

Transactions



AMERICAN SOCIETY OF SAFETY ENGINEERS

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**SPECIAL ISSUE
ANSI/ASSE Z15.1**

ANSI/ASSE Z15.1-2006 Motor Vehicle Operations Standard Approved

Editor's Note: *ANSI/ASSE Z15.1, Safe Practices for Motor Vehicle Operations, has received final ANSI approval. Many SH&E professionals are eager to see how this standard will affect transportation safety. In this interview, Carmen Daecher, Chair of the ANSI Z15 Accredited Standards Committee (ASC) on Safety Requirements for Motor Vehicle Operations, and Bill Hinderks, Vice Chair of the committee, explain the structure and intent of the standard as well as its predicted impact on safety rates, vehicle management, and driver hiring and training procedures.*

TPS: What are your positions within the ANSI Z15 ASC and how have you each contributed to the development of the new Z15.1 standard?

CD: I am the chair of the ANSI Z15 ASC. I was instrumental in forming this committee through ASSE, and I provided the committee with foundation

materials to consider in the development of the Z15.1 standard. As chair of all committee meetings, I encourage dialogue among members and lead discussions for consensus.

BH: I presently serve as vice chair of the Z15.1 standard. I was also chair of the subcommittee that developed Section 4 of the standard, Operational Environment.

Lastly, I served on a four-person editorial committee headed by Stephanie Pratt of NIOSH. This group merged the various



Carmen Daecher (left) is chair of the Z15 ASC; Bill Hinderks (below) is vice-chair.



sections of the standard, made grammatical corrections and brought a uniform "look and feel" to the final document. We reviewed nearly 100

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On behalf of the Transportation Practice Specialty and the Standards Development Committee, the Council on Practices and Standards (CoPS) has developed a special newsletter issue devoted to the recently approved ANSI/ASSE Z15.1 standard, Safe Practices for Motor Vehicle Operations. This publication includes:

- An interview with Carmen Daecher, Chair of the ANSI Z15 Accredited Standards Committee on Safety Requirements for Motor Vehicle Operations, and Bill Hinderks, Vice Chair of the Z15.1 standard.

- An analysis of the standard by Adele Abrams, an attorney, safety professional and trained mediator who represents employers and contractors nationwide in OSHA and MSHA litigation.

- A Feb. 22, 2006 ASSE press release announcing the release of Z15.1.

- An article on the Z15.1 standard by Carmen Daecher.

• The table of contents from the standard.

This important standard provides employers with guidelines for creating a motor vehicle safety program, no matter the fleet size, and in the few short months since the standard received ANSI approval, it has helped businesses across the country reduce motor vehicle accidents as well as the high costs these accidents can incur.

Given the great impact this standard has had on the transportation industry, CoPS is publishing this newsletter to outline the standard's specifications and successes. We hope you will incorporate this standard into your own transportation safety practices, and we encourage you to share with us your experiences with the Z15.1 standard.

Jamie D. Smith

Special Issue

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pages of public review comments and made appropriate changes, while we referred comments of a substantive nature to the larger group for action.

TPS: How is the Z15.1 standard different from its predecessor, National Safety Council's American National Standard Method of Recording and Measuring Motor Vehicle Fleet Accident Experience and Passenger Accident Experience (D15.1-1976)? What new requirements, recommendations or features does it include?

CD: The Z15.1 standard differs from the D15.1 standard in that it provides guidelines for implementing a complete management system for motor vehicle operations. The old standard primarily intended to develop means of measuring accidents and comparing accident rates. The new standard incorporates accident measurement, but it is more robust in providing guidelines for developing and implementing an effective risk management program for motor vehicle operations.

BH: The expired D15.1 standard was narrower in scope and mainly addressed accident recording and analysis. The Z15.1 standard is more comprehensive and provides guidelines designed to help organizations address a wide range of safety management issues related to motor vehicle operations.

TPS: What is the framework of the Z15.1 standard? Does it offer specific guidelines for a safety program?

CD: Z15.1 is developed around a framework of risk elements associated with motor vehicle operations. Basic management structure, driver considerations, vehicle considerations and operational considerations and methods to monitor and measure effectiveness are the foundations of this framework.

BH: People who have been involved in vehicle safety will find much of the content to be familiar. In developing the standard, committee members (82 traffic SH&E professionals representing a broad cross-section of 35 organizations of all sizes from across the U.S.) introduced material from safety programs used within their organizations as well as ideas derived from state regulations, national safety organizations, traffic safety literature and best practices.

TPS: How do you predict the Z15.1 standard will impact commercial and non-commercial vehicles? How is the standard expected to improve injury and accident rates and to reduce property losses?

CD: The Z15.1 standard should not have a substantial impact on commercial vehicle operations. Most of those operations already have structured risk management programs. However, for noncommercial fleets, the standard can have substantial value. The standard offers guidelines to develop more effective management of motor vehicle operations.

Since motor vehicle accidents are one of the leading causes of occupational injuries and fatalities, a risk management program for motor vehicle operations should positively impact the workplace.

BH: The objective of any standard is to improve performance by "raising the bar," so to speak. For organizations actively engaged in safety management, the Z15.1 standard will be a useful tool to gauge present programs. Where no formalized efforts currently exist, the standard serves as a user-friendly resource that outlines precisely what is needed to develop a program and better manage this significant exposure.

Better management of vehicle operations will lead to improved results. This includes reducing the frequency of collisions, preventing fatalities, injuries, property damage and traffic violations, and ultimately lowering costs.

TPS: In what ways will the Z15.1 standard help to streamline vehicle management?

CD: I am not sure that the Z15.1 standard will streamline vehicle management, but it should provide a better process for purchasing and maintaining vehicles so as to produce safer operations for vehicle users and their organization.

BH: There will be a more common understanding of what is meant by a driver safety or fleet safety program. This will undoubtedly make things less complicated for, as an example, organizations that require contractors to have a safety



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program in place. In the past, these organizations would have needed to define what that meant from their point of view. Meanwhile, other organizations might have different program requirements of the same contractor. So potentially, a contractor might need to have as many programs in place as it has customers.

With an effective national consensus standard, everyone reads off the same (or very similar) sheet of music. This makes it easier for the customer to hire safer operators and for the contractor to comply with the customers' requirements.

TPS: What criteria does the Z15.1 standard give for measuring vehicle safety performance?

CD: The Z15.1 standard identifies the root-cause analysis of accidents as a primary basis for measuring effectiveness. In this regard, vehicle safety performance should be considered whenever an accident occurs. If any components or maintenance-specific issues regarding the vehicle contribute to accidents, the organization should identify and address them to prevent future occurrences.

BH: The current trend in safety circles is to evaluate whether an organization is doing the right things. One performance measure would be whether or not the organization adhered to all applicable portions of the standard. There is latitude within the Z15.1 standard to account for differences in organizations and their

unique operations and exposures. However, in most cases, they are either properly managing a program element or they are not. This is very objective and it should be relatively easy for management to measure.

The standard provides specific information to help organizations analyze their crash results in order to compare themselves to others within and outside their industry. They will also be able to compare their own results from year to year. While these numbers are trailing indicators of past safety performance, this data will be helpful to SH&E professionals in promoting and marketing vehicle safety strategies within their organizations or among their members or clients.

TPS: How can organizations use the Z15.1 standard to improve driver hiring and training procedures?

CD: The Z15.1 standard specifies guidelines for driver hiring and training. From a hiring point of view, the applicants' driving behaviors should be considered for employment purposes. Review of their motor vehicle record should also be part of the hiring process. Any new employees should be trained to drive defensively upon employment, and to underscore the importance of defensive driving, they should receive regular refresher training. If employees have accidents, receive tickets or behave in some other unacceptable way, remedial training should be provided.

The standard prescribes the use of a hiring procedure and training procedures as part of the total risk management process for safe vehicle operations.

BH: Organizations can compare their hiring and screening practices to those outlined within the standard. This will allow them to identify shortfalls within their process, and it will guide them in implementing enhancements.

TPS: How will you ensure that state and federal government agencies recognize the new Z15.1 standard? Do you expect to encounter any difficulties?

CD: I do not have any plans to ensure that state and federal government agencies recognize the new Z15.1 standard. The standard has been built as a guideline for organizations that use motor vehicles as part of their business activities. I am not interested in the standard becoming a regulatory requirement by any agency. I am more interested in having organizations, including governmental entities, use the

standard to improve their motor vehicle operations.

BH: Interest in a motor vehicle safety standard originated with fleet operators. When Carmen served as administrator of ASSE's Transportation Practice Specialty in 2000, members approached him about the need for a standard to assist them in their work. Hence, the original impetus for a vehicle safety standard was the transportation industry itself.

The Z15.1 standard was developed to help organizations improve operations and performance. It has not been the objective of our committee to actively promote the standard to federal or state agencies. With that said, I anticipate there will be interest in the standard among regulators and elected officials.

TPS: How do you predict the standard will interact with federal and state regulations?

CD: Currently, OSHA is concerned about motor vehicle accidents in the workplace. The agency has issued guidelines in partnership with the Network of Employers for Traffic Safety for use by all organizations.

I do not believe that OSHA will apply the Z15.1 standard as a regulatory requirement. The agency may consider its use as a guideline for organizations, but it would be difficult to incorporate the standard from an enforcement point of view. Furthermore, OSHA already has guidelines for the use of motor vehicles and other equipment in specific situations such as construction.

The Department of Transportation has regulations in place for commercial operations, and the Z15.1 standard does not offer any additional elements or criteria that are not already embodied in those regulations.

BH: The committee was especially sensitive to this issue. The Z15.1 standard is designed to complement existing regulations. In fact, the standard specifically states, "Organizations shall have a system in place to monitor federal, state and local regulations in order to comply with all regulations and implement any policy/procedure change in a timely manner." In this respect, the standard may further influence organizations to become compliant with existing regulations.

TPS: The Z15.1 standard is the first in a series of planned safety standards for motor vehicle operations. What subjects will the future Z15 standards address?

CD: It is too early to tell what future

standards under Z15 will be addressed. At this point, I am anxious to see how the Z15.1 standard will be used by organizations and what issues arise through its use. I expect that feedback from those who apply it will drive the future evolution of the standard.

TPS: What is the Z15 Committee's agenda for 2006-07?

CD: ANSI fully approved the Z15.1 standard on Feb. 15, 2006, and it was published in the spring. I also expect that the committee will meet at some point late in 2006 or possibly early in 2007 to review the dissemination and use of the standard.

BH: It remains the responsibility of the committee members to be leaders in promoting the standard once it is published, to be available to interpret the standard and to always think about opportunities for improvement. ■

Carmen Daecher is president of The Daecher Consulting Group Inc. in Camp Hill, PA, and a specialist with more than 35 years' experience in the transportation field. Throughout his career, Daecher has worked in multiple aspects of transportation safety. He currently consults with public and private clients, including municipalities, attorneys, insurance companies, commercial motor carriers, national organizations and other professional transportation safety groups.

Daecher has served as Administrator and Assistant Administrator of ASSE's Transportation Practice Specialty and as Vice Chair of ASSE's Council on Practices and Standards. Presently, he is a member of the Society's Government Affairs Committee. Daecher has spoken on behalf of ASSE on numerous transportation safety issues, and he has contributed to the development of ASSE positions on transportation, worker safety and driver distraction. He has also written white papers on bus and truck security for the Society and has made presentations at ASSE professional development conferences, regional conferences and seminars.

He holds a B.A. in Economics from Franklin and Marshall College and an M.S. in Transportation Engineering from Villanova University.

Bill Hinderks, CSP, CPCU, ALCM, ARM, is a senior loss prevention specialist with Risk & Insurance Management Company (RIMCO), a risk management and insurance services consulting firm in Bloomington, IL. Hinderks has spent most of his 25-year career providing risk control consulting services to an array of industries and governmental entities. His experience includes 10 years in various management roles as well.

Hinderks is a professional member of ASSE, and he currently serves as Vice Chair of the Z15.1 standard. He holds a B.A. in Chemistry from the University of Minnesota-Duluth.

ANSI/ASSE Z15.1: A Tool for Preventing Motor Vehicle Injuries & Minimizing Legal Liability

By Adele L. Abrams, Esq., CMSP

Motor vehicle crashes that occur on American roadways have historically been the leading cause of occupational fatalities in this country. In the decade between 1992 and 2001, more than 13,000 civilian workers died in such incidents—accounting for 22% of all injury-related deaths. According to OSHA, every 12 minutes someone dies in a motor vehicle crash, every 10 seconds an injury occurs and every 5 seconds a crash occurs (OSHA). Moreover, despite overall decreases in the number and rates of occupational fatalities from all causes, the annual number of work-related roadway deaths has actually increased to a rate of 1.2 deaths per 100,000 full time employees (NIOSH). The majority of such crash victims are male (89%), and the toll is highest among 35 to 54 year old workers (47%).

Although, as expected, persons employed in the transportation industry are the predominant occupational sector

involved in motor vehicle crashes, other affected sectors include the service industry (14%), manufacturing (8%) and sales (7%). What is significant from a legal perspective is that 62% of the vehicles occupied by a fatally injured worker were registered to a business or to the government; 17% were driver-registered, and just 12% were registered to an entity or individual that was not connected to the driver (BLS; NHTSA).

Employers whose workers are involved in such crashes have tremendous liability exposure, especially if the individuals injured or killed are third parties (nonemployees), where no workers' compensation liability shield exists as an exclusive legal remedy. They bear not only the workers' compensation costs for their employees and the potential damage awards from third-party tort claims, but also the costs of equipment replacement and the indirect costs of workforce disruption and lost productivity associated with such incidents.

Motor vehicle crashes cost employers \$60 billion annually in medical care, legal expenses, property damage and lost productivity. OSHA estimates that the average crash costs an employer \$16,500. When a worker has an on-the-job crash that results in an injury, the cost to their employer is \$74,000. Costs can exceed \$500,000 when a fatality is involved (NHTSA). If punitive damages are awarded, that figure can soar into the millions of dollars per incident.

Legal Doctrines Involved

The actions of drivers employed by a company, including their failure to inspect the motor vehicle for defects as well as any unsafe behaviors while driving a company vehicle, can be imputed to the employer under the legal theory of respondeat superior. Under this analysis, in the event of a work-related accident on a public roadway, all a tort attorney will need to demonstrate in order to name the

New Safety Standard Can Help Businesses Prevent Roadway Crashes

Businesses of all sizes can use ANSI Z15.1, Safe Practices for Motor Vehicle Operations, to reduce roadway crashes and the high costs associated with them. The Z15.1 standard provides guidelines for developing a motor vehicle safety program for employers with one vehicle or a fleet of hundreds.

ASSE Council on Practices and Standards Vice President James D. Smith, CSP, says, "The ANSI Z15.1 standard is an essential tool in establishing safe driving practices and in providing a means for employers to control the risks associated with the operation of motor vehicles. These risks can lead to lost lives, lower productivity, property loss and higher insurance costs brought on by roadway accidents."

The Z15.1 standard provides organizations with the minimum requirements for developing driver safety policies and procedures. It applies to organization-owned and leased vehicles for business and personal use, and also to rental vehicles for business use. The standard excludes off-road recreational vehicles and unlicensed equipment.

The Z15.1 standard addresses factors within the operational environment that may increase the likelihood of roadway crashes, such as impaired, distracted or aggressive driving practices, in addition to providing driver requirements from qualifications and training programs to recordkeeping, incident reporting and data analysis. It also provides motor vehicle safety guidelines for inspections and maintenance as well as safety considerations when purchasing or modifying motor vehicles.

ASSE is secretariat of the Z15 Accredited Standards Committee, which has more than 30 representative organizations from trade associations and employers to government agencies and insurance companies. In addition, ASSE members Carmen Daecher and William Hinderks, CSP, CPCU, ARM, are Chair and Vice Chair, respectively, of the Z15 Committee. For more information on the Z15.1 standard, visit www.asse.org/z15. To purchase a copy, visit <https://www.asse.org/shoponline/books/standards/3387.htm> or call ASSE Customer Service at (847) 699-2929.

employer as defendant in a personal injury or wrongful death lawsuit is that the company exercised some degree of control over the driver, and that the accident occurred while the driver was acting in the course of the employment relationship.

Each state will apply its own twist to the vicarious liability doctrine. For example, under Maryland law, courts focus on whether the incident arose from employees' activities within the scope of the employment. To satisfy the legal test, the conduct must be of the kind the person is employed to perform and must occur during a period not unreasonably disconnected from the authorized period of employment in a locality not unreasonably distant from the authorized area, and actuated at least in part by a purpose to serve the employer [see *Jordan v. Western Distributing Co.*, 135 Fed.Appx. 582 (4th Cir. 2005)]. The conduct must also be expectable or foreseeable [see *Sawyer v. Humphries*, 587 A.2d 467, 471 (Md. 1991)].

Other legal fault doctrines that can apply to employers arising from occupational motor vehicle incidents include:

- negligent hiring/retention (failure to exercise due care when hiring workers who will drive in the course of their activities by checking driving records, etc.). This cause of action focuses on the employer's negligence in selecting the individual as an employee, rather than on the employee's wrongful act itself [see *Van Horne v. Muller*, 705 N.E.2d 898 (Ill. 1998)]. In a negligent selection claim, there normally is a rebuttable presumption that an employer uses due care in hiring an employee [see *Evans v. Morsell*, 395 A.2d 480, 483 (Md. 1978)].

- negligent supervision (failing to take corrective action where the employer becomes aware of prior incidents, tendencies toward aggressive or distracted driving);

- negligent training (failure to provide appropriate documented training for the type of vehicle that the worker will operate);

- owner liability (failure to ensure that its agents inspect the vehicles appropriately to prevent operation with known defects, or negligent entrustment of the owner's vehicle to an unqualified or impaired individual). If the employer is a governmental entity, sovereign immunity may apply.

Even in those situations where the

employer's own workers are the only victims of roadway incidents, there may be exclusions if the employer is found to be grossly negligent, as certain states permit tort actions to proceed in such circumstances or enhance the monetary awards available under workers' compensation programs.

Thus, prevention through development of proactive initiatives is critical to preserve life and property, and to avoid incurring the monetary costs associated with occupational motor vehicle incidents. Liberty Mutual Insurance Co. reported in 2001 that 61% of surveyed business executives believe their companies receive a return on investment of \$3 or more for every \$1 they spent on improving workplace safety.

In the case of occupational motor vehicle incidents, the underlying causes of these fatalities and injuries vary widely from mechanical failure to poor highway and vehicle design to driver error. Preventive measures also vary widely, including preventive vehicle maintenance, increased seatbelt use, effective driver training, antilock brakes, road maintenance and safer vehicle design.

A New Tool

The causes and solutions are so varied that there is no single, simple strategy for prevention. However, a new tool is available that can be used by employers, consultants, insurance industry experts and other SH&E professionals to help reduce the occupational casualties, high costs and legal liability associated with motor vehicle incidents. ASSE has released ANSI Z15.1-2006, Safe Practices for Motor Vehicle Operations.

The standard, approved by ANSI on Feb. 15, 2006, took effect on April 28, 2006. It provides guidelines and establishes best practices for development of motor vehicle safety programs for all classes of employers—whether addressing a single vehicle or a fleet, whether the equipment is employer-owned, employee-owned or leased from a third party. (The standard is not intended to apply to off-road equipment, agricultural equipment, recreational vehicles, haul trucks operated solely on

Respondeat superior or "vicarious liability" is a key doctrine in the law of agency, which provides that a principal (employer) is responsible for the actions of his/her/its agent (employee) in the course of employment. By definition, motor vehicle accidents that occur while a worker is in the course of his employer's business (whether or not operating an employer-owned vehicle) would fall within the scope of this legal theory, and the driver's negligence would be imputed to the employer for purposes of litigation.

industrial or mine sites, or unlicensed equipment.) Its key components include:

- management, leadership and administration;
- operational environment;
- driver considerations;
- vehicle considerations;
- incident reporting and analysis.

As noted in ANSI Z.15.1, when developing a program to control risks associated with motor vehicle operation, it is critical to include both operator training and qualification criteria as well as a system for inspecting and maintaining the equipment. Although inspections are normally conducted in a systematic manner by drivers who have commercial driver's licenses (CDLs) and operate large trucks that require CDL compliance, this step is often ignored for passenger vehicles or for smaller trucks that may be used by sales and service personnel.

The Z15.1 standard includes these components as well as methodologies for recordkeeping, reporting of motor vehicle-related incidents and data/trend analysis that can be used to prevent recurrences. This is a particularly significant component from a legal perspective, as employers who are found to have actual knowledge of program failures or unsafe actions/conditions and who fail to take appropriate remedial action are much more likely to be found grossly negligent in the event of a subsequent incident. This can, of course, lead to high-dollar OSHA penalties, as well as punitive damages in the tort law arena arising from personal injury or wrongful death suits. In particularly egregious circumstances, there could even be criminal prosecutions targeting management per-

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sonnel who were aware of deficiencies and failed to take appropriate corrective action.

Among the critical features of ANSI Z15.1 are attention to driver error and the risk factors arising from driver impairment and distraction as well as the high-profile issue of aggressive driving practices, which is being criminalized in some states. The standard also emphasizes safety considerations when purchasing or modifying motor vehicles.

The standard could be used as an affirmative defense during litigation. As a recognized national voluntary consensus standard (benchmark), an employer potentially could use the standard as an indicator that it implemented programs to enhance safety for its motor vehicle operations. Use of the standard and the ability to document compliance with it could also be used as an affirmative defense when contesting federal and state citations.

In the 1990s, motor vehicle safety was designated as one of OSHA's priority issue areas. In July 1990, OSHA issued a notice of proposed rulemaking for a standard that would have required seatbelt use and driver awareness programs. (OSHA's proposed rule was published at 55 FR 28728, July 12, 1990.) That rule contained a mandatory safety belt requirement applicable to anyone driving or occupying any motor vehicle that is company-owned, leased or rented or privately owned when used for official business on public highways and off highway. In addition, it included a driver training requirement for workers who operate motor vehicles for official business on highway and off highway.

Although this rulemaking effort stalled—in part due to congressional action that urged OSHA to further study the issue before proceeding—the agency can still regulate this recognized threat to safety through Section 5(a)(1) (the General Duty Clause) of the OSH Act. This clause requires employers to “furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees.” (It should also be noted that today, OSHA continues to focus on this subject through its alliances, including those with ASSE, the Independent Elec-

trical Contractors, the Air Conditioning Contractors of America, the Network of Employers for Traffic Safety and National Safety Council).

It should be noted that Z15 includes this language in its foreword: “This standard is not intended to serve as a guide to governmental authorities having jurisdiction over subjects within the scope of the Z15 Accredited Standards Committee (ASC).” Even absent formal rulemaking, ANSI Z15.1 serves as a valuable reference. As noted, it also could have possible enforcement ramifications under the General Duty Clause.

It may be employed to satisfy regulatory requirements of certain state-plan OSHA programs. Several states have enacted laws mandating such traffic management programs for employers, so adoption of ANSI Z15.1 at the state level may satisfy the compliance obligations for employers in those jurisdictions (see Cal-OSHA's standard at www.dir.ca.gov/title8/8406.html). In addition, insurance companies encourage their client companies to implement safety and health management programs, so use of Z15.1 could generate monetary savings on insurance (both liability and workers' compensation).

The OSH Act covers every employer engaged in a business affecting interstate commerce who has one or more employees. By contrast, the Secretary of Transportation, acting through the Office of Motor Carrier Safety (OMCS), exercises statutory authority over the operation of motor vehicles engaged in interstate or foreign commerce. OMCS authority is found in 49 CFR at 3101; 2301 (the Surface Transportation Assistance Act); 1801 (which deals with the transportation of hazardous materials); and 2501 (the Motor Carrier Safety Act of 1984).

However, the Department of Transportation defers to OSHA to enforce safety related to motor vehicles where the Federal Motor Carrier Safety Administration standards in 49 CFR do not address particular safety issues. Thus, reduction of work-related motor vehicle accidents is properly part of OSHA's 2003-08 Strategic Management Plan. Of course, the Department of Transportation reserves the authority to regulate “commercial motor vehicles” which include, among others, vehicles with a gross vehicle weight rating of 10,001 pounds (see 49 USC §31132).

Another distinguishing factor is that the term “employer” under the Motor Carriers Safety Act of 1984 means “any person engaged in a business affecting commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it,” but such term does not include federal, state and local governments. Thus, in the case of the term “employer” under the Motor Vehicle Safety Act, there is a limitation on the OMCS jurisdiction. If, in any factual circumstances involving a section 4(b)(1) controversy between OSHA and OMCS, where the employer does not come within the Motor Carrier Safety Act's definition of the term “employer,” OSHA would have jurisdiction over the employer's working conditions and could enforce unsafe conditions or actions imputable to the employer under the General Duty Clause.

In addition, the National Advisory Committee on Occupational Safety and Health has recommended that OSHA promulgate a standard addressing motor vehicle safety, and that it involve other governmental agencies as well as safety organizations. Under OMB Circular A-119, which requires that any federal government agency rulemaking consider extant consensus standards and adopt those standards where feasible, the ANSI Z15.1 standard could eventually be incorporated by reference into a future OSHA rulemaking on this issue.

OSHA also has a memorandum of understanding with ANSI (Jan. 19, 2001). The memorandum notes that ANSI and OSHA will maintain a mechanism for consultation in the planning of occupational safety and health standards development activities in the areas of mutual concern to the extent consistent with OSHA policy and section 6 of the OSH Act.

Furthermore, the OMB Circular [consistent with Section 12(d) of the National Technology Transfer Assistance Act (NTTAA)] directs agencies to use national consensus standards in lieu of developing government-unique standards, except when such use would be inconsistent with law or otherwise impractical. However, under the current OSH Act, only national consensus standards that have been adopted as or incorporated by reference into an OSHA standard pursuant to Section 6 of the OSH Act provide a means of compliance with Section

5(a)(2) of the OSH Act. Therefore, at some future time, Z15.1 could be adopted by OSHA as a mandatory safety and health standard through notice-and-comment rulemaking.

Another significant area of possibility would be development of consent orders with government agencies involving motor vehicle operations. It is possible that the standard could be used as a benchmark for an employer to use in establishing such programs. The use of voluntary national consensus standards to settle such cases is a common practice and Z15 might be used in such a manner.

From a defensive strategy, employers who adhere to the recommendations in ANSI Z15.1 will not only see a reduction in the motor vehicle incidence rate but will also have appropriate documentation, such as written motor vehicle safety programs, safety policies, and maintenance programs and records, to reduce the likelihood of litigation because of the due diligence provided regarding the employer's efforts to eliminate motor vehicle risk factors. Application of ANSI Z15.1's recommendations concerning driver recruitment, selection and assessment, orientation and training, and impaired/distracted/aggressive driver prevention programs, can also be useful in defeating claims of negligent recruitment and retention of employees that might otherwise arise in third-party injury actions.

Finally, the attention to regulatory compliance and management program audits will help minimize the potential for enforcement actions brought by OSHA under the General Duty Clause, relevant DOT agencies, or even state and local governmental agencies under traffic and criminal laws.

ANSI Z15 also has possible value in constructing settlement agreements or consent orders with federal OSHA, state-plan OSHA agencies or other state and federal transportation-related agencies. Often employers who have systemic safety problems will be encouraged or required, as a condition of abatement or settlement, to design and implement programs that will address management failures in a cohesive manner. The scope and function of Z15 would likely satisfy the enforcement goals of prevention of future safety issues while encouraging penalty reductions to offset the costs of program implementation. There is the strong

potential of the standard being included in settlement proceedings for occupational safety and health citations involving motor vehicle operations.

Conclusion

SH&E professionals should be encouraged to take the following actions:

- Obtain a copy of this standard, review the standard and the background materials about it, and discuss it with senior management and legal counsel so that all parties are aware of what is expected. A legal opinion written by corporate counsel would also be a prudent action to take.

- Write and publish a policy addressing Z15 in regard to how it fits in with the organization's current program and the U.S. OSH Act and the rules and regulations of the U.S. Department of Transportation. Write, implement, and document communication structures detailing how information is passed up the communication chain to senior management.

- Conduct thorough assessments to identify significant SH&E exposures and the means used to communicate them to those in a position of authority.

- The Z15 standard potentially could place accountability on senior management. There is some correlation with the requirements of Sarbanes Oxley Act of 2002 Public Law 107-204. It is important to ensure that SH&E audits are independent and that the results are reported and acted on. Those SH&E practitioners who author/sign those audit reports and who fail to follow up on recommended actions may be subject to sanctions such as listed under the new law. The point has been made that they now have a duty that goes beyond just informing management.

- Follow the ASSE Code of Conduct.

In summary, ANSI Z15 provides SH&E professionals with a significant new tool to help enhance existing program design or to help smaller employers create a program that can protect workers while

at the same time satisfying regulatory entities and insurers, effectuating cost savings and minimizing legal liability. ■

References

Bureau of Labor Statistics. Census of Fatal Occupational Injuries, 1992-2001. Washington, DC: U.S. Department of Labor, Bureau of Labor Statistics.

Liberty Mutual Insurance Co. "Liberty Mutual Executive Survey of Workplace Safety." Boston: Liberty Mutual Insurance Co., 2001.

National Highway Traffic Safety Administration (NHTSA). Fatality Analysis Reporting System, 1997-2002. Washington, DC: NHTSA.

NHTSA. "The Economic Burden of Traffic Crashes on Employers: Costs by State and Industry and By Alcohol and Restraint Use." Publication DOT HS 809 682 (2003). Washington, DC: NHTSA.

NIOSH. "Roadway Crashes Are the Leading Cause of Occupational Fatalities in the U.S." DHHS (NIOSH) Publication No. 2004-137. Washington, DC: U.S. Department of Health and Human Services, Centers for Disease Control, NIOSH, March 2004.

OSHA. "Guidelines for Employers to Reduce Motor Vehicle Crashes." Washington, DC: U.S. Department of Labor, OSHA. http://www.osha.gov/Publications/motor_vehicle_guide.html.

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The Z15.1 Standard: Your Guide to More Effective Fleet Management

By Carmen W. Daecher

Effective fleet management is difficult to achieve. It not only involves effective management of vehicles, but more importantly effective management of people while driving.

Too often, we lose sight of the importance of managing behaviors associated with safe driving and safe vehicle maintenance. In many cases, this results from a lack of knowledge and process to manage behaviors associated with the operation and vehicle fleets or because of competing demands within organizations that are more easily understood and more clearly managed. The variability in fleet management is most clearly understood within the commercial vehicle industry.

Whether because of size of operation or lack of effective management skills, effective fleet management varies from poor to excellent, even though there are many regulatory requirements that must be met. With growing attention on noncommercial fleets because of cell phone use, operation of vehicles while under the influence of drugs or alcohol, and other such reasons, effective fleet management has a growing importance in organizations with noncommercial vehicle fleets as well.

In 2001, ASSE became the secretariat of the newly formed ANSI Z15 Committee on Safety Requirements for Motor Vehicle Fleet Operations. This committee was charged with developing standards for safety requirements for motor vehicle fleet operations.

Z15.1 is intended to set forth safety requirements for the operation of motor vehicle fleets including but not limited to nomenclature, definition, data gathering, statistical analysis, inspection, maintenance, training, and other related functions of motor vehicle fleet operations. The purpose of the standard is to establish safety requirements that mitigate injury and property losses by enhancing safety performances of those implementing motor vehicle fleet programs. The standard is for voluntary use in occupational settings where personnel may be exposed to

ANSI/ASSE Z15.1 Standard Safe Practices for Motor Vehicle Operations

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hazards associated with motor vehicle fleet operations.

The Z15.1 standard succeeds the D15 standard developed by National Safety Council in 1976. This standard set forth terminology and procedures for identifying accidents; developing frequency based upon fleet miles; and determining preventability. An extensive glossary of terminology was part of this standard. This standard has been reviewed and modified, and has been incorporated as part of the Z15 standard.

The Z15 Accredited Standards Committee is composed of public and private organizations that are stakeholders in effective fleet management. Committee members include the National Safety Council, American Association of Fleet Administrators, NIOSH, American Public Transit Association, American Trucking Association and the U.S. Marine Corp. to name a few. Currently, 34 organizations are part of the committee.

The key elements of the standard are terminology; data collection and measurement; driver hiring and training; vehicle maintenance; and operational best practices.

Terminology, while not extensive, is important. Definitions of crash, accidents, incidents, fleet vehicle miles, etc., are important in developing standards for use by any fleet administrator. Furthermore, such terminology provides a common framework within which fleet operations can be compared and assessed.

Data to be collected and how data should be measured also provides a basis through which any fleet can be assessed and from which improvements can be realized. Common data collection and measurements also allow for collective measurement of performance among fleets of the same type or within the same company.

Driver hiring and training is crucial in identifying behavioral risks associated with a prospective new employee and in preparing new employees to operate fleet vehicle safety to behavioral standards set by the company.

Within the hiring process, investigation of behaviors associated with driving history is important. This requires obtaining certain information upon application and additional investigations into driving background by the hiring company. Personality or attitude testing might also be consid-

ered, depending on the type of vehicle fleet operated and the extent of vehicle operation as part of an employee's job.

Training should be thorough upon hiring to ensure that the employee has the knowledge, skill and understanding of company standards for vehicle operation. Annual refresher training should also be provided to employees to remind them of the importance of safe vehicle operation as part of their job. Remedial training should be provided when behaviors warrant it. This might be because of preventable accidents, but could also be a result of receiving moving violations, unacceptable observations or assessments of driving behavior, or complaints from motorists or passengers.

Vehicle maintenance is critical to ensure safe, roadworthy vehicles. Scheduled and unscheduled vehicle maintenance is addressed. In the case of scheduled maintenance, appropriate time or mileage intervals and appropriate types of maintenance are defined. For unscheduled maintenance, appropriate procedures to inspect, identify and repair safety-related defects are defined.

Operational best practices identify and discuss effective policies and procedures related to fleet management. Appropriate disciplinary practices, positive incentives, scheduling practices, training programs,

in-vehicle safety technology and accident investigation procedures effective in managing fleet operations are also covered.

Overall, the standard is designed to be comprehensive but flexible for use by any fleet manager.

Minimum standards, which can be used by all fleets, include the following:

- driver management issues;
- driver hiring procedures;
- training programs comprised of initial, refresher, remedial, and annual or periodic procedures to assess driving behaviors;
- disciplinary procedures associated with driving behaviors;
- use of positive incentives/safety incentive programs;
- vehicle issues such as specifications, maintenance, inspections and replacement.
- operational procedures and considerations including state driving laws; use of business vehicles for personal activities policy; use of personal vehicles for business activities policy; use of in-vehicle technologies policy; rental car policy; driving while fatigued or distracted.
- recordkeeping, reporting and analysis to cover crash/incident investigation procedures; crash/incident data collection procedures; determination of preventability and causal factors; incident review boards; corrective actions; and data analysis. ■

ANSI/ASSE Z15.1 Safety Requirements for Motor Vehicle Operations

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