

U.S. Department of Labor

Occupational Safety & Health Administration
The Curtis Center
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Philadelphia, PA 19106-3309
Office: (215) 861-4900
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Exhibit 42

January 16, 2003

Joe Myers
147 Heathers Drive
Butler, PA 16001

Dear Mr. Myers:

This is in response to your letter concerning the weight of loads hauled by tractor-trailers in the AK steel plant in Butler. The letter was forwarded to this office for response.

The specific issue is whether the tractor-trailers may carry loads weighing more than loads they are permitted to carry on a highway/public roadway covered by DOT regulations. The tractor-trailers are never operated on highways/public roadways that are covered by DOT regulations, which among other things limit the weight of a load that can be carried.

As long as the weights carried do not exceed the maximum rated capacity of the equipment, it is not considered a recognized hazard. This is the case even if the weights of the loads hauled by tractor-trailers in the plant exceed those that can be carried on a highway/public roadway. However, the condition of the roadways in the plant must be appropriate for the safe operation of the equipment, and the loads must be adequately secured.

The reason the weights of the loads carried on roads in a plant can exceed the weights of loads carried on a highway/public roadway is DOT regulations address more than just safety issues. DOT has jurisdiction over safety issues and damage to roadways, whereas the OSH Act limits OSHA's jurisdiction to safety of employees.

OSHA has determined that it has jurisdiction over tractor-trailers never operated on a highway/public roadway, but there are no OSHA regulations that specifically address the issue of the weights of loads that can be carried. However, even though there are no regulations, OSHA can still address such a condition if it is hazardous. This can be done through the general duty clause, which is set forth in Section 5(a)(1) of the OSH Act. The general duty clause requires that employers:

shall 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.

OSHA requirements are set by statute, standards, and regulations. Our interpretation letters explain these requirements and how they apply to particular circumstances, but they cannot create additional employer obligations. This letter constitutes OSHA's interpretation of the requirements discussed. Note that our enforcement guidance may be affected by changes to OSHA rules. Also, from time to time we update our guidance in response to new information. To keep apprised of such developments, you can consult OSHA's website at "<http://www.osha.gov>." If you have any further questions, please contact John McFee of my staff at (215) 861-4927 or at John.Mcfee@OSHA.gov.

Sincerely,


KENNETH W. GERECKE
Assistant Regional Administrator