

## **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 contractors' surface mobile equipment in their safety program.

Q. I am not a part 45 independent contractor, but I work at several mines, am I required to have a surface mobile equipment safety program?

A. No. 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 a production operator or a part 45 independent contractor takes 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 to 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 is 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. No, portable crushers and screening plants don't typically move during mining operations. However, the standard does apply to mobile equipment associated with portable crusher and screening plants.

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.

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. If a belt conveyor is incorporated as a component in a piece of equipment, is that equipment included under the standard?

A. No.

## **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. Actions to identify and analyze hazards can include: 1) a review of accident data and information on close calls or near misses; 2) a review of workplace examination records; 3) a review of best practices materials; or 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); operation 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, 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 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. 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 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. Production operators or part 45 independent contractors can demonstrate compliance by 1) attending industry meetings or NIOSH and/or MSHA meetings that discuss available or newly emerging technologies; 2) reviewing equipment vendor material; or 3) attending mine safety and health conferences that include vendor exhibits and equipment demonstrations.
- 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.
- 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 Miner**

- Q. Does the standard include additional training requirements?
  - A. 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 programs under part 46 and part 48 into their safety program for surface mobile equipment.
- Q. If a production operator or part 45 independent contractor identifies hazards as part of the safety program and these hazards are not addressed in the part 46 or part 48 training plans, does the operator modify the safety program, training plans, or both?
  - A. MSHA expects production operators or part 45 independent contractors will integrate safety program training into part 46 and part 48 training plans. If production operators or part 45 independent contractors integrate safety program training with part 46 and part 48 training plans, new hazards can be addressed in the safety program or the training plans.
- Q. How frequently are miners trained on the safety program for surface mobile equipment?
  - A. If the production operator or part 45 independent contractor integrates the safety program training with part 46 or part 48 training plans, training must be provided as required by the training plan. In addition, miners must be trained when the safety program is modified.
- Q. If the training plan is missing a component, will MSHA cite both the training plan and the safety program?
  - A. Production operators and part 45 independent contractors who integrate their safety program training into existing training plans will be cited if the part 46 or part 48 training plan is missing a required component of the safety program training.

### **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. A safety program must be updated as soon as reasonably possible, but production operators and part 45 independent contractors should consult their district managers.

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.

### **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 safety program at the mine?

A. No.

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. 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?

A. Yes. However, the production operator or part 45 independent contractor must show that the industry safety program addresses the mobile equipment at the mine and meets the standard.