Indiana Mineral Aggregates Assn.
11711 N. College Avenue, Suite 180
Carmel, Indiana 46032-5601
Robert G. Jones, Executive Director

October 12, 2006

Ms Patricia W. Silvey, Acting Director
Office of Standards, Regulations and Variances
US Department of Labor
Mine Safety & Health Administration
1100 Wilson Blvd., Room 2350
Arlington, VA 22209-3939

Subject: RIN 1219-AB51 Comments to 30 CFR Part 100

Dear Ms Silvey,

The Indiana Mineral Aggregates Association appreciates the opportunity to comment on the "Criteria and Procedures for Proposed Assessment of Civil Penalties" proposed by MSHA on September 8, 2006.

The Indiana Mineral Aggregates Association represents sand, gravel and crushed limestone producers in Indiana. Approximately 180 facilities owned and operated by 44 member companies are engaged in mineral mining and processing that is subject to the jurisdiction of MSHA.

Following are some concerns about the proposed rule changes and the impact on our industry:

- The proposed penalty point changes in all categories used to calculate assessments has been increased. This increase will increase all assessments. Although the maximum penalty remains the same, routinely cited and assessed violations will carry a higher penalty. Higher assessments do not reduce accidents and injuries.

- Previously, "good faith" reduction of penalty assessments was 30% for timely abatement. The proposed change reduces the "good faith" reduction to 10%. This seems to be a small reward for quick, cooperative compliance and correction of cited hazards.

- The "Repeat Violation" category proposed for inclusion in the assessment formula seems to be a duplication of the "History" category already used in the process. "Repeat" violations can be misleading due to the fact that many standards can cover a broad range of conditions and several violations citing the same standard could indeed be separate specific non-related hazards.

- The proposed change to reduce the allowed time to request a conference for violations to 5 days is rather limited. The current time limit of 10 days is more realistic and is much needed to allow a company the time to appropriately review the action and request relief.

- The use of the "Single Penalty" assessment for non-serious violations seems to continue to be appropriate. Even a slight increase in the penalty can be tolerated as long as the "non-serious" status prevails. Categorizing all violations as "S&S" is very inappropriate and appears to be a heavy-handed enforcement approach that strains the operator vs. agency relationship.

- The current criteria MSHA intends to use for special assessments are needed and should continue to be utilized in evaluating violations for "Special Assessment." This process should have specific criteria to avoid inconsistent personal interpretation by agency personnel.

Thank you for the opportunity to comment on our concerns of these important issues.

Sincerely,

Robert G. Jones, Executive Director
Indiana Mineral Aggregates Association

cc: Howard Pugh
Steve Walker
Bill Silvers