

**From:** [Michael Herges](#)  
**To:** [zzMSHA-Standards - Comments to Fed Reg Group](#)  
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Like other commenters, I applaud MSHA for attempting to reduce powered haulage accidents. With that said, this attempt is ill-advised as many of these accidents could have been prevented through simple compliance with the current regulatory standards.

Seat belts are required to be worn in haul trucks and equipment with ROPS. Safety inspections are required to identify brakes, steering and other components affecting safety prior to use and defective equipment is to be removed from service until repaired. Parking brakes are required to be set when equipment is unattended and wheel chocking is required when the equipment is on a grade. Dump sites are required to be inspected and berms are required on elevated roadways. Traffic control measures are required for self-propelled mobile equipment to provide for the safe movement of the equipment. And there are many more regulatory standards that if followed, the accidents would have been avoided.

Many of the provisions of the proposed standard are based on the subjectivity of the mine operator or as defined in the proposed standard, the responsible person. The level of detail will vary widely from mine to mine based on the subjectivity of the person or persons who wrote the plan.

Particularly troubling is the requirement to evaluate technologies annually. This should not be a requirement for the miner operators as you will see a wide range of capability to evaluate the technologies. And the adoption of technologies will also vary widely unless they are mandated by regulation as was the case with ROPS many years ago. If MSHA or NIOSH does the research and determines that a particular technology will reduce powered haulage accidents, then a standard could be written to require the technology on all equipment after a certain date. Retrofitting equipment is often a trial and error proposition, prone to failure and does not always provide the same benefit manufacturer designed and installed equipment.

If this proposed rule becomes a final rule, consideration should be given to changing the definition of surface mobile equipment. As currently defined, this will include the self-propelled mobile equipment, as well as, mobile equipment that is not self-propelled, such as wheelbarrows. Simply changing the definition to self-propelled will resolve that issue.

Furthermore, is it necessary to have a responsible person definition. A responsible person for each mine operation is already provided in the legal mine I.D. As the person responsible, this is the person accountable for all the activities which would include this standard if it becomes final.

In conclusion, strong consideration should be given to withdrawing this proposed standard and working toward ensuring mine operators are complying with the current standards. The evaluation of technologies should be done by MSHA or NIOSH with input from the mining community.

As a miner with almost 40 years of mining experience, I appreciate the opportunity to comment on this proposed rule.

Sincerely,

*Michael Herges, CSP, MPH*