

Statement of Mack McNeely  
Before the House Committee on  
Oversight and Government Reform

June 21, 2013

Mr. Chairman and Members of the Committee, thank you for holding this hearing and for this opportunity to testify before you. I appreciate your interest in our concerns with the Mine Safety and Health Administration, MSHA.

I am Mack McNeely. I am Vice President of LBM Industries in Sapphire, North Carolina. We operate two stone quarries and a river sand operation that are under MSHA jurisdiction, the Whitewater Quarry in Transylvania County, and the Hewitt Quarry in Swain County, and the Solesbee Sand Pit in Macon County.

Our Hewitt Quarry, which we operate under the name Nantahala Talc and Limestone, is the oldest continuously operated quarry in North Carolina, and we have been an important employer as well as supplier of stone and building products for our community for many, many years. We are proud of the contribution that we make in our community and we are proud of our mining operations.

We treat safety at our mines as very, very important. We are a pretty small operation, and everyone that works at the mine knows everyone else. We work hand and hand with our employees, and the last thing we want is for anyone at our mines to get hurt. We have a very good safety record. Whitewater quarry has only had one lost time accident in the past 13 years, Hewitt Quarry has only had one lost time accident in the past 27 years, and Solesbee has not had a lost time accident in the 9 years that we have operated it. Over the past 5 years we have had only one lost time injury report, and that happened this year when one of our employees thought he was having symptoms of a heart attack while he was at work. We took him to the hospital, and it turned out he had a case of pleurisy and was treated for that.

I also want to say that I am not here to criticize MSHA's role of keeping mines and miners safe. MSHA has an important role, and we support that role.

But we do have concerns with how they interpret their role. We know our role, and safety is paramount to us. We don't mind to follow the rules, but we should be able to know what they are, definitively.

I think the biggest problem we have with MSHA is how unpredictable and inconsistent they are with the interpretation and enforcement of their requirements for our mines. Let me give you a couple of examples of what I mean by that.

In 2010 we had an inspection at our Whitewater Quarry. We have a conveyor there with a guard at each end of the conveyor to keep anyone from accidentally contacting a moving part. The conveyor and guards were installed new in 1998. Before putting the conveyor in service we asked for and received a courtesy inspection by MSHA. Between 1998 and 2010, we had approximately 23 MSHA inspections, and in none of those did an inspector ever have a problem with the guard. Then the inspector in 2010 came in and said the guards were not adequate, that they didn't cover quite enough. So we had to close down production for 24 hours while we replaced the guards. We could have appealed the citations, and after years of work, we might have had them vacated. But, in any scenario, we couldn't resume production until we had built and installed new guards that were satisfactory to the inspector's opinion on that particular day. After the cost of being shut down for a whole day, the penalty was pretty insignificant, so we just paid it. Having the citations vacated years down the road would have been a hollow victory. But it didn't mean we were any less upset by what seems to us to be the totally arbitrary and unpredictable interpretation of the rule.

Another indication of this problem involved a conveyor issue at our other quarry. Over the past few years we have upgraded most of the equipment at the Hewitt quarry. When ordering new conveyors from a manufacturer in Pennsylvania, they asked us to provide drawings showing where to locate and install the safety rails that run alongside the conveyor's walkways. When we asked why we need to provide the specifications, the conveyor company basically said that every MSHA district interprets the safety railing standard differently, and that there was no way he could install a rail that satisfied the inspectors of all the districts.

Another citation we had in 2010 was at our Hewitt Quarry. We had a Bobcat skid steer that we used around the plant for cleaning up small spills, etc. The inspector cited us because along the edge of the loose end of the seat belt, past the buckle, the belt fabric was a bit frayed. I have included pictures that show how little fraying there was, and that it was along the loose end of the belt.

We actually had our heaviest miner sit in the Bobcat to see whether, when he pulled the belt out to fit him, the buckle would be on the frayed area, and it was not. So the fraying had no effect on the operation of the belt. On top of that, this Bobcat has a maximum speed of 7 mph, and it has a metal safety bar that has to be lowered across the operator's lap before the machine will operate. Despite all of that, the inspector gave us a citation for an "S&S" (significant and substantial") violation, high negligence, and likely to cause fatal injury, with an \$1100 penalty. When we questioned how he could write it up as so serious, he just said, well we write every seat belt violation as serious and fatal. We were eventually able to negotiate that one down to a non-S&S and \$224 penalty instead of the \$1100 that we were initially assessed for, so we paid it and moved on. But it should not have been cited at all, it had nothing to do with safety, and it appeared to us that it was just the inspector having to show someone that he was issuing citations.

The last example is one that is still on appeal. In May, 2011 we were inspected at the Hewitt Quarry and we received an "imminent danger" order and a citation because one of our supervisors did not "tie off" when he climbed onto the motor deck of one of our excavators in order to check the engine oil before turning on the excavator.

To explain this one I have to give a little bit of background. MSHA has been, understandably, concerned about the danger of miners falling from work platforms on mobile equipment, some of which can be pretty high. But rather than trying to write a standard for mobile equipment that everyone could agree on and that would make sense, MSHA has tried to apply general standards that don't fit. So the two standards that they have used most are one that requires use of a harness and lanyard "where there is a danger of falling" (56.15005), and one that requires "safe means of access" including handrails along elevated surfaces.

Most of the time, it is not all that practical to use a harness and lanyard when doing routine maintenance, like checking the oil, on an excavator. Because, if your tie-off point is several feet from the engine cover, your lanyard probably isn't going to be very effective at preventing you from slipping, and it may be a hazard, when you are trying to move around.

Most of the manufacturers of large mobile equipment design their equipment to comply with industry standards, and there are industry standards (ISO 2867 and SAE J185) for "Access Systems" on this equipment that the manufacturers recommend we follow when operating and doing routine maintenance. But around 2009, MSHA started telling operators that they had to install handrails along decks and walkways on mobile equipment. The machines met the standards of the Society of Automotive Engineers and the International Standards Organization, but that was no longer good enough for MSHA. The standards accepted by the rest of the modern world as safe were no longer satisfactory to MSHA. In February 2010 we were informed by an inspector that if we had a person on the deck of a hydraulic excavator we would have to provide safe access or fall protection. So mine operators, like us, started asking our equipment suppliers for "retrofitted" handrails or guardrails for our equipment. But you don't just install a guardrail on a certified piece of equipment, and the equipment manufacturers don't generally supply such things.

So in our case, we talked with Caterpillar about getting a guardrail for one of our excavators. They told us that they did not supply such guardrails, in part because MSHA "has not provided clearly defined standards regarding adequate fall protection/safe access." I have included the letters from Caterpillar with this testimony.

Caterpillar did give us the name of an after-market supplier, and we ordered a guardrail kit for our newest machine to see if it would work. It cost us \$4500. We also built and installed a handrail kit in our shop for one of our older machines. We had about a dozen machines that would require handrail kits. We were looking at spending about \$54,000 plus installation costs for this new initiative.

So this was in early 2010, and there was a lot of uncertainty about what MSHA required and how we would comply, and so on. This issue got big enough

that the national office for MSHA began talking with the equipment manufacturers and mining associations about it, and as a result, in June 2010, MSHA issued a Program Information Bulletin, P10-04, which I attached to my statement.

I won't go through the whole Bulletin, but essentially it appears to say that if the equipment is designed and manufactured in accordance with the ISO or SAE industry standards for safe access for operation and routine maintenance, and if the operator is following the manufacturer's recommendations for accessing the equipment, then that will be sufficient. You don't have to go beyond what the manufacturer has installed and attach guardrails, if the equipment complies with the international industry standards. Incidentally, we received this bulletin before our first custom ordered handrail kit arrived, and we were relieved that we had not ordered kits for all twelve machines.

Needless to say, we were happy to get some clarity and certainty about the rules. A couple of months after the Bulletin came out, in November, 2010, I was at a meeting of the North Carolina Aggregates Association in Charlotte, where Assistant Secretary Joe Main spoke and answered questions. One of the questions was about what MSHA was now requiring for mobile equipment, and the Assistant Secretary referred to this Program Information Bulletin, and said that if the equipment was certified and we were following the manufacturer's recommendations, then we would be fine with MSHA.

So we thought that was pretty solid. It appeared that the matter was finally settled. We told our folks to use what the manufacturers had installed. I want to add that on all of our equipment, the handholds and footholds that the manufacturers have installed allow you to always have at least 3-points of contact, just like when you are climbing a ladder. These are the same excavators that you will see on highway and other construction jobs all over the nation.

So in May, 2011 we had our inspection, and during the inspection the inspector asked to inspect one of our excavators that was not being used that day.

Our mine supervisor who was accompanying the inspector said, ok, but I need to do a pre-shift exam first. So, in full view of the inspector (because he

thought he was in compliance), he proceeded to climb the ladder on the side of the excavator, and step onto the motor deck and lean down and grab the handholds in order to access the engine compartment. (I have attached a couple of pictures that show the deck and handholds.)

After he had gotten onto the motor deck and was holding the handholds, the inspector told him to immediately come down, that he was issuing an imminent danger order because he was not tied off.

The inspector subsequently wrote us a citation for not using fall protection. At the closing conference we tried to explain to the inspector what our understanding of MSHA's policy was, and about having heard it directly from the Assistant Secretary. He said he would take it up with his supervisor. The next thing we got was a "special assessment" with a penalty of \$6300.

It is important to note that in attendance at the inspection close out meeting was a representative from congressman Heath Shuler's Office. We, along with a group of miners in his district, met with the congressman during the late summer of 2010 to discuss the issues we were having with MSHA. This fall protection/safe access issue with excavators was one of the items discussed. Because of the congressman's familiarity with the issue, we felt that his office should be informed of the citation and withdrawal order.

At the close out meeting the inspector acknowledged that he didn't know that the superintendent maintained 3 point contact.

Finally the inspector told the Congressman's representative "This is not about safety. It's about compliance." I ask you compliance with what? 0

Feb, 2010- inspector says we need additional fall protection.

June 2010-Bulletin says no additional protection required.

Nov. 2010- Joe Main says no additional protection required.

May, 2011- Imminent danger order, citation, fall protection/safe access required, a \$6300 fine. Remember "This is not about safety, it's about compliance."

As I said, we are still contesting this citation, and unfortunately it is costing us money to do that. We know that other operators were cited after the bulletin came out and in light of the confusion over the bulletin and MSHA's public statements, some of those citations were vacated. We hope that they will eventually do the same for us. But this citation was conferenced with the Knoxville office supervisor and has been handled by an MSHA attorney that has offered no significant reductions. But we would also like to see MSHA clarify and actually follow its policy. It seems the previous effort, the 2010 Information Bulletin, confused not only the operators but the Assistant Secretary as well. Quite frankly, we still do not know what we are supposed to do about the excavator access issue, we have had inspectors since that May 2011 inspection tell us that the citation should not have been issued or they didn't understand why it was written.

Maybe inspector LaRue described today's climate best when he said "It's not about safety, it's about compliance." MSHA's focus needs to change from compliance back to safety. Quite honestly MSHA has introduced so much vagary, distrust, and uneasiness into our efforts that they have not only left mine operators frustrated, but they have totally lost the respect of the miners themselves. They have left our safety department bogged down preparing for conferences and appeals, to the point that even for us, "it's not about safety, it's about compliance."

I would imagine that as you evaluate my testimony today, it would be easy to believe that these issues that I have described are unique, or unusual. Actually, these types of issues are not only common but are quite typical. I know that typically the people who testify before your committee are the ones with the strongest story to tell. The strength of my testimony would have to be its commonness. This testimony could be repeated by just about every mine operator in the state.

As I said at the beginning, we are all interested in safety, and MSHA has an important role, but we certainly need your help in making sure that they do a better job. There is too much arbitrary, inconsistent, and unfair interpretation and enforcement. Whether the entity involved is a multinational equipment manufacturer like Caterpillar, a process machinery manufacturer in Pennsylvania, or a family owned crushed stone producer in North Carolina, clearly defined safety rules lacking ambiguity are required for a safe and productive workplace. There

needs to be better accountability and better management. We need clarity and a timely appeals process that is not steeped in MSHA Bureaucracy. A process that is less onerous and costly than the bad citations themselves. We need a return to the days when operators could work with MSHA inspectors to improve mine safety. We should return to a time when operators could discuss issues with inspectors. The surest way to receive a citation today is to ask MSHA for advice. It would be wonderful to be able to view MSHA as a partner in safety instead of an adversary. It seems to us that we have a right to expect such fairness from our government. Thank you again for your interest in our concerns, and for inviting me to testify this morning.

Mack McNeely



**Picture of Frayed Seat Belt**





**Letters and Emails from Caterpillar (and Dealer, Carolina Cat)  
Regarding Safe Access/Fall Protection**



## Mack McNeely

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**From:** wjones@carolinacat.com  
**Sent:** Tuesday, March 23, 2010 10:19 PM  
**To:** Bill McNeely; Mack McNeely  
**Subject:** MSHA Warning  
**Attachments:** HEX Access.doc; 365 DSN Ticket.pdf; MSHA Letter.doc

Bill and Mack,

Following some research we have done on the MSHA warning you received, we have learned that this has been an issue at other quarries for some time now. Apparently Caterpillar is working with MSHA to find a "common ground" on this issue. I am attaching several documents from Caterpillar regarding their stance. They follow:

As for help, I received this from someone at Caterpillar:

"In regards to the recent MSHA citations and MSHA requests for customers to add guard rails to excavators, the excavator group is aware of a company, Pierce Pacific, offering a possible solution to MSHA's concerns. Please note that we do not agree that there are any valid safety concerns that would warrant the addition of guard rails on excavators in the field. Nor are we endorsing this product or company in any way. In addition, we use the term "possible solution" because MSHA has not provided clearly defined standards regarding adequate fall protection/safe access. We are hopeful that clearly defined standards will be identified in the near future; however, in the meantime, the option from Pierce Pacific may help address the customers' current issue."

**Contact:**  
Pierce Pacific  
503.808.9110  
4424 NE 158th Avenue  
Portland, Oregon 97230

I hope this is of some help to you guys. If I learn anything more, I will be sure to share it with you. Also, Adam Ackerman with Caterpillar would like to visit each of you in the next couple of weeks and follow up on your purchases of the 385B-L and the 773E last year. Call me if you want to discuss prior to our visit.

Woody

Woody Jones  
Forestry Manager/Territory Manager  
Carolina CAT  
40 Interstate Blvd.  
Asheville, NC 28806  
828-251-2500 ext. 3121 (office)  
828-231-8595 (cell)  
[wjones@carolinacat.com](mailto:wjones@carolinacat.com)



Caterpillar Inc.  
100 NE Adams Street  
Peoria, Illinois 61629-7150

To Whom It May Concern:

May 15, 2007

Re: Hydraulic Excavator Access System

The Caterpillar Inc. hydraulic excavator access systems are designed to the technical requirements in ISO 2867 and SAE J185 Access Standards. These standards call for 3 points of contact when using steps, ladders and small maintenance platforms (230 – 300 mm wide) and 2 points of contact when using “stairways” and large maintenance platforms (greater than 300 mm wide). The primary access path to the cab requires 3 points of contact, while the right side maintenance access and center engine maintenance platform only require 2 points of contact.

The maintenance platforms on top of our excavators are below 3 meters above the ground. Both ISO 2867 and SAE J185 state that “guardrails” are only required if the maintenance platform is greater than 3 meters above the ground or another platform:

#### ISO 2867

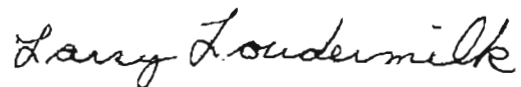
**10.2 Platforms and walkways shall be provided with guardrails if the vertical distance from the open side of a platform or walkway surface is greater than 3 m above the ground or another platform.**

We do not have any field incidents that indicate the need for guardrails on our hydraulic excavators (which are less than 3 meters above the ground).

While the swing drive area on the right is open, we provide 2 points of contact while using the access stairway for access to the engine maintenance platform. We do not have a recorded field incident involving the open swing drive area.

We have an understanding with MSHA that our hydraulic excavators comply with the current requirements in ISO 2867 and SAE J185, for earthmoving machines access systems. Caterpillar Inc. is actively involved in the international industry group that is working on a future revision to ISO 2867. The revision of this standard will probably include a requirement for guardrails on the open side of a platform or walkway that is greater than 2 meters above the ground. Our hydraulic excavator design groups are actively working on this issue, as part of our normal product development / improvement process.

We do not have approved tie-off points on our current hydraulic excavators; as our hydraulic excavator access system designs meet or exceed the requirements in the ISO 2867 and SAE J185 Standards. Our hydraulic excavator design groups are reviewing the design requirements for approved tie-off points on future hydraulic excavator models, as part of the normal product development / improvement process.



Larry R. Loudermilk  
Hydraulic Excavator Product Consultant  
Regulations & Product Compliance  
Caterpillar Inc.  
Phone: 309-675-4589  
Mobile: 309-670-6995  
E-Mail: Loudermilk\_Larry\_R@cat.com

March 15, 2010

Gentlemen,

Pursuant to LBM Industries request, Caterpillar is providing the attached information regarding a handrail currently found on a Caterpillar 385B-L Hydraulic Excavator (HEX) that was designed consistent with the ISO 2867 and SAE J185 engineering standards for access systems on earthmoving equipment. Caterpillar understands that LBM Industries is considering using this information to construct and install additional handrails on a certain 385B-L HEX owned by LBM Industries in an effort to satisfy the requirements of a U.S. Mine Safety & Health Administration (MSHA) field inspector. Caterpillar further understands that the MSHA inspector provided no information to LBM Industries on how to construct handrails or where to install the additional handrails.

Importantly, Caterpillar's own field data reveals no basis for a safety-related change in the access system for the 385B-L HEX. Until Caterpillar receives information from MSHA indicating what safety issues, if any, have been identified with the access system of the Caterpillar designed 385B-L HEX and what revisions to the current ISO 2867:2006 engineering standard are necessary to address those safety issues, Caterpillar cannot take part in identifying any changes to the 385B-L access systems. Furthermore, in order to ensure safety, Caterpillar will not endorse implementation of any machine changes that have not undergone adequate engineering design and analysis, as well as testing and validation and will not accept any responsibility related to any handrails constructed, modified, or installed on a Caterpillar machine by LBM Industries or any other party, including but not limited to, warranty, product liability or personal injury.

Until very recently, Caterpillar understood that MSHA supported the use of the ISO 2867 engineering standard for designing adequate access systems for earthmoving equipment. As supported by the U.S. government, Caterpillar participates with other industry representatives and government authorities in engineering standards development committees in order to develop standards, including ISO 2867, that "can increase productivity and efficiency. . . , expand opportunities for international trade, conserve resources, improve health and safety and protect the environment." *U.S. Office of Management and Budget, Circular No. A-119* (February 10, 1998 Rev.). In support of our customers, Caterpillar will continue to work with other manufacturers through the Association of Equipment Manufacturers, and other trade organizations to communicate with MSHA about the many concerns raised by the agency's sudden change in position related to the use of engineering standards, including among other things, the inability of manufacturers and our customers to understand MSHA's new enforcement activities related to access systems on earthmoving equipment.



## Service Request Detail Report

Monday, March 15, 2010



### Service Request Profile

<b>SR Number:</b>	CAT-113796-PNV2	<b>Created:</b>	3/12/2010 9:16:53 AM
<b>Title:</b>	385B L / RCD / Handrails	<b>Submitted:</b>	3/12/2010 9:47:03 AM
<b>Event Type:</b>	DSN	<b>Opened:</b>	3/12/2010 9:55:37 AM
<b>Owner:</b>	Stonedipher, Ken	<b>Closed:</b>	
<b>Owner Phone #:</b>	3096368500	<b>Status:</b>	Pending Dealer Action
<b>Assignee:</b>	Provenzano, Roger W.		
<b>Assignee Phone #:</b>	+1 630 859 4419		

### Dealer/Contact Profile

<b>Dealer Code:</b>	D090	<b>Preferred Email:</b>	mshue@carolinacat.com
<b>Dealer:</b>	CAROLINA TRACTOR & EQUIPMENT	<b>Non-DTC Contact Name:</b>	
<b>Contact:</b>	Shue, Mark W	<b>Carbon Copy Email 1:</b>	
<b>Preferred Phone #:</b>	+1 704 596 8880 ext 2268	<b>Carbon Copy Email 2:</b>	
<b>Alternate Phone #:</b>	980-722-8519	<b>Customer:</b>	
		<b>Customer Contact:</b>	

### Request Detail

**Description:** This customer has gotten a warning from MSHA in regards to handrails around the top of their excavators. The handrail must be 42 inches in height. MSHA said "this is deemed a hazard when an employee climbs up on top of the excavator to check their engine oil level". I have listed other machines on the customer's site that also are in question.

350 3ML00184  
322 9RL00719  
320 PAB01047  
320 7JK16826

My question is.

Do you have anything to offer this customer?

What is CAT's stance on this issue?

Do you have a document that I can offer to the customer explaining CAT's stance on this issue?

Please help.

**Dealer Suspected Root Cause:**

# Service Request Detail Report

Monday, March 15, 2010



## Product Details

### Prime Product Information

Serial Number: RCD00235  
General Arrangement Number: 2293365  
Model: 385B L  
Product Family: Excavators-Large  
Service Meter Reading: 5,000  
Service Meter Units: Hours  
Source Plant: Cat S.A.R.L. Gosselies Invento

### Application Information

Application Category Name: BUILDING CONSTRUCTION  
Application Category Code: 114  
Application Name: Building, Commercial And Public  
Application Code: 250

### OEM Details

Name: RCD00235  
ID Number: 2293365  
Product/Model: 385B L  
Product Technology: Excavators-Large

### System Details

Major System Code:  
Major System:  
System Code:  
System:  
Subsystem Code:  
Subsystem:

### Part Details

Group Number:  
Part Count:

No Data

### Serialized Components

No Data

## Resolution Details

Resolution Detail:

Dealer Fix:

<u>Source Type:</u>	<u>Source Name:</u>	<u>Source Detail:</u>
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### PIQ Details

Factory Contact:	Effective Date:
Department:	Effective Serial Number:

# Service Request Detail Report

Monday, March 15, 2010



## Notes:

**Created Date:** 3/15/2010 5:10:51 AM

**Dealer Contact Created By:** Shue, Mark W

**Caterpillar Created By:** User, System

**Note:** Roger, from what I understand at this point MSHA is talking about being on the upper surface where you would need to be to open the hood to check engine fluid levels. MSHA said hand railing needed to be around the entire area to guard someone from falling off of the machine.

**Created Date:** 3/12/2010 4:23:36 PM

**Dealer Contact Created By:**

**Caterpillar Created By:** Provenzano, Roger W.

**Note:** Mark,

At this point, because MSHA has not clearly spelled out the requirements for the handrails, there are only few things that we can do. As a standard procedure for this issue, from legal department, I will send you an email with the details, and close the SR. The details from the SR will go to the legal department for review, and be added so they can review it in more detail. I will follow up with an email shortly.

Best Regards,  
Roger Provenzano

**Created Date:** 3/12/2010 10:00:35 AM

**Dealer Contact Created By:**

**Caterpillar Created By:** Stonecipher, Ken

**Note:** RECOMMENDATIONS: Based on a previous service request, the Tier2 said Tier 2 response from previous AGS request: We do not offer handrails on top since we don't have any service points that need to be accessed from the rear or side of the machine. Most of our common service items are located from ground level, and if you need to open the hood at top, our hood opens from the front of the machine and you can access everything from front. I heard that our large mining machines, larger than 385's have platform there, therefore they do have handrails. Please let me know of any questions or comments you may have. See attached document. The Caterpillar Hydraulic Product Group takes very seriously the responsibility to build a safe product. We are guided by some very descriptive standards, as mentioned in the formal response, which we currently meet. The operative word, though, is "currently" as these standards are subject to change. Our mission is to continually look for ways to incorporate improved safety features for our equipment, and thereby become the example from which new standards are developed. Tier 2 confirmed the document is current.

I will need to forward to Tier 2 for review and final recommendations.

REFERENCES SR Number: CAT-70577-TT5F Created: 2009/08/17 12:36:55 Status: Closed  
Attachments: Yes  
Title: 345B / AGS / Platform Railing

## Attachments

Name:	Type:	Size:	Date:
HEXAccess[1]	doc	191490	3/12/2010 10:00:46 AM

**MSHA**

**Program Information Bulletin No. P10-04**

**Safe Access, Fall Prevention and Fall Protection involving Self Propelled Mobile  
Equipment**



[PDF Version](#)

U.S. Department of Labor

Mine Safety and Health Administration  
1100 Wilson Boulevard  
Arlington, Virginia 22209-3939



ISSUE DATE: June 16, 2010

PROGRAM INFORMATION BULLETIN NO. P10-04

FROM:

NEAL H. MERRIFIELD

A handwritten signature in cursive script that reads "Neal H. Merrifield".

Acting Administrator for

Metal/Nonmetal Mine Safety and Health

SUBJECT: Safe Access, Fall Prevention and Fall Protection involving Self-Propelled Mobile Equipment

### Scope

This Program Information Bulletin (PIB) applies to Safety and Health Administration (MSHA) enforcement personnel, underground and surface mine operators, and independent contractors.

### Purpose

This PIB provides information on providing safe means of access, fall prevention, and fall protection to miners operating, conducting maintenance or service activities, or accessing work platforms of self-propelled mobile equipment.

### Information

Accessing, operating or maintaining self-propelled mobile equipment often requires activities such as climbing ladders, or walking on machinery surfaces which expose miners to hazard such as falls during all types of weather conditions. Modern mobile equipment is designed to minimize slip and fall hazards; but, large machinery, new and old, can require access at heights with a fall potential that can cause serious injury. The following precautions can reduce slip and fall accidents from mobile equipment.

- Equipment should be inspected for icy, wet, or oily areas at the start of each shift and whenever conditions dictate. Before climbing on, off or around mobile equipment, footwear should be free of mud or other substances that could cause slipping.

- Persons climbing on or off mobile equipment should face the machine. Both hands should be free for gripping the ladder, handrail, or handhold. When necessary, a cord, rope, or other line should be used to lift and lower lunch pails, thermos bottles, or tools.
- Walkways should be no narrower than their original manufactured widths, constructed with slip-resistant surfaces, and securely attached. Unobstructed access should be provided to all areas of the machine where a person might travel.
- Handholds or handrails should be within easy reach at critical locations.

In addition, equipment manufacturers may be providing safe access, fall prevention and fall protection by complying with ISO 2867, "Earthmoving Machinery - Access Systems" or SAE J185, "Recommended Practice for Access Systems for Off-Road Machines." Any modifications to mobile equipment should generally not be made without an engineering evaluation and concurrence by the manufacturer of the equipment. Unsafe access and fall hazards from mobile equipment can be reduced by the use of:

- portable ladders and work platforms,
- safety belts or harnesses and lanyards utilizing suitable anchor points,
- man-lifts,
- mobile work stations,
- docking stations, and
- relocating service points to safe areas, e.g., installing extended grease lines.

Operators are responsible for providing documentation to verify that their equipment is ISO 2867 certified. Inspectors may use the certification documents in considering if safe access, fall prevention and fall protection is being provided.

#### **What is the background of this bulletin?**

Equipment manufacturers have asked for clarification of MSHA's requirements for fall protection on mobile equipment.

#### **What is the authority for this bulletin?**

The Federal Mine Safety and Health Act of 1977, as amended, 30 U.S.C. § 801 et. seq.; and 30 C.F.R. §§ 56/57.11001; 30 C.F.R. §§ 56/57.11002; 30 C.F.R. §§ 56/57.11027; 30 C.F.R. §§ 56/57.15005

#### **Who are the MSHA contact persons for this program information bulletin?**

Metal and Nonmetal Mine Safety and Health  
Safety and Health Division  
Lawrence J. Trainor Jr. P.E., (202) 693-9644  
E-mail: [trainor.lawrence@dol.gov](mailto:trainor.lawrence@dol.gov)

#### **Is this program information bulletin available on the Internet?**

This bulletin may be viewed on the World Wide Web by accessing the MSHA home page (<http://www.msha.gov>) and choosing "Compliance Info" and "Program Information Bulletins."

**Who will receive the program information bulletin?**

MSHA Program Policy Holders

Underground and Surface Mine Operators

Underground and Surface Independent Contractors

Special Interest Groups

Miners' Representatives



## **Biographical Information and Truth in Testimony Form**



## **William L. McNeely III (Mack)**

Date: 6-17-3013

Mack McNeely is Vice President and General Manager of a group of closely held corporations collectively known as The McNeely Companies. The Companies primarily supply construction materials including crushed stone, sand, ready mix and precast concrete products, and rental equipment to markets in Western North Carolina and the Upstate of South Carolina.

For two decades Mack has been an integral part of the growth and expansion of the Companies including additional mines and concrete plants. These expansions also include a new division of hardware and equipment rental stores that now include 5 locations in North and South Carolina.

Mack has a Bachelor of Science Degree from Clemson University in Civil Engineering. He sits on the Transylvania County Economic Development Advisory Board. He is a member of the Board of Directors for Archway Insurance as well as the North Carolina Aggregates Association. In the past he has served as a Commissioner on the North Carolina Mining Commission and the North Carolina Mining and Energy Commission. He was Vice Chair of the North Carolina Mining Committee, and has served as the Vice President West on the executive committee of the North Carolina Aggregates Association.

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2. Please list any entity you are testifying on behalf of and briefly describe your relationship with these entities.

LBM Industries Inc. I am Vice President of LBM Industries Inc.

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3. Please list any federal grants or contracts (including subgrants or subcontracts) received since October 1, 2010, by the entity(ies) you listed above. Include the source and amount of each grant or contract

None.

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I certify that the above information is true and correct

Signature:

*W J McNeef*

Date:

*6/17/2013*

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