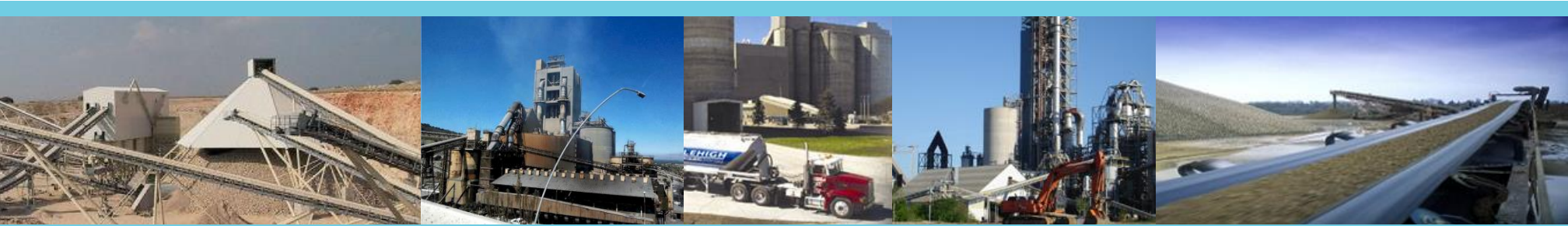


# CALCIMA

California Construction and Industrial Materials Association

## Contractor Management Basics



*Common Sense and Proactive Management Practices  
Relating to Contractors on MSHA Regulated Sites*

## Please Note - IMPORTANT

The information and guidance provided in this presentation, any accompanying documentation, interpretations of regulatory requirements and other things associated with this presentation should not be considered as legal advice.

This material should only be viewed as recognized common safe practices within our collective industries and good management practices that may or may not result in limiting liability and risk reduction.

Policies and practices in managing contractors may vary and proper legal advice may be necessary to ensure the best results for your company.



# Definition and Legal View – What is a Contractor?

- Independent contractor:
  - “Any person, partnership, corporation, firm, association or other organization that contracts to perform services or construction at a mine”
- Federal Mine Safety and Health Review Commission two-prong test:
  - Commission found a contractor's activity to be sufficiently related to the extraction process where “its employees are exposed to mining hazards” and have “a direct effect on the safety of others.”
  - “Extended period” = At least six days at the mine during a 2 ½ month period, and his contracts could be expected to continue.



# Definition and Legal View – What is a Contractor?

- Contractors performing work on a mine operator's property are subject to MSHA regulation compliance and enforcement.



# Definition and Legal View – What is a Contractor?

- A contractor is not required to file a legal identity report with MSHA unless:
  - They have been cited for a violation
  - Perform one or more of the following types of services
    1. Mine Development, Including Shaft And Slope Sinking
    2. Construction Or Reconstruction Of Mine Facilities; ; Including Building Or Rebuilding Preparation Plants , Mining Equipment And Additions To Existing Facilities
    3. Demolition Of Mine Facilities
    4. Excavation Or Earth Moving Activities Involving Mobile Equipment



# Definition and Legal View – What is a Contractor?

- Perform one or more of the following types of services - CONTINUED
  5. Construction Of Dams
  6. Equipment Installation, Such As Crushers And Mills
  7. Equipment Service Or Repair Of Equipment On Mine Property For A Period Exceeding Five (5) Consecutive Days At A Particular Mine
  8. Drilling And Blasting
  9. Material Handling Within Mine Property; Including Haulage Of Coal, Ore, Refuse, Etc., Unless For The Sole Purpose Of Direct Removal From Or Delivery To Mine Property





# Joint Legal Responsibilities

- Mine Act (operator equals contractors) No essential difference. Part 45  
(quote the PPM, Mine Act, etc. Shared compliance responsibility)

Definition from Mine Act: operator and contractor

Pithy – Ensure that your contractors are aware of these responsibilities

Provide them with references, handouts, etc.

“Good safety practices and good business practices – not just compliance”





# Consequences

- Dual citations for same violation created by a contractor or by actions of the contractor. Action or omission.
- Civil and General Liability cases: Contractor employee injured, operator sued.
- Strict liability under MSHA
  - What your contractor does, MSHA can cite YOU and them both
    - Also, work comp, other legal liabilities may attach
    - Twenty mile coal case
    - Part 46 Application -



# Recommended Management Practices

- Best practices involve layers of protection to minimize the risk and liability associated with contractor activities on your site.
- Before They Arrive
- When They Get There
- While They are There
- After They Leave



# Before They Arrive

## Contractor selection/pre-qualification

- Vendors who perform pre-qualification services
  - BROWZ
  - Veriforce
  - PICS
  
- Or do it yourself....



# Before They Arrive

## Contractor selection/pre-qualification

- MSHA Database Searches
- Professional Licenses – State Contractor Licenses
  - Asbestos
  - Haz-Mat
  - Blasting
- OSHA 300 Log
- IIPP/Code of Safe Work Practices/Equivalent Safety Program
- Insurance Certificates
- Haz Chem Program, Part 47
  
- Create a pre-qual form...standardized



# Before They Arrive

## Contract Language

- Outlining contractor responsibilities and requirements while on operator's sites in contract
  - Title 8
  - MSHA
  - Applicable Environmental Regulations
  - 40 CFR
  - Title 22
  - "Thou shall comply with..."



# Before They Arrive

## Verification of Training/Competency

- Part 46/48 Compliance and Training Documentation (when is it required)
  - Crane Operators
  - Respirator Fit Test Certs (if required)
  - Equipment Operation
    - Forklifts
  - Trench and Shoring
  - Task Training
- 
- Someone must be assigned to verify
  - Provide guidance as to how deep one can/should dive into verification





# When They Get There

- Site Specific Hazard Training Conducted
- Pre-start meeting outlining basic expectations
  - What to do when MSHA arrives
  - SDS's on site
  - Common Citations
  - HOUSEKEEPING – HOUSEKEEPING – HOUSEKEEPING
  - Anything not covered in Site Specific Training – Changes
  - Lock-out Tag-out
  - Confined Space
  - Hot Work Permits
  - Additional Site Specific Permits and Requirements
- Equipment Use Agreement Review
- Introduction of Site Personnel
- Emergency Procedures





# While They are There

- Review their work (inspections, observations)
- Inspection of equipment as well (ie, don't have blinders on)
- Interact with Contractor's crew leaders, supervisors or highest person of authority onsite.
- Interact with contractor's safety personnel
- Account for shift changes, personnel, supervision, etc.
- Daily Work Permit
- Interactions, inspections and reviews are documented/diariied
- Tail gate/Pre-Task meeting attendance



# While They are There

- Provide contractor information/contact data for MSHA Contractor Register
- Trade name, business name, business phone number, MSHA ID if they have one
- Job walks – job progress (good time to interact with crews)



# After They Leave

- Verification of job completion
- Punch-list
- Condition of area
- Guards in place, holes covered, handrails, exposed wiring, damage to plant, safety devices, e-stop cords
- Housekeeping
- Equipment returned, or not left on site
- Chemical spills, containers,



# Recordkeeping

- Contractor Register
- Insurance Certificates with Additionally Insured Statements
- Haz-Waste Manifests (copies)
- “As-Built” Plans
- Training Docs
- Equipment Inspections
- Interactions Diaries
- Workplace Exam Documentation
- SDS’s
- Permits and Licenses Copies
- Flash Drive Storage Electronically Archived



# Recordkeeping

- Environmental
  - Gasoline/Fuel Usage Logs or Operating Hours
  - Waste Streams
  - Diesel Red Dye vs Over the Road Use
  - Equipment Operating Permits



# Good Management Practices – Before Work Begins

- Pre-Job Meeting: Set Expectations
  - Site Specific info/training
    - Hidden hazards (asbestos)
- Training records - in detail
  - Records in hand, not just “trust me”
  - Specialty training (crane operators)
  - IIPP, Heat illness plan, respirators, first aid trained, etc..
  - Provide Hazard Training
- SDS/Enviro concerns
  - Of plant, and from contractor
- Equipment coming on site
  - Certified? Trained?



# Insurance Requirements

- Insurance certificates are adequate, up to date.
  - Verify through contact with Insurance company
  - Resource: risk/legal department
  - Lehigh Hanson has guidelines, but you can set your own
  - Risk of minimal insurance – Signed off by upper management
  - Levels: insurance and risk and scope of job
- BROWZ Contractor Pre-Qualification
  - Vendors and contractors are being contacted
  - Training for users



# Good Management Practices - While work is done

- Review their work (inspections, observations)
- Inspection of equipment as well (ie, don't have blinders on)
- Interact with Contractor's crew leaders, supervisors or highest person of authority onsite.





# Good Management Practices

- Co employment issues
  - What is?
  - How to avoid?
- Directing the workforce
- Stop any unsafe activities (yourself)
  - Grant limited authority to contractors (per your plant policy)
- Does the contractor have an SOP for correction of unsafe conditions?



# Regulatory Liability – *Most Severe Effects*

- Dual Citations
- Impact inspection selection
- High Negligence → High Penalties
- Serious Violations → Special Investigations
- Prosecution of Agents



# MSHA's Stated Policy

Cite Only Contractor, *Unless Owner:*

- Contributed to Violation
- Contributed to Prolongation of Violation
- Controls Abatement
- Employees Were Exposed



# Recommended Actions for Mine Operators

## During Contractor Work:

- Do Not Direct Work
- Talk to Contractor Management
- Check for Violations
- Record Enforcement of company policies
- Record walkabouts
- Require Injury and Accident Reporting
- Stop Unsafe Work Immediately
- Use a Punch List to ensure work was done correctly
- (do's and do not's separated)



# Recommended Actions *for Contractors*

- Learn MSHA Responsibilities
- Obtain MSHA Legal Identification
- Conduct MSHA Training
- Keep Owner Informed on Training
- Report Injuries and Accidents to MSHA and Mine Owner
- Insist on Employee Safety
- Make Records of Enforcement
- Stop Work Authority Granted



# Resources

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- MSHA
- Safety and Health Personnel
- OSHA
- CalOSHA

