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Ms. Jessica Senk
Office of Standards, Regulations, and Variances
Mine Safety & Health Administration
201 12th Street South, Ste. 4E401
Arlington, VA 22202-5452
Senk.jessica@dol.gov

Re: Safety Program for Surface Mobile Equipment;
Docket No. MSHA-2018-0016 (RIN 1219-AB91)

Dear Ms. Senk,

On behalf of Warrior Met Coal, Inc. I am respectfully submitting the attached comments regarding the proposed Safety Program for Surface Mobile Equipment. For simplicity, I have included the proposed standard and added any corresponding comments immediately following the standard. Should you have any questions or wish to discuss please contact me.

Respectfully,

A handwritten signature in black ink, appearing to read 'Rick Marlowe', with a long horizontal flourish extending to the right.

Richard A. Marlowe
Vice President of Safety
Warrior Met Coal Inc.

AB91-COMM 30

This subpart requires mine operators employing six or more miners to develop, implement, and update a written safety program for surface mobile equipment to reduce the number and rates of accidents, injuries, and fatalities. This subpart applies to surface mobile equipment at surface coal mines and surface work areas of underground coal mines. The purpose of this safety program is to promote and support a positive safety culture and improve miners' safety at the mine.

Comment:

The requirement employing six miners should be evaluated. Reading the proposal, an underground mine that exceeds 6 persons would be required to have a surface safety program regardless of the number of persons actually working on the surface. Consideration should be given to the number of pieces of equipment that would be working in a specific area opposed to total number of employees. For example, three persons operating equipment on a refuse pile, two persons operating equipment on a clean coal pile and one person in the yard would meet the 6 persons employment. When in reality, they are three separate locations and would not intermingle.

§ 77.2101

Definitions.

The following definitions apply in this subpart—

Responsible person means a person with authority and responsibility to evaluate and update a written safety program for surface mobile equipment.

Surface mobile equipment means 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, excluding belt conveyors, at surface coal mines and surface work areas of underground coal mines.

Comment:

The definition should be rewritten to exclude equipment that is used underground from this regulation. As written, the definition could allow for the interpretation that rail mounted equipment that is brought outside for the purpose loading or unloading of equipment or materials be included.

§ 77.2102**Written safety program.**

(a) Each operator subject to this subpart shall develop and implement a written safety program for surface mobile equipment that contains the elements in this subpart, no later than [DATE 6 months after effective date of the final rule].

(b) Each operator subject to this subpart shall designate a responsible person to evaluate and update the written safety program, no later than [DATE 6 months after effective date of the final rule].

Comment:

The requirement to identify a specific individual is an overreach and provides an avenue for the agency to unfairly place blame on an individual.

§ 77.2103**Requirements for written safety program.**

(a) The mine operator shall develop and implement a written safety program that includes actions the operator would take to:

(1) Identify and analyze hazards and reduce the resulting risks related to the movement and the operation of surface mobile equipment;

Comment:

This requirement is already addressed in Part 48 Subpart B for both New Miners and Experienced Miners. In addition, Task training also address this item.

(2) develop and maintain procedures and schedules for routine maintenance and non-routine repairs for surface mobile equipment;

Comment:

As written, this would allow MSHA to control the maintenance of equipment which could morph into items not directly related to health and safety of the miners. 77.404 already addresses the requirements of mobile and stationary machinery and equipment be maintained in safe operating conditions.

(3) identify currently available and newly emerging feasible technologies that can enhance safety at the mine and evaluate whether to adopt them; and

Comment:

This is widely open to interruption as to what is feasible and reasonable to be adopted and at what frequency or intervals this should be done.

(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.

Comment:

This requirement is already addressed in Part 48 Subpart B for both New Miners and Experienced Miners. In addition, Task training also address this item.

(b) The responsible person shall evaluate and update the written safety program annually or as mining conditions or practices change, as accidents or injuries occur, or as equipment changes or modifications are made.

Comment:

This is widely open to interruption as to why or when modifications would be required to be made to the plan. This interruption, if done by individual district offices, could result in many various requirements for modifications and potentially result in an unfair economic advantage or hardship. If this law would be enacted, the requirement to modify the safety program should go to a centralized location where the interruption and enforcement would be consistent.

§ 77.2104

Record and inspection.

The mine operator shall make the written safety program available for inspection by authorized representatives of the Secretary, miners, and representatives of miners, and provide a copy, upon request.