemicals** - Regulations should be rewritten to modernize and update who should be able to use / handle such materials.
- **Subpart J, 56.9300- Berms or guardrails** - This standard should not be applied to highwall areas unless there is an actual haul road that is adjacent to the highwall. Merely accessing a highwall with a 4WD truck, dozer or other machine does not make the area a roadway, particularly if the equipment to access the highwall is used for loading holes. The tracks left by that equipment should not constitute proof of a roadway for the same reasons.
- **Subpart J, 56.11001 – Safe access** - The standard is ambiguous and should be rewritten to

make it clearer.

- **Subpart J, 56.11002 – Handrails and toeboards** - Definitions of “handrail” and “where necessary” regarding toeboards is too ambiguous. Clear definitions should be written regarding these terms.
- **Subpart J, 56.11016 – Snow and ice on walkways and travelways** —The definition of “regularly used walkways” and “as soon as practicable” is ambiguous and a better definition should be provided so that there is less interpretation by inspectors. Time should be allowed by inspectors to assess weather and hazard conditions and to take action.
- **Subpart K, 56.12013- Splices and repairs of power cables** - Inspectors are applying the standard to extension cords...the standard was written for power cables which supply power to large stripping shovels, this was never intended for extension cords. The term “power cable” is not defined but it is clear from reading the rest of the chapter that extension cords were not even considered when writing the standard.
- **Subpart K, 56.12016 – Work on electrically-powered equipment** - This standard should be rewritten to reflect modern procedures such as gang lockout procedures. The language is outdated.
- **Subpart K, 56.12025- Grounding circuit enclosures** - Inspectors are using this standard to issue citations for items such as commercial metal box fans because the fan housing is not grounded. This standard was never intended to cover commercial items, i.e. grinders, fans, milk house heaters etc. that are electrical in nature with a metal casing that do not have a separate ground. They have taken a standard that was meant for substation and fixed electrical installations to make sure that boxes housing the junctions and housing switches are grounded and are applying it to items that the standard was never intended to apply.
- **Subpart K, 56.12028 – Testing grounding systems** - Standard is unclear and ambiguous. Outline in the regulations the procedures that should be performed to avoid citation. This standard is being applied to extension cords to test if the ground is working. This is extending the standard to cover a situation where it is not valid. It is leading to thousands of dollars in employee time trying to make sure all extension cords are marked in a manner that shows the grounds have been inspected. The regulation taken literally and applied to cords would mean that the cord must have the ground checked every time it is plugged and unplugged. This standard was never intended to apply to extension cords or cords on handheld tools and it was intended for trailing cables, not extension cords. MSHA has overextended its consideration and definition of “circuit”.
- **Subpart L, 56.13015 - Inspection of compressed-air receivers and other unfired pressure vessels** - MSHA has deferred to State standards and should eliminate the regulation.
- **Subpart L, 56.13017 - Compressor discharge pipes** - This standard is outdated and should be eliminated as modern air compressors do not have carbon build up in the discharge pipes.
- **Subpart L, 56.13021 – High pressure hose connections** - Language should be rewritten so that quick-connect hose fittings are permissible.
- **Subpart M, 56.14100- Safety defects; examination, correction and records** - MSHA inspectors cite this as a catch all but something that should be considered is what are the qualifications of the inspector writing the citation. Unless the inspector is properly trained, many of the citations that are being written are based on MSHA state offices telling the inspectors to go look for certain items, “i.e. loose steering systems”. Many inspectors are not qualified to make the inspections or determinations and issue a citation. Nor should the operator be expected to have to disassemble a machine just to prove to the inspector that they are writing a citation incorrectly.
- **Subpart M, 56.14132 – Horns and backup alarms** - Standard should be rewritten and updated to account for modern technologies such as back up sensors, rear view cameras, etc.
- **Subpart M, 56.14207 – Parking procedures for unattended equipment** – Standard should be rewritten to reflect that not all equipment should be chocked, such as tracked equipment.
- **Subpart N, 56.15005 – Safety belts and lines** – Standard should be rewritten to reflect modern requirements and include a minimum height at which fall protection is required.
- **Subpart O, 56.16009 – Suspended loads** - Standard should include language on using taglines for clarification.
- **Subpart S, 56.20003 – Housekeeping** – This standard is appropriate when used for inside buildings. However, this standard is also applied to outside walkways around rock crushing

equipment. Each inspector has a different interpretation of how much dirt/buildup is acceptable under this standard. Some inspectors take into consideration the rocked area that was walked on to reach this walkway. Some inspectors will write a citation if they see any type of footprint in any dust. Some inspectors will write a citation if they see even one or two stones bigger than 1" in diameter on a walkway.

- **Subpart S, 56.20005 – Carbon Tetrachloride** – This standard should be rewritten to acknowledge the mine operators who can safely and legally handle these materials are able to do so.
- **Subpart C, 57.4532- Blacksmith shops** - can probably be removed from the standard.

SUBCHAPTER M

- **Part 62** - PPE such as earplugs and respirators need to be considered prior to establishing that a person is overexposed and writing a citation, particularly on noise. Not giving an operator credit for having employees use earplugs or other PPE and citing them for an overexposure is ridiculous, particularly when employees are using the provided PPE with a PPE rating that brings them to within exposure limits. MSHA is not properly measuring exposure when PPE is being used, ambient atmosphere is not the actual exposure of the miner if PPE is being utilized. MSHA's current solution is to implement engineering (mufflers or operators rooms etc) or administrative controls (limit time exposed) to reduce overexposure. There is virtually no environment that cannot be handled by limiting worker exposure to 10 minutes a day, but it is not practical to rotate people out or hire 30 people in one day to do the job of a single person who would be under exposure limits if PPE were considered.
- **Part 62.130 – Permissible exposure level** – MSHA should bring its standards in line with OSHA.

SUBCHAPTER P

- **Part 100.3 – Determination of Penalty Assessments** – The use of Repeat Penalty per Inspection Day points (RPID) should be reviewed and scrutinized by MSHA in order to provide consistent penalties. RPID's should be reasonable in their costs.
- **Part 100.6 – Procedures for review of citations and orders** – MSHA should encourage District Managers to grant informal conferences and engage in constructive dialogues with mine operators.

SUBCHAPTER Q

- **Part 104.2 – Pattern criteria** – MSHA should better stipulate what the criteria is for being placed on the POV list and allow for administrative remedies to protest being placed on the POV list.

OTHER COMMENTS

- MSHA's online citation tracking does not allow a person to research what inspections are written by inspectors, ie search by the inspector name, even though the information is available electronically.
- The MSHA online database should also be designed to allow a person to search for citations written on a standard and should automatically be linked to any appeals and decisions from the FMSHRC that were attached to that citation.
- All policy letters should be rescinded as they are vague and cause confusion among both mine operators and inspectors. If the Code of Federal Regulations needs to be revised, then revise it. Do not use policy letters to revise and clarify the regulations.

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