

Testimony of the Industrial Minerals Association – North America (IMA-NA)  
on the Mine Safety and Health Administration's (MSHA)  
Emergency Temporary Standard (ETS) on Emergency Mine Evacuation

Presented by

Mark G. Ellis, President, IMA-NA  
and  
Chris Bryan, ~~Director of Safety & Health~~, U.S. Silica Company  
*Occupational Health + Safety Manager,*  
May 9, 2006  
Charleston, WV

Good morning. I am Mark Ellis, E-L-L-I-S, President of the Industrial Minerals Association – North America or IMA-NA. With me today is Mr. Chris Bryan, B-R-Y-A-N, ~~Director of Safety & Health~~ *Occupational Health + Safety Manager for* U.S. Silica Company, a member company of IMA-NA. We plan to testify as a two-person panel and would prefer to respond to questions at the conclusion of our testimony. Is that acceptable to you ~~Madame~~ *Mr.* Chairman?

The Industrial Minerals Association – North America is a trade association representing producers and processors of industrial minerals, as well as equipment manufacturers, railroad and trucking companies, media companies, law firms and consulting professionals that serve the industrial minerals industry. IMA-NA's membership currently includes companies that mine and/or process ball clay, bentonite, borates, feldspar, industrial sand, mica, soda ash, sodium silicate, talc, wollastonite and other minerals. These minerals are the industrial feedstocks for the manufacturing and agricultural industries, providing the raw materials for such essential products as glass, ceramics, paints, plastics, metal castings and fertilizer. All IMA-NA Producer Member companies operating in the United States are impacted by the Mine Safety and Health Administration's emergency temporary standard on emergency mine

evacuation issued on March 9, 2006, specifically the provisions of 30 C.F.R. § 50.10 addressing immediate notification of MSHA by mine operators when an accident occurs. IMA-NA is pleased to testify on the proposed rule on their behalf.

Requiring that MSHA be notified within 15 minutes of an accident in all cases is impractical and even may be dangerous. In the event of a mine emergency, mine personnel immediately are engaged in activities designed to save lives and limit harmful effects. Reasonable and timely notification to MSHA is necessary, but *not* such that it has the potential to distract mine personnel from life-saving activities.

Whether such a stringent requirement would endanger or assist an injured miner will depend upon the situation. The former requirement of 30 C.F.R. § 50.10 that: “If an accident occurs, an operator shall immediately contact ... MSHA ...” could accommodate such situations. As MSHA notes in the preamble to its proposal, the Federal Mine Safety and Health Review Commission has observed that “immediately” is a term of common usage and that the application of the (former) requirement must be evaluated on a case-by-case basis. We concur. It is not reasonable to require notification to MSHA within 15 minutes of all accidents occurring, since it could distract mine personnel from actions needed to save lives.

MSHA itself recognizes that a “bright line” 15-minute immediate notification rule is not appropriate in all circumstances. The current 30 C.F.R. § 50.10 provides that: “If communications are lost because of an emergency or other unexpected event, the operator shall notify MSHA at once without delay and within 15 minutes of having access to a telephone or

other means of communication.” Should not a similar exception exist for mine personnel engaged in actions to save lives? We think so, and believe that the straightforward requirement for immediate notification contained in the former 30 C.F.R. § 50.10 is best suited to address such exceptions. A performance-based standard is preferable to a specification-based standard.

I now would like to turn the microphone over to Mr. Bryan.

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Thank you, Mark. Good morning. I am Chris Bryan, B-R-Y-A-N, CMSP, Occupational Health & Safety Manager for U.S. Silica Company, a member company of IMA-NA.

U. S. Silica Company represents more than a century of mining and processing experience in industrial minerals. It has established a standard of excellence in the production of silica and other industrial mineral products. That commitment to excellence extends to providing a safe and healthful workplace for its employees.

IMA-NA does not disagree, in concept, with the rationale advanced by MSHA in support of its proposed rule requiring mine operators to immediately notify MSHA of an accident, specifically:

- Coordination of appropriate mine rescue and other emergency response;
- Enabling help to arrive sooner at the mine, and protect miners from the grave dangers of physical injury and death; and
- Activation of MSHA's district emergency response plan.

Operator notification to MSHA in the event of a mine accident is vital to enable the Agency to respond effectively in emergency or potentially life threatening situations.

However, what happens when mine personnel, perhaps as few as one or two miners are confronted with an injured miner and as first responders they are called upon to administer first aid? Should they cease administering cardio-pulmonary resuscitation, applying direct pressure to a bleeding wound, or treating an individual in shock? We think not. Again, reasonable and timely notification to MSHA is necessary, but *not* such that it has the potential to distract mine personnel from life-saving activities.

It is not reasonable to require notification to MSHA within 15 minutes of all accidents occurring because, in some instances, it could distract mine personnel from actions needed to save lives. Could other situations exist where it would not be reasonable or appropriate to notify MSHA within 15 minutes of an accident? Conceivably. We would hope that all mine operators would recognize that notification of MSHA of an accident is urgent and must be made a priority. However, we would hope that MSHA would recognize that there are situations that can occur where strict adherence to the 15-minute reporting requirement could endanger the life of one or more miners. The straightforward requirement of the former 30 C.F.R. § 50.10 for immediate notification is best suited to address such situations. As a performance-based standard it is preferable to the proposed 15-minute specification-based standard.

Thank you, ~~Madame~~<sup>MR.</sup> Chairman and members of the panel for your attention. Mr. Ellis and I are available to respond to your questions.