

Risk Management Bulletin

A Bulletin for Members of the South Dakota Public Assurance Alliance and the SDML Workers' Compensation Fund

July 15, 2009

Volume 1, Number 6

In This Issue

- MSHA Inspections and Reflective Triangles
- Written Training Plans
- Annual Refresher Training
- Gravel Pit Checklist
- Reflective Triangle Regulations

Link to Web Page MSHA

<http://www.msha.gov>

Contact Us

South Dakota Public
Assurance Alliance

<http://www.sdpa.org>

SDML Workers Compensation
Fund

<http://www.sdmlwcfund.com>

Safety Benefits, Inc.

4901 Isabel Pl. Suite 120

Sioux Falls, SD 57108

(888) 313-0839

(605) 334-9567

Mitchell

(800) 408-9040

(605) 996-5072

Doug Kirkus

dkirkus@safety-benefits.com

(Please note: This newsletter is being sent to you in a reader friendly format with color and graphics. If you are receiving it as plain text, please check your e-mail program settings to allow you to view it in "HTML format".)

MSHA Inspections and Reflective Triangles

We have been notified by 2 County Highway Departments that they have received MSHA inspections within the past 6 weeks. Both departments have or are going to be fined for various violations. The purpose of this bulletin is to offer you some reminders as to the more common violations that are being cited by MSHA Inspectors. We have also outlined some of the various training aids that we have available to assist you with MSHA compliance.

On another note not dealing with MSHA, we recently fielded a question concerning any requirements for the use of reflective triangles whenever a truck or piece of equipment is stuck or disabled. Please read the regulations later in this bulletin so your entity complies with South Dakota Codified Laws.

Written Training Plans (30 CFR 46.3)

Each department that is involved in sand and gravel operations **must** develop and implement a written plan that contains effective programs for training new miners and newly hired experienced miners, training miners for new tasks, annual refresher training, and site-specific hazard awareness training. Both Highway Departments are facing potential fines for not having a written training plan.

We have developed a tool to assist you with the development of a written training plan. The CD contains step-by-step instructions that you can use to develop your training plan. It also contains the various MSHA regulations that pertain to written training plans, the video/DVD and on-line training resources that we have available to assist you with training your employees and the appropriate training record forms to document the training that you need to provide for your employees. Thanks to Nancy and Larry at the Aurora County Highway Department, we have also included a copy of their written training plan that was recently approved by MSHA.

To obtain a copy of this CD you can contact Janet at jsporrer@safety-benefits.com or call us at (888) 313-0839.

Janet Sporrer

jsporrer@safety-benefits.com

Annual Refresher Training (30 CFR 46.8)

Make sure that you have completed the final hour of site-specific training as required by 30 CFR 46.8. If you recall, we provide 7 of the 8-hours of the Annual Refresher Training required. You still need to provide 1 more hour of site-specific training. This training should include instruction on changes at the mine that could adversely affect your employee's health or safety and health and safety subjects relevant to mining operations at your mine site(s).

This training can be taught by any employee(s) that you have identified as a competent person(s) in your written training plan. Also, don't forget to include Safety Benefits, Inc. as a competent person in your written training plan as we provide the instructions for the Annual Refresher Training.

Gravel Pit Checklist

The following are just a few of the items that you need to make sure you have completed and are present and/or operational at your pit site or shop:

√	Items	√	Items
	Shop/Office:		Hard Hats
	Written Training Plan		Protective Footwear
	Training Records:		Machines Guarded
	• New Employee Training		Berms/Dump Site Restraints
	• Annual Refresher Training		Equipment:
	Written Haz Com Program		• Working Backup Alarms
	Pit Site:		• Working Parking Brake
	MSDS Present– Incl. Gravel		• Seat Belt Worn
	First Aid Kit		Electrical:
	Stretcher/Blankets		• Cover plates present on electrical equipment and junction boxes
	Fire Extinguisher		• Insulation on power wires and cables in good condition
	Bottled Water		• Electrical conductors of sufficient size and capacity
	Toilet Facilities		• Electrical conductors exposed to mechanical damage protected
	Safety Gas Cans		• Grounding systems tested

Reminders:

- Make sure that you have an updated written training plan in place and that you have training records for all newly hired employees including the Annual Refresher Training Records for all employees who work at a pit site. These records can be kept in the office.
- You need a Material Safety Data Sheet (MSDS) for each chemical that is located at a pit site. Don't forget to include an MSDS for gravel. These need to be readily available to your employees. An

MSDS should be present at the pit site for each chemical that is located at the pit.

- In addition to a first aid kit, you also need a portable stretcher and blankets at the pit site. If you need a stretcher, we recommend that you check with your local Emergency Management Director as they often have access to surplus canvas stretchers.
- MSHA regulations require an adequate supply of potable drinking water be provided at all active working areas (30 CFR § 56.20002). Because there are other regulations that are a part of this, we recommend using bottled water at the site.
- Toilet facilities are required at pit sites and need to be readily accessible to mine personnel (30 CFR 56.20008). Some departments have purchased or contracted port-a-potties to be located at the pit site.
- Only safety cans are acceptable for gas or flammable liquid storage as plastic gas cans are not allowed at pit sites. Gasoline powered equipment must be shut-off during refueling. Diesel powered equipment is exempt from this requirement.
- Hard hats are required to be worn anytime you are outside a vehicle or piece of equipment while at a pit site. Protective footwear is also required. MSHA has defined protective footwear as steel-toed boots. Strap-on metatarsal guards are acceptable.
- Make sure berms and dump site restraints are in place. For further definitions and requirements, refer to 30 CFR 56.9300 and 56.9301.
- Daily inspections should be made of all equipment located at the pit site. Make sure all moving machine parts are properly guarded. Make sure back-up alarms and parking brakes are functioning on all equipment. Parking brakes should be capable of holding the equipment with its typical load on the maximum grade it travels.
- Make sure all employees are wearing seat belts whenever operating vehicles/equipment.
- If using electrical powered equipment, make sure that all inspection and cover plates are in place, that insulation and fittings for power wires and cables are in good condition and when insulated wires pass through metal frames, the holes are substantially bushed with insulated bushings.
- Continuity and resistance of grounding systems shall be tested immediately after installation, repair and modification; and annually thereafter. These tests need to be documented and the records kept on file.

Reflective Triangle Regulations

We recently fielded a question asking if there are any requirements for city and county trucks/equipment to use reflective triangles if the vehicle/equipment becomes stuck or disabled on the road. After researching Federal and State Laws, here is what we found.

According to FMCA 393.95, "Each truck, truck tractor, and bus (except those towed in drive away/tow away operations) must be equipped with the following: (f)(1) "Three bi-directional emergency reflective triangles that conform to the requirements of Federal Motor Vehicle Safety Standard No. 571.125 of this title".

SDCL 32-17-28 states: **Vehicles required to be equipped with portable flares, lights or reflectors-- Visibility--Violation as**

misdemeanor. "Every motor truck, tractor, truck tractor, farm tractor, road tractor, or road patrol, or any and all combinations thereof, including trailers and semitrailers, and all vehicles exceeding a width at any point of eighty inches operated on the public highways of this state whether operated for commercial purposes or otherwise, shall be equipped at all times with at least three portable flares, or red electric lights, or red reflectors, or emergency reflective triangles, in workable condition which, when lighted and placed as provided in § 32-17-29, are plainly visible for a distance of five hundred feet. No flame-producing flare or emergency signal may be used when the vehicle is transporting explosives, flammable liquids, flammable gases, or when the vehicle is a cargo tank used for transporting such flammable products. A violation of this section is a Class 2 misdemeanor. A subsequent violation is subject to § 32-17-30."

SDCL 32-17-29 states: **Time during which flares must be displayed--Location and spacing of flares-- Removal of vehicle--Violation as misdemeanor--Exceptions.** "Every operator of a motor truck, tractor, truck tractor, farm tractor, road tractor, or road patrol, or any combination thereof, including trailers and semitrailers, and all vehicles exceeding a width at any point of eighty inches, shall, immediately upon bringing his vehicle to a stop upon the traveled portions of any public highway, place three flares, red electric lights, red reflectors, or emergency reflective triangles on the roadway. If traffic on the roadway moves in two directions, one of these devices shall be placed at least one hundred feet in the front, one at least one hundred feet to the rear, and one alongside the stopped vehicle. Upon a one-way roadway or divided highway, one of these devices shall be placed at least one hundred feet to the rear, one at least two hundred feet to the rear, and one alongside the stopped vehicle. The flares, red electric lights, red reflectors, or emergency reflective triangles shall be of such type of construction as will furnish continuous light for a period from sunset to sunrise at all times of the year. It is the responsibility of the driver or the person in charge of the vehicle to remove the vehicle in the most expeditious manner. Any vehicle found parked in violation of this section may be immediately removed to a place of safekeeping as directed by a police officer. Any vehicle removed pursuant to this section shall be disposed of as directed by §§ 32-30-15, 32-30-16.1, and 32-30-18. A violation of this section is a Class 2 misdemeanor. A subsequent violation is subject to § 32-17-30.

This section does not apply if the stopping is momentary, in obedience to an intersection stoplight, or conforming to the movement of a line of traffic or within the corporate limits of a municipality.

Discussing this issue with the South Dakota Highway Patrol we were informed that under Federal Regulation, cities and counties are exempt from having 3 emergency reflective triangles. However under South Dakota Law, SDCL 32-17-28, cities and counties are required to have the 3 emergency reflective triangles in the truck/equipment (covered by these laws) at all times and they are to be properly placed in accordance with the law. It does however exempt vehicles/equipment that is stopped within corporate limits of a municipality. Even though the law exempts using reflective triangles within a municipality, we recommend, as a best practice, to properly place 3 emergency reflective triangles whenever a

truck/equipment becomes disabled in the roadway regardless of whether or not you are within the corporate limits of a municipality.

Please remember that work zones and the placement of traffic cones are covered by the **“Manual on Uniform Traffic Control Devices”** (MUTCD) and the regulations for work zones should not be confused with the above laws.

Conclusion

As we have discussed during the Annual Refresher Training classes, MSHA has not forgotten about cities and counties working in gravel pits. Over the past several months, we have seen an increase in the number of MSHA inspections, especially in eastern South Dakota. Just within the past 6 weeks, we have learned of 2 County Highway Departments that have had inspections and have either been fined or are facing potential fines for violations of the MSHA regulations. Remember, fines are not covered by insurance so they come directly out of your budgets.

Don't forget to check your trucks/equipment that travel on public highways to make sure that they are equipped with 3 emergency reflective triangles. Make sure your drivers/operators are aware of the laws pertaining to the placement of these devices should their trucks/equipment get stuck or become disabled on the road. Failure to do so could result in a traffic citation and should a motor vehicle crash occur because of the failure to use them, a potential lawsuit.

Safety Benefits has been hired by the South Dakota Public Assurance Alliance and the SDML Workers' Compensation Fund to provide safety and loss control assistance to their members. In addition to the various on-site training classes that we provide, we also maintain a Video/DVD library covering many different safety and loss control training topics. The Pools provide on-line training on 18 different safety topics, some of which you can use for MSHA training. The on-line training courses were recently upgraded to new flash-based technology so they are more user-friendly. Through our **“Take Time for Safety”** series, we can provide you several different “tailgate” or “toolbox” safety training sessions that can also be used for MSHA training. Each training session is designed to be used during those busy times when you may only have 10 minutes to discuss a particular safety topic. To further assist you with the development of a written training plan, don't forget the CD that we developed with step-by-step instructions on how to write a training plan that will meet the MSHA requirements. Remember – all of our services are free-of-charge to Pool members.

You are receiving this e-mail as a benefit of your South Dakota Public Assurance Alliance and/or SDML Workers' Compensation Fund membership. Are you receiving it from a friend or co-worker? Would you like your own FREE subscription? To SUBSCRIBE send a return message by clicking on “reply” with “subscribe” entered into the subject field. To UNSUBSCRIBE, send a return message by clicking on “reply” with “unsubscribe” entered into the subject field.