

October 18, 2004

Ms. Melissa Stoehr  
Acting Chief, Records Management Branch  
Mine Safety & Health Administration  
1100 Wilson Blvd., Room 2134  
Arlington, VA 22209-3939

By e-mail: Stoehr.Melissa@dol.gov

Dear Ms. Stoehr:

The National Stone, Sand & Gravel Association (NSSGA) is pleased to submit these comments in response to the proposed information request re: MSHA's 7000-1 and 7000-2 forms that was published in the *Federal Register* on August 19, 2004.

Based near the nation's capital, NSSGA is the world's largest mining association by product volume. Its member companies represent more than 90 percent of the crushed stone and 70 percent of the sand and gravel produced annually in the U.S. and approximately 120,000 working men and women in the aggregates industry. During 2003, a total of about 2.66 billion metric tons of crushed stone, sand and gravel, valued at \$14.4 billion, were produced and sold in the United States.

A general comment about electronic filing of forms is this: MSHA needs to allow operators the option to file in any e-format, including PDF. MSHA does not now allow this. Additionally, neither form should be used as the basis for citations by mail.

Further, MSHA's cost estimates seem far removed from the reality involved in completing these forms. The 7000-1 form is user-friendly, but the investigation that is necessary to answer some of the questions accurately, such as free verse question #9, takes time. Each 7000-1 form submitted requires at least one hour of investigation time for a supervisor, not just clerical time. The cost of completing the thousands of such forms submitted to MSHA each year must include the investigatory component. For example: 5,000 forms x 1 hr x \$47.58/hr (for a supervisor) + 5,000 x ½ hr x \$19.06 (clerical) = \$237,900 + \$47,650 = \$285,550.

We would also point out that the form is duplicative in that MSHA requires its completion for incidents it defines as "accidents," occupational injuries and occupational illnesses; however, the agency also requires that a separate accident investigation report be written and kept on file. The 7000-1 form may *not* be used as a substitute for this investigation report. Our understanding of the Paperwork Reduction Act is that such duplication is to be eliminated by federal agencies.

The 7000-2 form is similarly user-friendly; MSHA's overall time estimate, though, seems to exclude data collection by administrative support personnel. We suggest that at least one-half hour per month of clerical time is needed to simply compile the data, then another 15 minutes every quarter for submission and filing of the form. Assuming about 13,000 mine sites, the actual cost works out to be: 13,000 respondents x half-hr/month x 12 months/yr = 78,000 hr/yr; reporting of data = 13,000 x quarter-hr/qtr x 4 qtrs/yr = 13,000 hr/yr. Total reporting time = 91,000 hr/yr x \$19.06 = \$1,734,460.

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We would add that the time, and hence cost, of completing form 7000-2 depends greatly on the availability of the data. This becomes a real issue at some larger operations, where this paperwork is handled at a central office for several mine sites and miners move from site to site during the reporting period. One operator said 12 hours per quarter are required to log the data onto an Excel spreadsheet. Another reported that it takes an individual at the administrative support level 5 ½ uninterrupted hours to submit the forms on 27 locations electronically. This lengthy time period is due, in part, to system delays on MSHA's end. Obviously, depending on the actual number of such operations, information which is not available to NSSGA, costs could skew upward dramatically in these circumstances.

The total cost for producing both forms as calculated above is \$2.02 million. Compare this to the \$34,105 figure MSHA estimates for completing both the 7000-1 and 7000-2 forms. At MSHA's estimated 105,042 burden hours, MSHA's estimated hourly cost, assuming the estimated 26,250 respondents MSHA provides, works out to average just 31 cents per hour!

The following is a section-by-section review of recommended changes to each of the forms.

### **7000-1**

#### Section A

Correct typographical error: "Report *Catagory*" to "Report *Category*."

#### Section B

Add more Accident Codes to encompass situations that cannot be classified under any of the 12 codes listed.

First aid is non-reportable; i.e., band aid use and Tylenol, for example, are not reportable. But is physical therapy reportable; i.e., what is meant by "other professional treatment" in 50.20-3(a)(8)(2)? Is there a difference between work hardening therapy and physical therapy, from a reporting standpoint? The issue of cumulative trauma disorders that start as a first aid but exacerbate to a chronic state that can sometimes require days off and even surgery also needs to be better addressed on the form. The date and cause of onset is often unknown. Factors other than work are often a serious, but hidden problem with these cases. The physical rehabilitation process can take years. The 7000-1 form is not set up to be user friendly on these matters.

Much time and effort would be saved if MSHA only required the reporting of those injuries that require a change of duty status or lost time. Does the agency really need more information to carry out its statutory mission?

Section B misleads in that it infers a report must be completed only for accidents that fall into one of the 12 listed codes when, in fact, that is not the case. To correct the problem, the instruction for Section B on the 7000-1 form – "Complete for Each Reportable Accident Immediately Reported to MSHA" – should be revised.

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### Section C

Classification of accidents as “powered haulage” encompasses both mobile equipment and conveyor accidents. For purposes of designing preventive strategies, it would seem advantageous for the agency to be able to distinguish accidents involving mobile equipment versus those that occur from conveyors. Instructions for completing the form should be changed accordingly.

MSHA regulations currently require reporting of occupational lung disorders for ILO readings of x-rays of 1/0. However, 1/0 is notorious in study after study for producing an abundance of false positive results. Even the American Conference of Governmental Industrial Hygienists (ACGIH) does not recommend 1/0 as the reporting guideline for pneumoconiosis, rather 1/1. MSHA needs to make the change, too, so that its database is not replete with false reports of “occupational illness.”

### Section D

There are “yes/no” options for identifying workers who have been permanently transferred and/or terminated as well as a question asking if the worker has returned to work at full capacity. However, there is no option for the situation in which a worker is able to return to modified duty but working full time, which is often the case in medical only – but reportable accidents. This is a logical question/option that should be on the form to make it a bit less confusing.

Additionally, there are no options, but should be, for work that has been “reasonably accommodated” or changed due to ADA requirements.

In instances where Section D could not be completed because information on return to duty was unavailable, the operator is required to complete this section and mail it to MSHA within five days. We have no information on the number of times this situation occurs, or the associated cost, but it is a subtle additional paperwork burden most probably not reflected in MSHA’s cost estimates.

### **7000-2**

General comment: the U.S. mail version of the form has different identifying information than the electronically filed version, and there appears to be no mechanism in place to correct errors in the electronic version.

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Section 1

Instructions call for reporting the time of exempt (salaried) employees; however, payroll systems for this group of employees rarely track work hours. It would be excessively burdensome to require such a system. MSHA allows estimates of such time to be made, but the agency makes providing estimates difficult.

Section 2

This requirement to provide how many reportable injuries or illnesses occurred during the current quarter duplicates what is already required on the 7000-1 form, and, as such, is unnecessary and should be deleted from the form.

We very much appreciate this opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read "James Sharpe". The signature is fluid and cursive, with the first name "James" being more prominent than the last name "Sharpe".

James Sharpe, CIH  
Vice President  
Safety & Health Services