

# PUBLIC SUBMISSION

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**Docket:** MSHA-2014-0031  
Exposure of Underground Miners to Diesel Exhaust

**Comment On:** MSHA-2014-0031-0076  
Exposure of Underground Miners to Diesel Exhaust: Request for Information; Reopening of Rulemaking Record; Extension of Comment Period

**Document:** MSHA-2014-0031-0172  
Comment from Mark Ellis, Industrial Minerals Association - North America

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## Submitter Information

**Name:** Mark Ellis  
**Organization:** Industrial Minerals Association - North America

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## General Comment

Please see the attached.

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## Attachments

IMA-NA Comments on MSHA Diesel Health Effects RFI

AB86-COMM-114



January 8, 2018

Ms. Sheila McConnell  
Director  
Office of Standards, Regulations, and Variances  
Mine Safety and Health Administration  
U.S. Department of Labor  
201 12<sup>th</sup> Street South  
Arlington, VA 22202

Re: RIN 1219-AB86; Docket No. MSHA-2014-0031, Request for Information on Exposure of Underground Miners to Diesel Exhaust--Comments of the Industrial Minerals Association - North America and its Diesel Emissions Task Force

Filed via the Federal eRulemaking Portal: <http://www.regulations.gov>

Dear Ms. McConnell:

Please find below the comments of the Industrial Minerals Association-North America (“IMA-NA”) and its Diesel Emissions Task Force (“Task Force”) on MSHA’s Request for Information on Exposure to Diesel Exhaust of Underground Miners (“RFI”). IMA-NA is the representative voice of companies which extract and process a vital and beneficial group of raw materials known as industrial minerals. Industrial minerals are the ingredients for many of the products used in everyday life such as glass, ceramics, paper, plastics, paint and coatings, cosmetics, pharmaceuticals, and laundry detergent. IMA-NA’s companies and the people they employ are proud of their industry and the socially responsible methods they use to deliver these beneficial products. Industrial minerals include ball clay, barite, bentonite, borates, calcium carbonate, diatomite, feldspar, industrial sand, kaolin, soda ash (trona), talc, and wollastonite. IMA-NA also represents associate member companies that support producers of industrial minerals. The safety and health of our employees are of paramount concern to IMA-NA members.

### **The Task Force**

Most of the IMA-NA underground mining companies producing those minerals participate in the activities of the Task Force, which was organized in 2015 for, among other reasons, to bring to bear the resources of the IMA-NA on the RFI. IMA-NA underground producing member companies represented on the Task Force include: Carmeuse Lime & Stone, Ciner Resources Corporation, Fairmount Santrol, Huber Carbonates, Imerys, Lhoist North America, Mississippi Lime Company, Solvay Chemicals, Tata Chemicals, Genesis Alkali, Vanderbilt Minerals and Unimin Corporation.

At its organizational meeting the Task Force developed the following proactive mission statement:

The mission of the IMA-NA Diesel Emissions Task Force is to function as a forum for mine operators to learn as much as possible about the health effects of diesel exhaust, especially its carcinogenic potential, to protect IMA-NA members' employees in their occupational settings.

### **The RFI**

The original RFI was published in the Federal Register for June 8, 2016 (81 Fed. Reg. 36,826). Comments were requested by September 1, 2016. The comment period subsequently was extended to November 30, 2016 (81 Fed. Reg. 58,424). In response to requests from the public, MSHA published a notice in the Federal Register for January 9, 2017, reopening the RFI rulemaking record (82 Fed. Reg. 2,284). Comments were requested by January 9, 2018.

### **The NIOSH-MSHA Diesel Exhaust Health Effects Partnership**

The Task Force is very pleased that MSHA and NIOSH have established a NIOSH-MSHA Diesel Exhaust Health Effects Partnership (the "Partnership").

We are particularly of the view that this Partnership will be very helpful to MSHA and all other stakeholders in grappling with the RFI's questions; not to mention other questions we suspect will be identified as the work of the Partnership ensues. MSHA's use of Requests for Information are useful mechanisms for the development of improved safety and health regulations—especially in cases like this RFI that deal with very complex technical issues. The Task Force believes the RFI has truly set the stage for the Partnership to engage with a large audience of expert private sector stakeholders and MSHA and NIOSH experts in an informal iterative process likely to result in a work-product that will provide the basis for any additional regulation (if necessary) of the exposure of underground metal/nonmetal miners to diesel exhaust.

An important observation on the "(if necessary)" comment above. IMA-NA challenges the premise that typically dictates partnerships end up in a regulatory outcome. Two Executive Orders were issued by the President in 2017 addressing regulatory reform in his administration. See Executive Order 13,771 (January 30, 2017) and Executive Order 13,777 (February 24, 2017). These Executive Orders seek to assess compliance costs and reduce regulatory burdens. That is not to suggest that all regulation is unwarranted. Rather, regulation does not necessarily need to be the end game. The diesel engine manufacturers made clear at the September 19, 2017 Partnership meeting that mandated regulation can forestall innovation and preclude alternative technical solutions.

The expert private sector stakeholders and MSHA and NIOSH experts bring something different to the Partnership table. When it comes to the issue the Partnership was formed to address, namely protecting underground miners from diesel exhaust health effects, everyone has a common interest in the objective. We may come at it from slightly different perspectives, but that is healthy. We need to ensure we bring different perspectives to the issue, but we can all focus on improving miner health – and not necessarily by means of a regulatory response.

IMA-NA and its Task Force believe that Partnership should undertake a results-oriented prioritization of issues it should address. What equipment currently in use is producing the greatest contribution to diesel exhaust emissions? How can those emissions best be reduced? What retrofit controls are available for older equipment? What occupations have the highest exposure and what can be done to reduce those exposures? How can this prioritization process assist operators of small mines, likely with limited resources? The Partnership initially should focus its energies on the biggest problems with the easiest solutions. If we begin on the ones that can be applied universally; we can then turn to specific, unique applications. MSHA and NIOSH undoubtedly have a good baseline for diesel emissions exposure levels before and after existing regulations were put into place. They, and private sector stakeholders, undoubtedly know of intervention activities that were implemented in the ensuing years to achieve substantial reductions in diesel emissions exposures. We also likely know what doesn't work. The Partnership needs to catalog those best practices and encourage their implementation, particularly at operations that have not achieved substantial reductions in diesel emissions exposures. Regulatory compliance should be considered a minimum, but that should not preclude efforts to achieve additional reductions in diesel emissions exposures. There may be no "best" or "universal" solution to achieving these reductions, but rather a suite of intervention activities that can be implemented to best fit the circumstances of individual mine operations.


One of the challenges the Partnership faces is the broad array of variables that impact diesel exhaust emissions. It will be difficult to address these variables in a general context. A results-oriented prioritization is a good first step. Harvest the low-hanging fruit and then move on to greater challenges. The Partnership should identify issue subgroups that can focus their energies on areas of particular expertise. Low-hanging fruit undoubtedly exists in each of these issue subgroups, if it already has not been harvested. If it has, then the issue subgroup can begin to push the frontiers of where additional work may be merited. The Partnership should serve as the umbrella for the activities of these issue subgroups because reducing diesel emission exposures is holistic. Not everyone engaged in the Partnership need be engaged in each issue subgroup, although some may wish to do so. Here again, a results-oriented prioritization may prevent over-taxing the Partnership's limited human resources. IMA-NA and its Task Force are confident that the Partnership can set and move on its priorities.

To that end, we believe it would serve the Partnership if MSHA and NIOSH were to lay out a "roadmap" for this results-oriented prioritization and seek Partnership input on their draft. The roadmap should address the differences between the Coal and Metal/Nonmetal regulatory regimes in the issue groups it proposes. What are the foundations the issue groups and Partnership can build upon and where can we best focus our inquiries?

In light of the foregoing, specifically in light of advances the Partnership is making, IMA-NA and its Task Force request that MSHA keep the "rulemaking" record on the RFI open for public comment indefinitely or, if need be, extended to at least January 9, 2019, contemplating subsequent extensions as warranted.

Thank you for the opportunity to comment on the RFI. The IMA-NA and the Task Force look forward to working with you further on the RFI, the NIOSH/MSHA Diesel Health Effects Partnership, and the overall questions of health effects of diesel exhaust on underground metal/nonmetal miners.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark G. Ellis". The signature is fluid and cursive, with a prominent initial "M" and a distinct "E".

Mark G. Ellis  
President  
Industrial Minerals Association – North America