

*Natural building blocks for quality of life*

December 17, 2010

Office of Standards, Regulations, and Variances  
U.S. Mine Safety & Health Administration  
1100 Wilson Boulevard, Room 2350  
Arlington, Virginia 22209- 3939  
RE: RIN 1219-AB71

Dear Madame/Sir:

In response to the agency's request for comments for a yet-to-be-proposed rule on safety and health management systems, we provide the following comments.

Most NSSGA member companies utilize individualized safety and health management systems (SHMS) adapted to their organizational culture for the purpose of maintaining workplaces that are both healthy and safe for all mine workers. This commitment stands as a central reason why the aggregates industry is looking at closing out 2010 as the tenth consecutive year in which the industry saw a reduction in injury rate, down to the current level of 2.37 injuries per 200,000 hours worked. If this holds, this will stand as a record low level. However, until that rate reaches zero and sustains itself, our work will not be done.

In October 2010, five different member companies participated in various public hearings presenting on their individual programs/systems for proactively managing for health and safe production of aggregates (see attached presentations). All of the systems pursue elimination of injuries and illness, full compliance with the Federal Mine Safety & Health Act, Occupational Safety & Health standards and regulations; miner training and retraining; and entailed bottom-up involvement from miners to CEOs. All contained programs for identifying and controlling hazards; all entailed programs for auditing success.

In Sacramento, CA, Teichert Aggregates described the company's innovative efforts to avert counter-productive bureaucracy in the aim of communicating persuasively with employees about the company's goal of zero injuries. Miles Sand & Gravel illustrated some of the ways in which the culture of safety and health was implemented, and is now nurtured across its workforce. TXI outlined its various tactics to implement a culture of safety, including workplace examination audits.

In Arlington, VA, Rogers Group. presented its approach to behavior-based safety (having cited the statistic that 90 percent of injuries are tied to behavior), which looks at actions of management and workers with an eye for what's most supportive of health and safety.

In Pittsburgh, PA, Vulcan Materials outlined the key elements of an occupational health program; these include exposure monitoring and controls, medical screening and data analysis as

well as health hazard training; the company also demonstrated its intricate hazard awareness program.

Also, many presenters referenced the Core Principles of a Safety Program, established by the MSHA/NSSGA Alliance in 2003 (available at: <http://www.msha.gov/alliances/formed/NSSGAAIallianceCoreSafetyPrinciples.pdf>). This is the basis for much, though not all, of the industry's thinking about what's needed for a comprehensive system approach to managing for healthy and safe aggregates production.

In light of the fact the proposed MSHA rulemaking has provided no detail on what the agency envisions for a safety and health management system, stone, sand and gravel producers are hard-pressed to develop comments in support of a rulemaking on this issue.

Aggregates operators have implemented various SHMSs because a) safety and health of the employee are the most highly valued commodity in our operation; b) the commitment to worker health and safety is the right thing to do and c) this commitment and demonstration makes good business sense. These points illustrate that, among other things, we do not rely on government enforcement agencies to proactively manage for safety and health.

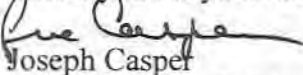
However, it is our position, the systemic management of worker health and safety is best done on a company-by-company basis. This should not be done as a one-size-fits-all kind of program. It's worth noting that the proposed Federal OSHA Injury & Illness Prevention Program rulemaking – requiring operators to write a plan illustrating adherence to a SHMS – would not be appropriate for stone, sand and gravel operations. With existing MSHA enforcement currently in place, adding a new layer of compliance could be burdensome on operators, and do nothing in and of itself to genuinely promote safety and health.

Furthermore, the beauty of the SHMSs outlined in the recent MSHA public hearings is that they were rooted in the best possible practices for the circumstances, tailored to the health, safety, engineering, and operating challenges at those particular locations. What's not needed is yet another Federal mandate when aggregates operations are already doing what needs to be done to make workplaces more healthy and safe.

We believe that the proposed rulemaking is not necessary as it appears duplicative of existing MSHA enforcement provisions and could add to additional paperwork burden for the operator. Alternatively, industry continues to improve its health and safety record would prefer to partner with MSHA, as appropriate, with stakeholders on behalf of further reductions in injuries and illnesses.

If you have any questions, please feel free to contact me at (703) 526-1074 / [jcasper@nssga.org](mailto:jcasper@nssga.org).

Thank you for your consideration of these comments.



Joseph Casper

Vice President, Safety

National Stone, Sand & Gravel Association



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## **NSSGA ANALYSIS OF EPA'S RECOMMENDED PARTICULATE MATTER (PM) NAAQS**

### **A Tighter PM Air Standard under EPA Consideration Could Impede Aggregate Production and Sales**

#### **ISSUE**

- The Clean Air Act requires EPA to review the National Ambient Air Quality Standards (NAAQS) for six criteria pollutants, including particulate matter (PM), every five years and adjust the concentration limits accordingly based on the latest available health effects research.
- EPA is considering lowering the current PM 10 NAAQS of 150 ug/m<sup>3</sup> to between 65-85 ug/m<sup>3</sup>.
- Air dispersion models are used to set permit limits based on maximum production and to predict compliance with the NAAQS for new aggregate operations or expansion of existing operations.
- Maximum production capacity is assumed in each model to meet the PM 10 NAAQS.
- Pass/Fail determinations of air models hinge primarily on roadway emissions of customer truck traffic, stockpile activity, and to a lesser degree, emissions from the processing plant.

#### **NSSGA POSITION**

- EPA lacks sufficient data to perform a statistical analysis of coarse PM health effects.
- EPA should retain the current PM NAAQS for another 5-year review cycle until additional sufficient health effects research can be completed and more information gathered from a national coarse PM monitoring network.
- EPA should exclude coarse crustal material from future NAAQS regulation
- EPA should determine what aspects of coarse PM cause health effects, i.e. is it the coarse crustal particle itself or the chemicals that are absorbed on to the particle such as SO<sub>x</sub> and NO<sub>x</sub> (urban versus rural emissions).

#### **INDUSTRY IMPACTS**

- Dust is generated at an aggregate operation by crushing, screening, conveying, stockpile activity and customer truck traffic on paved and unpaved roadways.
- Maximum aggregate production is achieved, and compliance with the PM 10 NAAQS of 150 ug/m<sup>3</sup> is maintained, by aggregate producers already using Best Available Control Technologies on their processing plants such as wet suppression, dry collection and enclosures, and properly maintaining roadways.
- The only way to meet a lower fence-line NAAQS, via air dispersion modeling or air monitoring, is to limit annual production in the processing plant and/or the number of trucks traveling on roadways within the property, thus limiting sales to customers (restriction of trade).
- Limiting aggregate production and sales will create additional job loss and economic strain for an industry already suffering from the current economic downturn in construction.
- Recent evaluation of EPA data indicates the lower PM NAAQS will leave more than half of the US vulnerable to violating the standard and put many metropolitan areas out of conformity with their State Implementation Plans and thus place highway funding in jeopardy.

#### **TIMELINE**

- August 25, 2010: EPA's Clean Air Scientific Advisory Committee issues final recommendation for revised NAAQS between 65-75 ug/m<sup>3</sup>
- Spring 2011: EPA issues final Policy Assessment on NAAQS that includes CASAC recommendation
- August 2011: EPA issues proposed rule
- Spring 2012: EPA issues final rule

# PM 10 Study Results



The unmonitored and monitored areas that are especially vulnerable to localized nonattainment due to the potentially revised PM<sub>10</sub> NAAQS are shown in blue.

