

NATIONAL STONE, SAND & GRAVEL ASSOCIATION



Natural building blocks for quality of life

August 23, 2012

Mr. Patrick Fuchs
OMB Office of Information and Regulatory Affairs
Executive Office of the President
Washington, D.C. 20503

Re: Securities and Exchange Commission Rule Implementing Section 1503 of the Dodd-Frank Wall Street Reform and Consumer Protection Act

Dear Mr. Fuchs:

On behalf of the National Stone, Sand & Gravel Association (NSSGA), we provide the following comments on the effort undertaken by the Office of Management and Budget to reduce reporting and paperwork burdens ([written](#) about by OIRA director Cass Sunstein on June 22).

By way of background, NSSGA is the world's largest mining association by product volume. Its member companies represent more than 92 percent of the crushed stone and 75 percent of the sand and gravel (or aggregates) produced annually in the U.S. and approximately 118,000 working men and women in the aggregates industry. During 2011, a total of nearly 1.9 billion metric tons of aggregates, valued at \$17 billion, were produced and sold in the United States. The aggregates industry has demonstrated a steadfast commitment to worker safety and health. For this reason, we've seen nine consecutive years of falling rates of injury and illness in the aggregates industry.

We are pleased that the Office of Information and Regulatory Affairs (OIRA) at the White House Office of Management and Budget is intent on working to reduce reporting and paperwork burdens. As you know, Executive Order 13610, *Identifying and Reducing Regulatory Burdens*, requires agencies to take continuing steps to reassess regulatory requirements and, where appropriate, to streamline, improve or eliminate those requirements. Executive Order 13610 emphasizes that agencies should prioritize "initiatives that will produce significant quantifiable monetary savings or *significant quantifiable reductions in paperwork burdens* (emphasis added). It also requires agencies to "give special consideration to initiatives that would reduce unjustified regulatory burdens or simplify or harmonize regulatory requirements imposed on small businesses." Finally, Executive Order 13610 requires agencies to focus on "cumulative burdens" and to "give priority to reforms that would make significant progress in reducing those burdens."

Specifically, we are concerned with the rule implementing Section 1503 of the Dodd-Frank Wall Street Reform and Consumer Protection Act on the matter of reporting of mine safety data for publicly-traded companies. In the wake of the Upper Big Branch coal disaster two years ago, Senator John Rockefeller

(D., W.Va.) attached this provision to the Dodd-Frank legislation during the House-Senate conference. The intention was to force mining companies to report various matters of compliance and safety performance the likes of which is already available from the U.S. Mine Safety and Health Administration (MSHA). These are:

- Significant and substantial (S&S) violations under Section 104 of the Mine Act
- Orders under Section 104 (b)
- Unwarrantable failure citations and orders under Section 104 (d)
- Flagrant violations under Section 110 (b) (2)
- Imminent danger orders under Section 107 (a)
- Dollar value of proposed MSHA assessments
- Mining-related fatalities
- Notices of pattern of violations or potential to have pattern of violations under Section 104 (e)
- Pending legal cases before the Federal Mine Safety and Health Review Commission

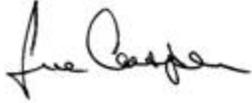
The concern is that all of the data required for compliance with section 1503 of the Dodd-Frank Act already exists on the information-rich website maintained by the U.S. Mine Safety and Health Administration (MSHA); the website address is: www.msha.gov. This information could be potentially utilized for multiple public purposes, including mine safety disclosure guidance under Section 1503.

NSSGA member organizations are burdened with the additional task of allocating precious resources, occupying days of work over each quarterly reporting period, to provide the duplicative effort of reporting data to the S.E.C. already available to the public through the Mine Safety Health Administration or Federal Mine Safety and Health Review Commission. Our members have found it necessary to recalibrate their information systems to maintain compliance with this additional periodic reporting as well as the immediately reportable status of certain matters such as imminent danger orders under Section 107 (a). The additional reporting required under Section 1503 of the Dodd-Frank Act also requires our members to provide an ongoing report of all litigation, no matter the severity of the alleged infraction, that is exclusively representative of MSHA's citations and assessments against operators and months if not years from resolution.

Further it is impossible for NSSGA to make this request without explicitly stating the amount of work that goes into these excessive filings. Dozens of hourly and salaried employees at each affected company take time out of their work managing for a safer workplace in order to provide this information to the S.E.C., when this information has already been provided to MSHA. In the midst of the worst economic period for the construction sector since the Great Depression, this has come at great cost to our industry. Further, this has done nothing to make our operations any more safe for our employees; rather, this has led to the regrettable waste of industry resources at a time in which all of this requested information is already provided to MSHA.

Should you have any questions on this set of comments, please contact me at (703) 526-1074, or at jcasper@nssga.org. Thank you very much for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Casper". The signature is fluid and cursive, with a prominent initial "J" and "C".

Joseph S. Casper
Vice President, Safety