

# PUBLIC SUBMISSION

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**Docket:** MSHA-2018-0016

Safety Improvement Technologies for Mobile Equipment at Surface Mines, and for Belt Conveyors at Surface and Underground Mines.

**Comment On:** MSHA-2018-0016-0111

Safety Program: Surface Mobile Equipment

**Document:** MSHA-2018-0016-0148

Comment from National Lime Association

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## Submitter Information

**Email:** hprillaman@lime.org

**Organization:** National Lime Association

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## General Comment

Please find attached the comments of the National Lime Association. Thank you.

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## Attachments

nla comments on msha mobile equipment proposal final

AB91-COMM-27



Nov 8, 2021

Mine Safety and Health Administration  
Office of Standards, Regulations, and Variances  
1100 Wilson Blvd., Room 2350  
Arlington, Virginia 22209-3939

(Submitted electronically to  
Regulations.gov)

**RE: Safety Program for Surface Mobile Equipment (RIN 1219-AB91)**

The National Lime Association (NLA) is pleased to present its response to the proposed rule on Safety Program for Surface Mobile Equipment.

NLA is the industry trade association for the manufacturers of high calcium quicklime and dolomitic quicklime (calcium oxide) and hydrated lime (calcium hydroxide), which are collectively and commonly referred to as “lime.” Lime is used in a wide array of critical applications and industries, including for environmental control and protection, metallurgical, construction, chemical and food production. With plant operations located in 24 states, NLA’s members produce greater than 99 percent of the United States’ calcium oxides and hydroxides. Because NLA’s members operate both surface and underground mines under the jurisdiction of MSHA, NLA and its members have a substantive interest in this rulemaking.

NLA’s members are committed to safety as a core value of the lime industry, and NLA’s Health and Safety Committee has worked with MSHA staff to improve the overall safety of the lime industry workforce. NLA stands ready to continue to work with MSHA as new rules and legislation are implemented.

NLA commends MSHA for addressing the risks to miners working with mobile equipment at surface mines. NLA previously filed comments in 2018 in response to the Request for Information that preceded the current proposed rule, and in 2015 on a proposed rule addressed to coal mines, but which also requested input on the potential for proximity detection systems at metal/non-metal mines. Both prior sets of comments are incorporated here by reference.

**GENERAL COMMENTS**

As stated in NLA’s 2018 comments, NLA believes that while progress in technology has been made since the 2015 review of potential technological requirements for mobile equipment, it

remains the case that significant additional review will be needed before MSHA can determine what additional technological requirements, if any, should be imposed on metal/non-metal mines to further reduce risks from mobile equipment. Accordingly, NLA supports MSHA's proposal to not impose additional technological requirements at this time. Nevertheless, NLA strongly believes that MSHA, with the assistance of NIOSH and industry stakeholders, should continue to pursue this issue and assist in the development and identification of technologies that can reduce the mobile equipment risks in mine settings.

NLA also commends MSHA for addressing mobile equipment separately from conveyors in the proposed rule. As we pointed out in our 2018 comments, the use of the term "Powered Haulage" to include both mobile equipment and conveyors is not ideal. While both move material, the hazards and potential safety solutions are very different for these types of equipment, and NLA continues to believe that separating them increases clarity. Conveyors typically present hazards akin to other stationary equipment with moving parts, and the protective measures usually focus on guarding, emergency stop capability, start-up alarms, and lockout/tagout/try. Mobile equipment, on the other hand, presents hazards including collisions and travel over high walls, with very different safety solutions. In the specific comments below, NLA suggests a further refinement of the definition of mobile equipment.

NLA believes that many (if not most) responsible operators will already have procedures and programs in place that will satisfy the requirements of the rule as proposed. NLA suggests that MSHA make it clear that the mobile equipment program can refer to other existing programs and procedures relating to mobile equipment, and can incorporate these by reference. For example, subparts 46.5(b)(2), 46.6(b)(2), and 46.8(c) already direct operators to include the hazards of mobile equipment in Part 46 training plans, so the mobile equipment plan should be permitted to refer to the Part 46 plan already in existence.

A final general comment is that the rule does not clearly state how its requirements would apply to contractors, who have their own obligations and liabilities as operators if they employ miners. MSHA should make it clear that contractors operating mobile equipment must have their own program under the rule, and should clarify how contractor programs should be integrated with site programs.

## **SPECIFIC COMMENTS BY PROPOSED RULE SECTION**

### **56.23001 and 57.23001: Definitions**

NLA believes that the definition (and concept) of *Responsible Person* should be deleted from the rule. The obligation for preparing and implementing the program is placed on the operator, and there is no clear benefit in requiring the designation of a particular person to be responsible for the program. This is unlike situations in which persons must be specially trained or competent to perform certain tasks or provide specific training. Most of the proposed rule refers to what the "operator" must do with respect to the program, and this should be consistent throughout.

NLA believes that the definition of *Surface Mobile Equipment* is too broad, and could be interpreted to include equipment that is not truly mobile, such as personnel elevators, bucket

elevators, and others. We believe that this rule should be focused entirely on the hazards involved with equipment that itself moves (or is moved) around the mine site, and not on equipment that primarily shares hazards with other machinery with moving parts. We therefore suggest ending the definition with the words “capable of moving or being moved.”

#### **56.23002 and 57.23002: Written safety program**

NLA agrees that 6 months is an appropriate period for operators to develop a written safety program under the rule as proposed. However, NLA believes that an additional period, of at least six months, should be set before citations will be issued under the rule, to allow inspectors and operators to better understand the practicalities of compliance with the rule.

Subsection (b) referring to the designation of a responsible person should be deleted, as explained above.

#### **56.23003 and 57.23003: Requirements for written safety program**

NLA suggests that this section make it clear that the written program can incorporate by reference existing programs, plans, or procedures that satisfy the relevant requirements, such as the operation’s Part 46 training plan, and existing maintenance procedures.

*Subsection (a)(2):* MSHA should make it clear that this section does not require any new maintenance or repair procedures, but simply requires that the facility’s procedures be reflected (or referenced) in a written program. Some language in the proposed rule preamble could be read to suggest that the rule requires operators to comply with “any manufacturer’s recommendations.” MSHA’s current regulations do not require operators to comply with all manufacturer’s recommendations, and in some cases, those recommendations are not consistent with the actual use and management of mobile equipment in mine settings. The rule language itself does not purport to impose new maintenance or repair requirements (assuming proper procedures already exist, as they should in all well-run mines), and MSHA should verify that this is the case.

*Subsection (a)(3):* NLA believes that it is important that MSHA make clear that the rule language does not require the adoption of any particular technology, or any technology at all, but is strictly a requirement that the operator have a procedure to identify and evaluate potentially useful new technology. It should be made similarly clear that a decision not to adopt any particular new technology would not constitute a violation of this regulation.

*Subsection (a)(4):* As noted above, MSHA should make it clear that this section does not impose new training requirements, and that existing training procedures covering mobile equipment may be incorporated into the program by reference.

*Subsection (b):* The term “responsible person” should be replaced with “operator.”

**56.23004 and 57.23004: Record and inspection**

This section should indicate that the written program can be maintained and provided electronically.

NLA appreciates the opportunity to comment on these important issues.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Hunter L. Prillaman', with a stylized, sweeping flourish at the end.

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