



*A publication of the
Oregon Independent Aggregate Association
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Oregon Independent Aggregate Association Newsletter

April 2020

Chairman's Message

We hope this letter finds everyone safe and healthy. With all of the changes that have happened due to COVID-19, it can be hard to keep track of everything. Lots of advice and updates coming from a lot of directions. One set of issues with respect to the mining industry is how the COVID-19 closures and social distancing will affect interactions with MSHA. Josh Schultz with the Law Office of Adele Abrams provides a summary of MSHA program changes in this newsletter to help answer some of those questions.

For those of you who attended OIAA's MSHA refresher training in March – you are covered! For those that still need to meet their annual training requirements, please read Josh's article about interim extensions.

Take care everyone,

***Erick Staley
Chairman***

MSHA Response to COVID-19

Article by Josh Schultz

MSHA has announced that they will continue to perform essential functions, including mandatory inspections, serious accident investigations, and investigations of hazard complaints during the COVID-19 pandemic. However, MSHA is instructing their inspectors to maintain distance from miners while performing inspections and the agency has suspended some of their non-statutorily required duties.

The agency also announced that they will extend recertification dates, at a minimum, for the duration of President Trump's emergency declaration. The President declared a national emergency on March 13, 2020; mines will not be cited if they have not recertified any of the following requirements which lapsed during the emergency period:

- Annual refresher training certification (30 CFR Part 46)
- Surface and underground annual refresher training certification (30 CFR Part 48)
- Certified person; sampling (30 CFR §§ 70/71/90.202)
- Certified person; maintenance and calibration (30 CFR §§ 70/71/90.203)

Mines must recognize that these exemptions do not include new miner training; MSHA specifically notes that "new miners must be trained before beginning work." 30 CFR § 46.5 requires that new miners must receive 4 hours of training on seven specific subjects before a new miner begins work at the mine. Mines must provide the balance of the 24 hours of training on any other subjects that promote occupational health and safety for miners at the mine within 90 days of a new miner beginning work at the mine.

MSHA suspended Educational Field and Small Mine Services visits, as well as special safety and fatality initiatives that normally would gather groups of miners on-site to discuss topics such as powered haulage, electrocution, and contractor safety.

The agency did recognize that some mining operations are not running at full capacity and have limited crews working. If a mine operator alerts MSHA to changes in production at a site, MSHA will, to the extent possible, limit the number of inspectors sent to that mine for a regular inspection proportional with the mine's continuing operations.

MSHA has not issued guidance regarding whether an instance of employee exposure to COVID-19 is reportable to the agency. However, 30 C.F.R. § 50.2(f) defines "occupational illness" as an illness or disease of a miner which may have resulted from work at a mine or for which an award of compensation is made. If operators have evidence of COVID-19 exposure at the mine site and a miner has a confirmed case of the virus, it would likely trigger the "may have resulted from work at a mine" requirement and would then qualify as a reportable illness.

The United Mine Workers of America posted a public letter to MSHA, calling on the agency to issue an emergency standard to help safeguard mine workers during the COVID-19 pandemic. The UMWA's letter requests MSHA require mine operators to: "provide access to N95 respirators; implement policies and procedures for disinfecting equipment between shifts and when changing operators; offer extra personal protective equipment for pulling cables, touching shared equipment and handling shared materials; and provide disinfectant strategies for bathhouses and gathering places."

If anyone has any information they would like to share in next month's newsletter regarding the COVID-19 guidelines or what you have done at your company that may help others please let me know. Please send your email to me at memberreply@oraggregate.com

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Due to the COVID-19 current stay at home orders, we are working on the date and time of the next meeting.

memberreply@oraggregate.com

Stay Safe, Stay Healthy