

From: Mark Ellis [mailto:markellis@ima-na.org]
Sent: Friday, December 10, 2010 10:14 AM
To: zzMSHA-Standards - Comments to Fed Reg Group
Cc: 'Mark Ellis'
Subject: RIN 1219-AB71 - Safety and Health Management Programs for Mines
Importance: High

2010 DEC 10 P 12:09

Dear Sir or Madam:

Attached please find the comments of the Industrial Minerals Association – North America (IMA-NA) on the Mine Safety and Health Administration's (MSHA) Notice of Public Meetings on safety and health management programs for mines. An attempt will be made to file and download the same comments on the federal e-rulemaking portal: <http://www.regulations.gov>.

Please let me know if you have any questions, comments or suggestions regarding this matter.

Best—

Mark

Mark G. Ellis
President
Industrial Minerals Association - North America
National Industrial Sand Association
2011 Pennsylvania Avenue, NW, Suite 301
Washington, DC 20006
(202) 457-0200
(202) 457-0287 (Fax)
markellis@ima-na.org
markellis@sand.org



AB71-COMM-8



December 10, 2010

Mine Safety and Health Administration
Office of Standards, Regulations, and Variances
Room 2350
110 Wilson Boulevard
Arlington, VA 22209-3939

RE: Safety and Health Management Programs for Mines; RIN No. 1219-AB71

Dear Sir or Madam:

The Industrial Minerals Association – North America (IMA-NA) is pleased to file the following comments on the Advance Notice of Proposed Rulemaking (ANPR) of the Mine Safety and Health Administration (MSHA) regarding safety and health management programs for mines (75 FR 54804 et seq.; September 9, 2010).

IMA-NA is a Washington, DC-based trade association created to advance the interests of North American companies that mine or process minerals used throughout the manufacturing and agricultural industries. Its producer membership is comprised of companies that are leaders in the ball clay, barite, bentonite, borates, calcium carbonate, diatomite, feldspar, industrial sand, kaolin, magnesia, mica, soda ash (trona), talc, wollastonite and other industrial minerals industries. As such, the majority of these nonmetal mines are subject to the requirements of 30 CFR Part 56 or Part 57. In addition, IMA-NA represents associate member companies that provide equipment and services to the industrial minerals industry. Additional information on IMA-NA can be accessed through the following hyperlink: <http://www.ima-na.org>.

Since its inception in 2002, IMA-NA has worked cooperatively with MSHA. IMA-NA recognizes that the first priority and concern of all in the mining industry must be the health and safety of its most precious resource – the miner. To that end, IMA-NA offers the following comments to MSHA.

At the October 8, 2010 public meeting MSHA held at its National Office, IMA-NA's oldest mineral producer section, the National Industrial Sand Association (NISA)(which was established in 1936), presented information on its occupational health program. The presentation was made by Mr. Andrew D. O'Brien, CSP, who is General Manager, Safety & Health, for Unimin Corporation. He also serves as Chairman of NISA's Silica Health Effects Committee, which recently received NISA's 2010 Recognition of Excellence Award. A copy of Mr. O'Brien's presentation is attached to these comments. (Attachment 1). His oral remarks, and mine, which went beyond the confines of that presentation already are part of the public record.

While MSHA's ANPR refers to safety and management "programs," IMA-NA believes that the term "systems" would be more appropriate. Examples of "programs" are lock-out/tag-out, exposure monitoring, etc. A management "system" contemplates management commitment, roles, responsibilities, etc., . . . and focuses on how those elements are implemented. Without dwelling on semantics, where "programs" may be susceptible to being mandated, "systems" are not. As explained more fully below, IMA-NA does not believe that effective safety and health management "systems" can be mandated. For the sake of consistency, our comments will continue to employ the term "programs."

IMA-NA and its member companies support the development and implementation of safety and health management programs on a voluntary basis. The diversity of the U.S. mining industry, e.g., coal, metal, nonmetal, surface, underground, large operator, small operator, etc., argues against a one-size-fits-all regulatory approach. MSHA could facilitate development and implementation of voluntary safety and health management programs better by encouraging management commitment to, and worker involvement in, programs that address the specific needs of individual mines, including roles and responsibilities, hazard identification, hazard prevention and control, safety and health training, and program evaluation. A mandated program, particularly one requiring formal MSHA approval, would not best serve the needs of the mining community.

MSHA should establish a very basic set of safety and health management program guidelines to encourage the development and implementation of such programs. Most "sophisticated" mining operations already have such programs in place. The goal should be to encourage the less sophisticated mining operations to become more sophisticated in this area and the message should be that functional safety and health management programs produce favorable safety and health outcomes. Ideally, every operation should have some form of formal safety and health management program (beginning with responsibility and accountability and leading to sustainability) and the program should contain some means of addressing the fundamental elements for implementing the program (e.g., inspecting or otherwise identifying risks in an individual mine, preventing and remediating hazards, accident investigation and corrective action, defining roles and responsibilities, mechanisms for periodically noting and responding to applicable regulations, a training program designed to educate employees, review of injuries for trends, etc.). In order to implement these fundamental elements (in different ways - at different levels of sophistication) somebody has to be responsible so that it promotes accountability and sustainability in mining operations where safety and health management programs previously did not exist.

IMA-NA shares MSHA's objective to develop and implement safety and health management programs for mines. However, MSHA's guidance must remain general in nature and allow an essential level of flexibility - sector to sector, mining method to mining method, company to company, mine to mine. MSHA can help promote and sustain internal company programs with positive reinforcement. It must avoid trying to micromanage internal programs with "one-size-fits-all" thinking. Safety and health management programs should be self-executing when functioning optimally. MSHA should promote basic internal programs, not attempt to rigidly define the organization and administration of these programs. It would be relatively easy for MSHA to adopt the already developed ANSI Z10 standard or OHSAS 18001 as suggested frameworks to follow. Perhaps MSHA's Education Policy and Development Directorate is the

agency program area best suited to giving the less sophisticated mining operations a template for developing and implementing safety and health management programs scaled to their operations and to which they reasonably can aspire. Ideally, IMA-NA would like to see MSHA adopt a program like the Occupational Safety and Health Administration's (OSHA) Voluntary Protection Program (VPP). An MSHA VPP initiative would be an effective way to encourage mine operators to implement safety and health management programs. We believe that MSHA should adopt a VPP initiative that mirrors that of its sister agency, encourage participation and promote those mine operators who implement conforming programs.

Each operation's circumstances (risks, resources, culture, etc.) are different. Each operation must find ways to work within the constraints imposed by those circumstances before it can expect to take ownership of safety and health management programs and see them as contributing to their business. MSHA's safety and health management program initiative should ensure accountability and sustainability, not focus on the details of these programs.

IMA-NA is pleased to have had the opportunity to comment on safety and health management programs in mines and it stands ready to assist in a constructive manner should MSHA decide to further explore an initiative promoting safety and health management programs in mines. Please do not hesitate to contact me should you have any questions, comments or suggestions regarding this matter.

Sincerely,



Mark G. Ellis
President

Attachment



National Industrial Sand Association (NISA) Occupational Health Program

Andrew D. O'Brien, CSP
General Manager, Safety & Health
Unimin Corporation



OHP Overview

- Current OHP is dated 2010 and is a revision to the 1997 OHP Manual.
- Purpose:
 - “Conducting a surveillance program as outlined in this manual is crucial to our industry in reaching our goal of preventing the development of new cases of silicosis in member company employees.”

Sections of The OHP

- NISA OHP consists of 4 sections:
 - Introduction;
 - Respiratory Health Effects of Exposure to Crystalline Silica
 - Workplace Dust Surveys; and
 - Respiratory Medical Surveillance for Silicosis.

Introduction

- **Respiratory Health Effects of Exposure;**
- **Workplace Dust Surveys; and**
- **Respiratory Medical Surveillance.**

Respiratory Health Effects of Exposure to Crystalline Silica

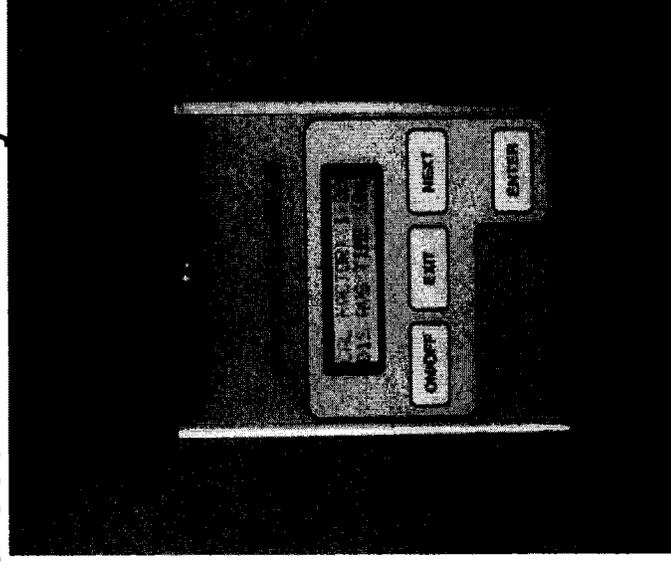
- **Description of Respiratory System;**
- **Pneumoconiosis;**
- **Silicosis:**
 - **Chronic, Accelerated, and Acute.**
- **Silica and Lung Cancer;**
- **Medical Surveillance and Epidemiology; and**
- **Exposure Limits:**
 - **How to determine via PEL calculation.**

Workplace Dust Surveys

- **Purpose:**
 - Evaluate workplace exposure to silica dust.
- **Respirable Dust Sampling:**
 - Sampling Equipment;
 - Calibration of Sampling Train; and
 - Burette and Electronic calibration methods.
- **Sampling Procedures:**
 - Personal Sampling; and
 - General Workplace or Area.

Workplace Dust Surveys (cont'd)

- Direct Reading Instruments:
 - Instrumental in pin-pointing exposure sources whether they be equipment or work practices.
- Analytical Procedures:
 - Gravimetric & X-Ray Diffraction (XRD);
 - NIOSH 7500.
- Sampling Records:
 - Pump Calibration;
 - Data Sheet;
 - Sampling Results; and
 - Activity Log.



Workplace Dust Surveys (cont'd)

- **Sampling Frequency:**
 - General guidelines for how many workers to sample based on population.
- **Discussion of Results:**
 - What do the numbers mean to the miner?
- **Sampling Strategy:**
 - Determine sampling frequency based on exposures.

Respiratory Medical Surveillance for Silicosis

- **Purpose:**
 - Establish baselines;
 - Detect abnormalities at an early stage;
 - Prevent development of silicosis;
 - Disclose occupational and non-occupationally related abnormalities to worker for clinical follow-up;
 - Identify potentially hazardous working conditions; and
 - Develop data on which epidemiological studies can be based.

Respiratory Medical Surveillance for Silicosis (cont'd)

- **Medical and Occupational History;**
 - Respiratory History;
 - Smoking History;
 - Prior exposure to potentially harmful dusts, chemicals, and other physical agents; and
 - Any adverse effects related to exposures.

Respiratory Medical Surveillance for Silicosis (cont'd)

- **Medical examination:**
 - Of the thorax to assess worker's respiratory fitness;
 - A 14-by-17 inch PA chest x-ray
 - Evaluated by qualified board-certified radiologists who are NIOSH-certified B Readers.
 - List of current B Readers may be found at <http://www.cdc.gov/niosh/topics/chestradiography/breader-info.html>
 - Radiograph interpretation – Art or Science, particularly at lowest categories?
 - Pulmonary Function Tests (PFTs).
 - TB Tests for employees with more than 25 years exposure.

Respiratory Medical Surveillance for Silicosis (cont'd)

- **Consensus X-Ray Interpretation:**
 - Normal – No additional reading.
 - Abnormal (Non-Occupational) – Refer for follow-up.
 - Abnormal (Occupational) – Second Reading.
 - First and second readings agree – No additional reading.
 - First and second readings disagree – Third Reading.
 - Consensus = median reading of all 3.

Respiratory Medical Surveillance for Silicosis (cont'd)

- **X-Ray Retention and Storage:**
 - ANSI Standards for storage recommended.
- **Spirometry (Pulmonary Lung Function Testing)**
 - Mandatory element of OHP.
- **Medical Assessment of Ability to Wear a Respirator**
 - Performed by physician considering
 - Worker's health;
 - Type of respirator; and
 - Type of working conditions.

Respiratory Medical Surveillance for Silicosis (cont'd)

- **Record Keeping & Worker Notification:**
 - Records kept 30 years past end of employment; and
 - Worker provided with results and evidence of this exchange should also be kept on file.
- **Frequency of Examinations:**
 - Medical evaluations (excluding x-rays) biennially;
 - X-Ray frequency based on:
 - Number of years since first exposure to silica dust;
 - Age of the worker; and
 - Whether any signs or symptoms are present.

NISA Silicosis Prevention Program

- Program contains 6 elements:
 - Occupational Health Program Implementation;
 - Medical Assessment;
 - Dust Exposure Assessment;
 - Dust Control;
 - Employee Involvement; and
 - Smoking Cessation Program.

NISA Silicosis Prevention Program

- The NISA Silicosis Prevention Program is a GREAT program and if implemented will prevent development of new cases of silicosis.
- NISA Membership – 24 operators.
- NISA members committed to the Silicosis Prevention Program – 9!

NISA Silicosis Prevention Program

- Despite the potential value of the program, only 37.5% of the membership has committed.
- Commitment levels vary between participating companies.
- Roadblocks to commitment:
 - Concern for the creation of enforceable data (e.g. dust samples);
 - Cost;
 - Not fully understanding the program (even after all of these years).

NISA Silicosis Prevention Program

- The NISA OHP is state of the art.
- The NISA SPP will prevent new disease.
- The NISA membership understand this.
- Even with “no cost” mentoring, the majority of members are hesitant to fully commit.

Ontario Ministry of Labour Lesson

- Within the Province of Ontario, the Ministry of Labour (MOL) is equivalent to the MSHA.
- Historically, MOL legislation required employers to maintain a “Health & Safety Plan”.
- Sophisticated employers are constantly measuring performance and adjusting programs.
- Un-sophisticated employers lack resources to constantly measure and adjust programs, let alone implement formal programs.
- MOL has abandoned program requirement.