

**SUMMARY OF TESTIMONY OF PETE LIEN ON BEHALF OF THE
NATIONAL STONE, SAND & GRAVEL ASSOCIATION BEFORE THE
SUBCOMMITTEE ON ENERGY AND POWER
HOUSE COMMITTEE ON ENERGY AND COMMERCE
HEARING ON
FARM DUST REGULATION PREVENTION ACT
October 25, 2011**

- Like agriculture, resource-based industries such as aggregates production have limited opportunities to reduce dust.
- Aggregates are used in nearly all residential, commercial, and industrial building construction and in most public works projects.
- To meet the current standard for dust or PM10 aggregates facilities are required to have permits with state environmental agencies which seek to control dust by limiting production and requiring control technologies to limit dust on crushers and other equipment and road maintenance. Some dust is generated at an aggregate operation by crushing stone and truck traffic; however, most is from uncontrollable sources such as from roads and windblown dust, particularly in rural areas.
- There is no practical way to control natural dust sources in the West and Southwest and reduce the PM10 ambient air concentrations; because of this, NSSGA supports the *Farm Dust Regulation Prevention Act*.
- One NSSGA member has calculated that in order to meet a reduced standard, a typical facility would have to reduce production by more than two-thirds. This would substantially change the business model, and lead to plant closure (and the loss of 50 jobs) or a dramatic increase in the price of product. Given that there are over 10,000 operations in the U.S., and virtually every congressional district is home to an aggregates operation, this could result in significant job losses.
- Taken further, a cut in aggregate production would lead to a shortage of stone, concrete and asphalt for state and federal road building/repair, commercial and residential construction, which in turn would cause an increase in the price of stone for these projects ranging from 80 percent to 180 percent and further suppress employment in the construction industries. Given that infrastructure investment is essential to economic recovery and growth, this additional burden on the aggregates industry comes at a time when both aggregate supply and jobs are of vital importance.

NATIONAL STONE, SAND & GRAVEL ASSOCIATION



Natural building blocks for quality of life

TESTIMONY

OF

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Thank you Chairman Whitfield, Ranking Member Rush, and Members of the Subcommittee for inviting me to testify on behalf of the National Stone, Sand & Gravel Association (NSSGA) at this hearing on the *Farm Dust Regulation Prevention Act* (H.R. 1633) which would prevent the harmful effects of EPA's regulation of nuisance dust on the aggregates industry.

I am Pete Lien, President of Peter Lien & Sons, Inc., headquartered in Rapid City, South Dakota, and I serve on the NSSGA's Board of Directors.

Regulating coarse particulate matter is an issue of utmost concern to the aggregates industry; an industry which involves extraction of a foundational material essential to the built environment. Representative Noem is my congresswoman and I am pleased to express NSSGA's support for her legislation.

Aggregates Industry

The National Stone, Sand & Gravel Association represents the crushed stone, sand and gravel – or construction aggregates – industries. Its member companies produce more than 90 percent of the crushed stone and 70 percent of the sand and gravel consumed annually in the United States. There are more than 10,000 construction aggregates operations nationwide.

Aggregates are used in nearly all residential, commercial, and industrial building construction and in most public works projects, including roads, highways, bridges, dams, airports, water and sewage treatment plants, and tunnels. While Americans take for granted this essential natural material, aggregates are essential to the built environment. Aggregates make up 94 percent of asphalt and 80 percent of concrete. About 400 tons are used in an average home (not counting the required subdivision work) and 38,000 tons are used to construct one mile of highway. Without aggregates, we would be sitting and driving on dirt.

Aggregates are a high volume, low cost product. Due to high product transportation costs, proximity to market is critical; thus, 70 percent of our nation's counties are home to an aggregates operation. Sales of natural aggregates generate nearly \$40 billion annually for the U.S. economy. When combined with related industries, such as cement, concrete and construction equipment and supplies, the transportation construction industry generates more than \$200 billion in economic activity every year.

Through its economic, social and environmental contributions, aggregates production helps create sustainable communities and is essential to the quality of life American's enjoy. Yet despite the large amounts of aggregates used in all kinds of construction the aggregates industry has experienced the most severe recession in its history. Production of aggregates in the U.S. has gone from over 3 billion metric tons in 2006 valued at \$21 billion to 2 billion metric tons in 2010 at a value of approximately \$17 billion, a 4 billion decrease. This production decrease is on top of decreases in 2007, 2008 and 2009. Many

aggregates companies have had to lay off employees for the first time in their history. Of particular relevance to this hearing, 70 percent of NSSGA members are considered small businesses. Because so much of the aggregates produced go towards public infrastructure projects like roads, bridges and water treatment plants, increases in the cost of aggregates, such as those from overregulation, are borne by taxpayers.

Pete Lien & Sons, Inc. Background

In 1944, my grandfather started a small quarry near Rapid City, South Dakota, which helped build the nearby air base and later the interstate highway system. We now have 450 employees at 30 sites in 3 states, building the communities we live in by supplying construction materials such as rock, sand, gravel, concrete, and lime.

Industry's Demonstrated Commitment to the Environment and to Sustainability

NSSGA members long ago committed to Guiding Principles for environmental compliance and sustainability, and recognize that the Earth's resources, upon which all of life depends, are finite and that wise environmental stewardship is necessary today to preserve the potential for a quality life for future generations. NSSGA members are committed to full compliance with all pertinent environmental law and regulations, and emphasize sustainable practices.

Since it is the most fundamental component of construction, aggregates are employed in any road or building project, as well as for many environmental purposes. Environmental uses include: erosion control alongside roads, dams, shorelines and bridges, filtration for storm water as well as water and sewage treatment, as 80-some percent of the material used to construct the systems which convey water to be treated as well as clean water, flue gas desulfurization in power plant and industrial air emissions, reclamation and habitat creation, and neutralization of acidic discharges.

Regulatory Burden is a Challenge

While there are many environmental benefits to using stone, sand and gravel the number and impact of new regulatory proposals on top of existing heavily regulated operations seem to continue unabated. NSSGA believes that, at this challenging time for our Nation's economy, government should consider the cumulative impact of the costs of compliance before more rules are imposed on industry. Federal regulatory decision-makers must wield their authority with care, and should base regulatory decisions on published, peer -reviewed assessments of risk. We are wary of rules that create more stringent or even unattainable standards without sufficient statistical, scientific or analytical justification.

Quarry Operations and Dust

On behalf of NSSGA, I can attest to our relief at the EPA Administrator's recent decision to not go forward with a proposal to reduce the NAAQS for PM 10. Such a rule would have been devastating not only to my company and our industry, but also to most of the Midwestern and Western states such as South Dakota where we're headquartered.

Further I applaud the responsible behavior on the part of this subcommittee to have this hearing so that the issues that must be considered in law and rulemaking are collected for the record and as a tutorial for the future.

Like agriculture, resource-based industries such as aggregates production have limited opportunities to reduce dust. Most aggregates operations would have to cut production to meet a reduced standard. Dust is generated at an aggregates operation by crushing, screening, conveying, stockpile activity and truck traffic on paved and unpaved roadways. Maximum aggregates production is achieved, and compliance with the current dust standard is maintained, by aggregates producers already using Best Available Control Technologies on their processing plants such as wet suppression, dry collection and enclosures, and properly maintaining roadways. However, these sources are only a small fraction of dust present at a typical aggregates site; most is from uncontrollable sources such as from roads and windblown dust, particularly in rural areas.

Current Regulatory Requirements

To meet the current National Ambient Air Quality Standard for Coarse Particulate Matter (PM 10), aggregates facilities are required to have permits with state environmental agencies which seek to control dust by limiting production and requiring control technologies such as water sprays, dust collectors or enclosures to limit dust on crushers and other equipment and road maintenance. Quarries demonstrate compliance via air dispersion modeling or monitoring.

Many aggregates facilities struggle to meet the current standard, and changes in operations, even to improve efficiency, are often compromised. For example, one facility wanted to upgrade its operations to increase efficiency and use less fuel. In order to relocate equipment, the changes in the modeled dust emissions would have led to changes in the facility permit. In order to approve the changes in the permit, the state agency required a long road to be paved, which would have cost five hundred thousand dollars. This was even more impractical given that the shape of a quarry changes as the material is mined. Because of this regulatory burden, the changes to plant operations were not made.

Impacts of Dust Over-Regulation

We are happy with the recent decision by Lisa Jackson to retain the current standard at present. However, a future reduction in the standard would be difficult, if not impossible,

to meet for mining, farming, ranching, transportation and other sources of coarse crustal fugitive dust emissions found in parts of the West, Southwest, Midwest and East. 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 aggregates production and sales would create additional job loss and economic strain.

The recent Coarse Particle Coalition study confirms that a reduction in the standard would cause widespread reductions in production and employment at facilities throughout agricultural and resource-based industries. The study showed a lower PM NAAQS would leave more than half of the U.S. vulnerable to violating the standard and put many areas out of conformity with their State Implementation Plans and thus place highway funding in jeopardy.

The dominance of natural dust sources (i.e. windblown dust from arid lands) and municipal unpaved roads is the main reason that some areas in the West and Southwest have been in continual non-attainment with PM10 standards since the late 1980s. There is no practical way to control these sources and reduce the PM10 ambient air concentrations; nevertheless EPA continues to promulgate unworkable standards that hurt job growth without health benefits.

In Utah, a reduction in the current standard would result in 23 of the 29 counties exceeding the new standard. Although best management practices and strict requirements are already in place, this would result in extreme limits on production and/or facility closures. This would not only impact the jobs at the aggregates operations, but many other infrastructure and construction related jobs as well.

One NSSGA member has calculated that in order to meet a reduced standard, a typical facility would have to reduce production by more than two-thirds. This would substantially change the business model, and lead to plant closure (and the loss of 50 jobs) or a dramatic increase in the price of product. Given that there are over 10,000 operations in the U.S., and virtually every congressional district is home to an aggregates operation, this could result in significant job losses. With the anticipated PM10 NAAQS, NSSGA member companies will have extreme difficulty in expanding existing facilities or opening new ones to meet construction demands for aggregates.

Taken further, a cut in aggregates production would lead to a shortage of stone, concrete and asphalt for state and federal road building/repair, commercial and residential construction, which in turn would cause an increase in the price of stone for these projects ranging from 80 percent to 180 percent and further suppress employment in the construction industries. Given that infrastructure investment is essential to economic recovery and growth, this additional burden on the aggregates industry comes at a time when both aggregates supply and jobs are of vital importance.

The Clean Air Act requires EPA to set National Ambient Air Quality Standards to protect public health. However, in evaluating health effects of possible changes in the Standards, EPA has failed to consider the very significant adverse health effects caused by forced unemployment.

Conclusion

NSSGA appreciates this opportunity to speak on the natural dust levels in the ambient air that must be considered in endeavoring to lower the currently strict PM10 NAAQS. Lowering the PM10 NAAQS would have had devastating effects of unjustifiable overregulation of nuisance dust to the aggregates industry, which of course extends to the construction and agricultural sectors among many others. On behalf of NSSGA, we are relieved at the recent announcement by EPA that they will not proceed on a reduction of current PM10 levels, and we are grateful for the work of this subcommittee toward that end. Thank you, Mr. Chairman, and I will be happy to respond to any questions.

Attachments



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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/m³ to between 65-85 ug/m³.
- 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_x and NO_x (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/m³ 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/m³
- April 20, 2011: EPA issues Final Policy Assessment giving options of either retaining or reducing standard
- August 2011: EPA issues proposed rule-DELAYED
- 2012: EPA issues final rule



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NSSGA ENVIRONMENTAL GUIDING PRINCIPLES

The members of the National Stone, Sand and Gravel Association (NSSGA) recognizes that the Earth's resources, upon which all life depends, are finite, and that wise environmental stewardship is necessary today to preserve the potential for a quality life for future generations. To that end, the NSSGA Board of Directors amended these Environmental Guiding Principles on February 11, 2001. The Environmental Guiding Principles were originally adopted January 20, 1991.

The National Stone, Sand and Gravel Association:

- Encourages its members to meet all established environmental regulatory requirements, and where possible to do better than the law and regulations require.
- Believes that environmental laws and regulations should be based on sound scientific, engineering and medical research and on established scientific, engineering and medical principles. To this end, NSSGA will work with lawmakers and regulators and make available the expertise of its member, staff and research facilities to help in shaping the nation's environmental policies.
- Encourages its members to adopt and implement an Environmental Management System (EMS) program to meet its environmental requirements and improve its overall performance. An EMS is a continual cycle of planning, implementing, reviewing and improving the actions that an organization takes to meet its environmental goals.
- Encourages its members to strive for excellence in environmental affairs and to provide leadership by example by demonstrating environmental stewardship in all aspects of their operations.
- Encourages its members to contribute to environmental enhancement by implementing programs such as landscaping and wildlife habitat development.
- Encourages its members to work with community leaders and citizens groups in developing plans for appropriate uses of the land in the community interest, once mining operations have been completed.
- Encourages its members to participate in communicating to the public the importance to society of an environmentally-responsible aggregate industry, and in educating the youth of our country in the wisdom of responsible environmental stewardship in a business setting.
- Believes that wise environmental stewardship is good business, and good for business.



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NSSGA SUSTAINABILITY GUIDING PRINCIPLES

The members of the National Stone, Sand & Gravel Association (NSSGA) identify sustainability as a business approach that integrates environmental stewardship, social responsibility and economic prosperity to ensure the long-term supply of aggregate materials to society. NSSGA recognizes that sustainable practices are necessary today to preserve the potential for a quality life for future generations. The long-term viability of the aggregates industry is dependent on obtaining and maintaining a social license to operate. NSSGA member companies will enhance their ability to obtain these licenses and to compete effectively when applying sustainability guidelines.

Overarching Practices:

- NSSGA members sustain the communities in which we operate by providing raw materials as natural building blocks for quality of life.
- We are conscious of the need to provide economic, social and environmental value for future generations, and the communities in which we operate.
- We demonstrate a strong and unwavering commitment to safety, health and the environment at our operations.
- We work with appropriate government bodies to establish effective, responsible and balanced laws and other requirements based on sound science.
- We encourage life cycle re-use of products during manufacturing and post-consumer use.
- We maintain adequate aggregate resources in locations that minimize the life cycle impacts of the resource's extraction, delivery and use.
- We encourage proper land use development and planning within communities to ensure long-term aggregate resource availability.
- We adhere to the highest ethical business practices and transparency in all aspects of our operations.
- We recognize that profitability is essential to a sustainable industry and its continued ability to contribute to communities.

Our Members are Encouraged to:

- Develop a site-specific plan for post-mining land use and/or reclamation that engages stakeholders in planning for future needs and interests.
- Plan for the prevention and/or minimization of environmental impacts.
- Adopt and implement an Environmental Management System program to properly manage potential
- Pursue new technologies and practices to improve the operational, safety, health and environmental efficiency of our operations.
- Invest in the personal and professional development of employees to ensure a strong workforce into the future.
- Ensure that employees are treated in a respectful and positive manner, and provide them with competitive compensation programs consistent with performance and industry practice.
- Identify, control and/or eliminate risks associated with occupational injuries and illnesses.
- Encourage employees and contractors to interact responsibly within the community in which we operate and serve.
- Work in partnerships to promote beneficial post-mining land use, including industrial, commercial, and residential and community development, agricultural production, and wildlife conservation, habitat creation and restoration.