



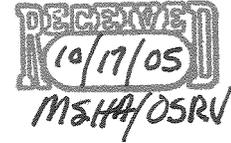
# GREER

INDUSTRIES, INC.

CORPORATE HEADQUARTERS & SALES

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October 11, 2005



Mine Safety and Health Administration  
Office of Standards, Regulations and Variances  
1100 Wilson Boulevard  
Room 2350  
Arlington, VA 22209-3939

Re: Proposed Rule Regarding Diesel Particulate Matter  
Exposure of Underground Metal and Non-metal Miners  
30 C.F.R. Part 57.5060 Limit on Exposure to diesel particulate matter

RIN: 1219-AB29 Comments

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Dear MSHA:

This letter is the commentary of Greer Industries, Inc. (hereinafter, "Greer") to the above-mentioned Proposed Rule (hereinafter, "Rule"). It is Greer's fervent hope that your organization will give serious consideration to these comments in the spirit that they are intended. Greer has a strong commitment to worker safety and health, but the cost of attaining the standards set forth in the Rule must be tempered to allow small organizations like Greer to continue to exist and be competitive. Greer believes that the ongoing viability of its business is contingent upon attaining relief from the standards set forth in the Rule. Allow me to explain.

### Greer's Workplace

As you know, there are few sweeping generalizations that can be made with respect to all metal and non-metal mining establishments and their physical conditions. Accordingly, Greer is somewhat unique, unfortunately placing it in particular vulnerability to the Rule as proposed. Greer is an underground limestone mining operation operating two mines in north central West Virginia. Many limestone mining operations in the United States are unlike Greer in that the limestone at most other mines is mined on the surface in open-air, open-pit operations. Greer has been in operations for over 80 years. Greer employees working in the mining operations are represented by the United Steelworkers of America union, while other employees are not union affiliated. There has not been a single instance of lung cancer or other respiratory disease case known or alleged to be associated with DPM exposure in our workplace.

AB29-comm-4

The work area that is subject to concern regarding concentrations of diesel particulate matter is the underground mining area where the limestone is separated from the main seam and conveyed to the crushing operations on the surface. Naturally, because the mine face is 2 to 2 1/2 miles underground, there is a natural inability for the diesel exhaust from mining equipment to be dissipated into open air.

The limestone seam being mined is approximately 30 feet thick. The entire seam is over 100 feet thick. The overburden is 70 feet at the outcrop, but averages 400-500 feet. The mine used 60 foot by 60 foot pillars, and the haulage way is 60 feet wide by 30 feet high. Limestone is separated from the seam by drilling and blasting on the night shift. By doing so, dust from that operation can settle and be cleared with existing ventilation equipment so that miners beginning the loading and hauling the day shift can work in as dust free an environment as feasible.<sup>1</sup> On the day shift, scaler operators scale the limestone from the face and front-end loader operators load large 65-ton haul trucks, whose operators haul the limestone to the primary crusher where limestone is crushed. The limestone is then conveyed to secondary crushing and screening systems, and is then transported out of the mine by conveyors. As expected, all of the equipment is diesel powered. Fortunately, most of the equipment is also configured with an enclosed cab superstructure employing various types of air-intake filters. The enclosed cabs are not positive pressured.

Approximately 20 employees, or less, are employed in two separate underground operations. Of those, roughly 15 work the day shift when the predominant use of the scaling, loading and hauling machinery is in operation. The night shift is essentially a maintenance and blasting crew whose work exposes them to minimal amounts of diesel particulate matter (“DPM”).

### **Greer’s Air Quality Study Results**

MSHA 2003 controlled studies of the operation on the day shift reveal that, with nearly new filtration media in the air intakes for the closed cabs, and running low sulfur fuel, operators were exposed to DPM in excess of the  $160 \mu\text{g}/\text{m}^3$ . On occasion, the exposure to DPM was as high as  $407 \mu\text{g}/\text{m}^3$ . It is believed that the higher concentrations of DPM occurred because the employee was working without an enclosed cab to perform his job. Mysteriously, a co-worker’s sample analysis working directly beside the employee who was sampled at  $407 \mu\text{g}/\text{m}^3$  sampled at  $256 \mu\text{g}/\text{m}^3$ . There is something terribly wrong with the system when two employees working directly beside each other have that much difference in their personal samples.

Recommendations by MSHA personnel for improvement of the air quality with respect to DPM closely tracked that of those suggested items contained in the “Toolbox” as published in the Federal Register on October 29, 1998, at pages 58233 through 58262. Specifically, the

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controls are not necessary in open air limestone mines, the costs for mining limestone is less for the great bulk of Greer's competitors. The end use for limestone aggregate is often competitively bid. Accordingly, Greer simply cannot compete with others for the limestone aggregate market with the burden of the added costs to provide engineering solutions to DPM at its mines.

The issues set forth herein are compounded further, in the somewhat unique circumstances at Greer, in that there is a need to further protect the air quality of only 15 employees. Recall that only 15 employees are exposed to the air that is polluted the greatest by the overwhelming concentration of diesel powered equipment on the day shift. And that amount of DPM exposure beyond that set forth in the Rule is based, in part, on the operators spending time outside the enclosed cab. Under these facts and circumstances, we must ask the question as to whether it makes any economic sense to expend the kind of monies necessary to ensure compliance with the new Rule when a very limited use of personal protective equipment by operators only when venturing outside the enclosed cab would most likely attain compliance?

#### **Specific commentary On The Provisions Of The Proposed Rule**

Although Greer is appreciative of MSHA's efforts to propose and develop a schedule that utilizes gradual advances in lowering the DPM final rule we remain steadfast that the final concentration limit is invalid and must therefore be removed from the final rule. There is simply no scientifically ascertainable basis for setting the PEL for DPM at the 160TC  $\mu\text{g}/\text{m}^3$  levels. Initially, the level was determined to be 400tc  $\text{ug}/\text{m}^3$ . In response, operators of Metal and Non-Metal mines have worked with MSHA and spent millions of dollars to successfully reduce exposure to our miners.

We have reached a level of protection unlike any other American industry in that we can quantifiably demonstrate that reduction of DPM has been accomplished. Now MSHA wishes to mandate even stricter controls on the nations 177 underground mines without even mentioning PPE as a means to reach compliance. Fairness in the true sense of the word dictates that requiring this industry to bear the significant burden of reaching an environmental exposure beyond reasonableness without identifying a specific risk – is unfair, unjust, and discriminatory to say the least.

Until a specific risk is identified in an underground mine, or a verifiable exposure limit established by years of scientific study, the final concentration limit of 160 Tc  $\text{ug}/\text{m}^3$  must be removed from the rule. The federal government's more appropriate action would be to continue monitoring the situation and maintain the existing 400 Tc  $\text{ug}/\text{m}^3$ .

As stakeholders in this issue, Greer Industries, Inc. implores you to consider our comments. Considering the impact on the potential loss of jobs if small, underground mines cannot afford to comply with the Rule, as proposed, it would seem especially reasonable and realistic to, at a minimum, allow for personal protective equipment until a NIOSH study can accurately confirm the appropriate PEL.

Moreover, despite jumping the proverbial gun as to the PEL, the Proposed Rule appears to take a "damn the costs" approach. It becomes very easy to criticize government when it works to eliminate the most cost effective method of protecting a worker from suspected airborne contaminants. Section 57.5060(b) simply doesn't mention anything about an employer's use of PPE to reach 160TC ug/m<sup>3</sup> or other administrative controls in an effort to meet the standard. The Rule contemplates no arguments – no matter the reason, utility, preference, whatever. With limestone sales commanding an average price of substantially less than \$10.00 a ton, there is obviously not much room to absorb the engineering and enhanced equipment costs called for in the rule. Once again, our competition will *not* need to incur those costs as the Rule does not apply to open-air mines.

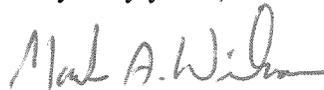
### Summary

Please consider the suggestions contained in this letter in response to the Proposed Rule. At a minimum, it is imperative to Greer Industries, and other similarly situated, that the federal government doesn't lower the DPM concentration limit lower than the previously established 400 *tc ug/m<sup>3</sup>*. If continued research does prove that DPM limits need lowered we must be permitted to address potentially high concentrations of DPM through the judicious use of personal protective equipment. Greer does not advocate a lack of concern for engineered controls to reduce DPM emissions. However, Greer does implore you to reconsider the use of personal protective equipment as a feasible and cost effective solution to reach proposed gradually lowering DPM exposure limits. Without such PPE it may be physically impossible to reach the new proposed limits in highly productive mines even with the use of mechanical ventilation, Tier 1 and 2 engines, soot filters, catalytic converters, and newer fuels. Drill helpers and hand scalers are exposed to mine air contaminants because their jobs require them to be working outside an enclosed cab. Mechanically ventilated air will travel through their work area and they will have some exposure. To set that exposure limit to 160TC ug/m<sup>3</sup> by January 20, 2011 is unrealistic unless dramatic new technology takes over to accomplish this monumental task. It is our feeling that the cost of this technology would be too much for small business to overcome. The previous exposure limit of 400TC ug/m<sup>3</sup> has cleaned up our underground mines dramatically. We see no reason to continue over regulating the DPM standard when it has already accomplished its purpose, which was to make our underground mines a safer, cleaner, and healthier place to work.

Mine Safety and Health Administration  
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Thank you for your consideration.

Very truly yours,

A handwritten signature in black ink that reads "Mark A. Wilson". The signature is written in a cursive style with a large, looped initial "M".

Mark A. Wilson  
Vice President of Safety and Human Resources  
Greer Industries, Inc.

MAW/sgm