



# ACNM Compliance Committee

## "Educating the Industry on Compliance Expectations"



Volume II- July 2010

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Recently, MSHA reported the top 20 citations issued to Sand & Gravel Industry nationwide during the months of January through April of 2010. Standard 56.14107(a), moving machine parts shall be guarded to protect persons from contact, was the number one violation with 13% of the total violations (881). Standard 56.14107(a) has been the top violation for the industry in recent years. A guide is available that provides compliance information to help meet current requirements of MSHA's guarding standards in regards to conveyor belts. See below for the link to the guide.

The following citations round out the top five:

- Standard 56.12004- 388 total violations. Electrical conductors shall be of sufficient size and current-carrying capacity to ensure that a rise in temperature resulting from normal operations will not damage the insulating materials.
- Standard 56.14100(b)- 330 total violation. Defects on any equipment, machinery, and tools that affect safety shall be corrected in a timely manner to prevent the creation of a hazard to persons.
- Standard 50.30(a)- 231 total violations. Each operator of a mine in which an individual worked during any day of a calendar quarter shall complete a MSHA Form 7000-2 in accordance with the instructions and criteria in §50.30-1 and submit the original to the MSHA Office of Injury and Employment Information, within 15 days after the end of each calendar quarter.
- Standard 56.14132(a)- 200 total violations. Manually-operated horns or other audible warning devices provided on self-propelled mobile equipment as a safety feature shall be maintained in functional condition.

[http://www.msha.gov/Accident\\_Prevention/EquipmentGuardingConveyorBelts2010.pdf](http://www.msha.gov/Accident_Prevention/EquipmentGuardingConveyorBelts2010.pdf)

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When setting up storage tanks for gas, diesel, oil etc. don't forget about staying in compliance with all of the regulatory agencies that are applicable to your set up. OSHA, MSHA, EPA and the local Fire Marshall will generally have many "safety" concerns that have to be met as well. In addition to SPCC and SWPPP requirements we also have requirements from the New Mexico Petroleum Storage Tank Bureau. When setting up a temporary (in place less than 365 days) storage tank or one that is less than 1319 gallons, these regulations may apply.

For tanks in one place for longer than 365 days the Above Ground Petroleum Storage Tank regulations state that by July 1, 2011 your tank must be certified, have a secondary containment, normal and emergency venting, overfill protection, leak detection, corrosion prevention, inspections by trained personnel and be included in an approved Operations and Maintenance Plan. The installation must be done by a certified installer and the entire system must be approved by the state before beginning the installation.

The Bureau conducts periodic inspections and can issue "Notices of Violation" for non compliance. For more information go to: <http://www.nmenv.state.nm.us/ust/ustbtop.html>

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### NMDOT On-The-Job Training

NMDOT recognizes four types of contractor based training programs one of which is the Workforce Development Program provided through the Associated Contractors of New Mexico.

Training and upgrading minorities and women is a primary objective of the Training Special Provision. The Contractor must make every effort to enroll minorities and women and must demonstrate the steps it has taken in this pursuit to be in compliance.

An OJT Schedule must be submitted to the NMDOT at the Pre-Construction Conference, which shall include a copy of the approved OJT program to be used, the approximate number of hours the trainee will be trained, the start date and the construction craft/crafts to be trained. Prime Contractors may elect to have Subcontractors provide On the Job Trainees, but the Prime Contractor still retains the primary responsibility for complying with this Special Provision.

No employee shall be enrolled as a trainee in any classification in which he has successfully completed a training course or in which he has been employed as a journeyman.

If the Contractor is found by the PM to be non-compliant with the Training Special Provision, \$1,000.00 per month for the first and second months following the non-compliance and then \$5,000.00 per month for the third and following months will be withheld. Amounts withheld from the Contractor's monthly progress payment under this provision are non-refundable and are considered liquidated damages.

Please read the Training Special Provision in your Contract Documents.

### HOT TOPICS

- **Safety** - Anticipate, recognize, evaluate, and recommend controls for environmental and physical hazards that can affect the health and well-being of workers. Areas to be aware of: air contaminants, chemical hazards, biological hazards, physical hazards and ergonomic hazards.
- **Labor** - In 2009, three times as many employers were targeted for employment verification audits than in 2008. In addition, Immigration and Customs Enforcement (ICE) issued 142 notices of intent to fine in 2009 totaling \$15.9 million, compared with 32 notices totaling \$2.4 million in 2008.
- **Environmental** - New draft language written into Air Quality permits for crushing operations requires weigh belts and data loggers to be installed on conveyors to monitor total aggregate through put.