



ROCK TALK

KENTUCKY CRUSHED STONE ASSOCIATION NEWSLETTER

- January 2011 -

News Articles

- KCSA/MSHA Safety Seminar – March 10, 2011
- Proposed Rule on Pattern of Violations
- Safety Pro In a Box
- Robert C. Byrd Mine and Workplace Safety and Health Act
- Danville Mine & Mill Taken Off Impact Inspection List
- NSSGA & Partners Reassess Reauthorization Strategy
- KHIPAC Fundraiser Tickets Available for Purchase
- Natural Resources Conference – August 18, 2011
- Official Aggregate Bid Tabs Available at KCSA
- KHI Winter Convention Registration Open
- Congratulations Lehigh Hanson
- In Memoriam – David N. Hite
- Meeting Information
- Contact Information

KCSA/MSHA Safety Seminar

March 10, 2011-01-31

Holiday Inn Hurstbourne Lane - Louisville, Kentucky

WHO SHOULD ATTEND?

This seminar will be beneficial to all employees, foremen, superintendents, managers and owners who are in any way connected to the aggregates industry. Conference participants will be given four hours credit toward their annual refresher training.

CONFERENCE REGISTRATION—\$75.00

Includes continental breakfast and lunch.

CONFERENCE SCHEDULE

7:30—8:30 a.m. – Registration, Continental Breakfast

8:30 a.m.—Noon - MORNING SESSION:

MSHA—Southeast District

- 1. Rules to Live By**
- 2. MSHA Training for Truckers Entering Aggregate Operations**
- 3. Elevated Truck Scales**
- 4. Exposure Monitoring of Harmful Airborne Contaminants**
- 5. Examination of Working Places**

QUESTIONS AND ANSWERS

1:00—5:00 p.m. - AFTERNOON SESSION:

Adele Abrams, Attorney

“MSHA Enforcement and Defensive Strategies for 2011”

Click here to download a Safety Seminar Registration Form

[Return to Top](#)

Proposed Rule on Pattern of Violations

On February 2, 2011, the Mine Safety and Health Administration (MSHA) will publish a proposed rule in the *Federal Register* on Pattern of Violations (30 CFR Part 104). The proposed rule will be available for viewing at the *Federal Register* Public Inspection Desk: <http://www.federalregister.gov/inspection.aspx> on January 31, 2011. The comment period will close on April 4, 2011.

[Return to Top](#)

Safety Pro In A Box

Dear Stakeholders:

I am pleased to join with the National Stone, Sand and Gravel Association to announce the release of a new comprehensive online compilation of education and training tools for the aggregates industry, “Safety Pro in a Box.” This repository of compliance assistance materials is aimed at helping mine operators new to the industry, as well as operators of small mines. “Safety Pro in a Box” can be accessed on Mine Safety and Health Administration (MSHA’s) website at: http://www.msha.gov/safetypro_in_a_box/index.asp.

As Mine Safety and Health Administration Assistant Secretary Joseph A. Main said in a recent press release, “this resource was designed to provide meaningful assistance to new operators who may be unfamiliar with the safety and health requirements that apply to their operations. I am particularly pleased with the NSSGA’s participation in this effort to compile these materials.”

Assistant Secretary Main also noted that since small mine operators often don't have safety departments like those at larger operations, this information can provide small mine operators the necessary training tools to ensure compliance with MSHA safety and health standards. The materials included in “Safety Pro in a Box,” all of which were produced by MSHA’s National Mine Health and Safety Academy in Beaver, W.Va., include MSHA handbooks on accident/illness reporting procedures and metal/nonmetal inspection

procedures; instructor guides for conducting safety and health audits at aggregates operations; on-the-job training modules for sand, gravel and crushed stone; an instructor guide for establishing an occupational health program for respirable crystalline silica; videos; and training modules on highwall hazards, personal protective equipment, hearing conservation and workplace exams.

Compiling the information in one location on our website makes it convenient for operators to download for use in training employees or developing safety and health programs.

Please note that – while very instructive – these materials do not cover all elements needed for full compliance with MSHA regulations and standards. Please feel free to contact your local MSHA district or field office if you have any questions, or for additional information.

I encourage you to pass this information along to your membership so that operators can take advantage of the materials and help move us toward our ultimate goal of improving safety and health for our nations' miners.

Sincerely,

Neal H. Merrifield

Neal H. Merrifield
Administrator for
Metal and Nonmetal
Mine Safety and Health Administration

[Return to Top](#)

Senators Introduce Robert C. Byrd Mine and Workplace Safety and Health Act

Source: NSSGA 1/26/11

Senators Jay Rockefeller (D-WV), Tom Harkin (D-IA), Patty Murray (D-WA) and Joe Manchin, III (D-WV) introduced the Robert C. Byrd Mine and Workplace Safety and Health Act in response to the preliminary report on last year's mine safety tragedy in West Virginia. This bill was originally introduced last summer by Senator Rockefeller in response to the mine tragedy at the Big Branch mine in West Virginia. The bill has just been released and it appears to be the same as last year. Our concerns with the bill also remain the same. Rather than improve safety, the bill is punitive and will lead to increased litigation, mine closures and lost jobs. In a time of limited resources, NSSGA believes any additional mine safety legislation should focus on the greatest risks. The legislation extends its effects far beyond the underground coal mine disaster that led to the bill.

Provisions NSSGA opposes include: expanding the S&S category to apply to where there is just a reasonable possibility that such violation could result in any injury, illness no matter how minor; making violations of any requirement of the Act or regulations, no matter how minor, a felony, and reducing the threshold for criminal liability from "willful" to "knowing;" expanding section 110© provisions dealing with personal liability of any company officers, directors or agents; increasing the maximum civil and criminal penalties; overhauling the pattern of violations which is overbroad and could have consequences that will harm the mining industry without increasing safety; expanding of subpoena authority "to any functions under this Act;" and expanding OSHA authority.

According to Harkin, chairman of the Senate Committee on Health, Education, Labor and Pensions, stricter mine safety legislation should be passed in 2011. Harkin last year supported the effort to move mine safety legislation, but it did not move out of the Senate HELP Committee. Negotiations among Democratic and Republican staff on a new bill collapsed after Rockefeller said that GOP staff refused to agree to anything. Harkin's comments came in the wake of MSHA's release of a preliminary report indicating that the agency

believes that the Upper Big Branch disaster was caused by preventable safety problems at UBB. However, officials were quick to say that the investigation is not final.

Congressman George Miller (D-CA), former chair of the House counterpart to the Senate's HELP Committee – and author of mine safety legislation taken up but not passed by the House – said that the results of the preliminary investigation show that MSHA needs more tools to enforce for mine safety. House Education and the workforce Chairman John Kline (R-MN) said that the committee will wait until the formal report on the tragedy is completed in early spring and that the committee will hold oversight hearings. Mine safety has not been listed as a House committee priority. The Senate committee rosters are supposed to be released after several weeks of delay in agreement on ratios. NSSGA is meeting with Senate and House staff to discuss the proposed legislation and way forward. NSSGA does not anticipate rapid action on this bill, but is ever vigilant and will continue to impress on members of the Senate that “one size does not fit all” and that additional mine safety legislation must address the biggest risks.

[Return to Top](#)

Danville Mine & Mill Taken Off Impact Inspection List

MSHA has removed a Kentucky stone mine from its list of mines targeted for an impact inspection.

The Danville Mine & Mill gained unwelcome notoriety in December when its name appeared on a list of mines released by MSHA that had been targeted the month before under the Agency's impact inspection program. On Nov. 22, three inspectors surprised the mine by showing up for what they said then was an impact inspection. Caldwell Stone is the mine operator.

Impact inspection are reserved for mines with a poor compliance history or some other safety or health issue that attracts the agency's attention. Since Danville's record does not justify heightened enforcement scrutiny, owner John Albright was mystified by the visit. The November inspection aside, in 2009 and 2010, the 18-person operation received 13 citations, including two that were S&S, and paid fines totaling \$2,180. For the 15-month period ending Oct. 31, 2010, the mine had earned zero penalty points for violations per inspection day and repeat violations per inspection day. In addition, the mine has not had a lost-time accident since 2005.

Sharpe's Point heard about the mine's situation during a seminar in Kentucky in December and began asking MSHA why it had targeted the mine. After a series of confusing and contradictory responses, Agency spokeswoman Amy Louviere said in an e-mail Tuesday the mine had been taken off the impact inspection spreadsheet. In addition, Southeast District Manager Mike Davis has tried to contact the mine to explain that the inspection had been miscoded and the information corrected, she said.

According to Louviere, the inspection should have been coded as a spot inspection. "It was a miscellaneous inspection type," she said. "The local field office was focusing on specific concerns, such as highwalls." The mine received 10 citations during the November visit, including three S&S.

For Albright, removal from the list comes as a relief, yet questions remain. "I am glad to see we are off the impact inspection list," he said. "But the question that has yet to be answered is how when made the list in the first place. What are the criteria MSHA looks at and what does my "score card" look like?

"It seems like MSHA has no system of checks to insure that operations that belong on the list are in fact there, and operations such as ours are not . . . while they waste time and resources on an operation with our history instead of focusing their efforts on the truly troublesome operations."

Albright said he hopes the Agency will issue a written public apology. "It was an error on MSHA's part," he said.

The foregoing is a service provided to subscribers of *Sharpe's Point*, The Newsletter on Safety and Health in Mining. *Sharpe's Point* is a publication of Sharpe Media LLC. 4519 34th Street S., Arlington, VA 22206-1914 Tel: 703-379-0652, Fax: 914-840-0716 e-mail:info@sharpepoint.com Copyright 2011, Sharpe Media LLC. All Rights Reserved.

[Return to Top](#)

NSSGA AND COALITION PARTNERS REASSESS REAUTHORIZATION STRATEGY IN VIEW OF HOUSE RULES CHANGE

The House approved proposed rules for the 112th Congress on Jan. 5 by a vote of 240 to 191, including the rules change relating to highway funding. In spite of efforts by Rep. Steve LaTourette (R-Ohio) to amend the highway funding rule to require that amendments on highway funding be offered on the floor of the House, the rule change passed as written. Although the rules change does not reduce highway funding by itself, it does remove the guarantees that have protected highway funding for more than a decade.

Under the new rules, control over highway funding, which has resided with the authorizing committee since 1998, will now be under the control of the Appropriations Committee and considered with all other discretionary spending. Appropriators will be able to set surface transportation funding levels irrespective of Highway Trust Fund revenues.

Senate Environment and Public Works Committee Chairman Barbara Boxer (D-Calif.) criticized the House rules change as "radical" and contended that it will result in the loss of jobs and further crumbling of America's transportation infrastructure.

NSSGA and its Americans for Transportation Mobility and Transportation Construction Coalition are re-strategizing in view of the changed rules. It is clear that highway interests will have to fight for every dollar of funding going forward. Also, with 20 new freshman Republicans on the House Transportation Committee, NSSGA and its partners have begun educating these new members of Congress on the program. NSSGA again thanks all those members who contacted their lawmakers to urge support for the LaTourette amendment.

[Return to Top](#)

KHIPAC Fundraiser Tickets Available

KHIPAC fundraiser tickets for the cornhole tournament which will be held at the 2011 KHI Winter Convention are still available. You may sell the tickets to customers, suppliers, or anyone who would like to participate. Tickets must be sold by February 15, 2011.

Campaign finance legislation states that an individual may contribute \$1,000/year to a PAC, and only \$1,500/year total to **all** PACs. A person under the age of 18 is only allowed to contribute \$100. **Do not accept cash or company checks.** The tickets must be paid for with a **PERSONAL CHECK**.

Buyers must provide all the information requested on the ticket stub, especially the employer and occupation that is required by the Registry of Election Finance. You should also give the buyer a copy of the tournament rules.

Thank you for your assistance and continued support of the Kentucky Highway Industries Political Action Committee. If you would like to get tickets, or have any questions contact Gaye at KCSA (502-223-2379).

[Return to Top](#)

Natural Resources Conference

(8 hours of CPE)

August 18, 2011
Embassy Suites Hotel
Lexington, Kentucky

Conference Topics:

- Federal Tax Issues
 - Mine development expenses
 - Receding face
 - Retained economic interest for depletion purposes

- State Tax Issues
 - Exemption for new and expanded industry
 - Severance tax updates

- Accounting & Auditing Issues
 - Reclamation
 - Mine Development Costs
 - Value of Inventory
 - Royalty Accounting
 - Contingency
 - Internal Capital Projects
- Industry Roundtables

For more information, please contact Suzanne Boone at sboone@kycpa.org or 502-736-1385.

[Return to Top](#)

**KCSA has the official Bid Tab for the 2011
Coarse Aggregate Solicitation. For a copy,
contact Gaye Horton (gaye@kycsa.org) or phone
502-223-2379.**

[Return to Top](#)

2011 KHI Winter Convention

February 26 – March 5, 2011
J.W. Marriott Desert Springs Resort & Spa
Palm Desert, California

For more information, email Gaye Horton at gaye@kycsa.org.

[Return to Top](#)

Congratulations Lehigh Hanson!

NSSGA recently announced the winners of their Environmental and Community Relations Excellence Awards. The awards program recognizes aggregates operations throughout the United States for extraordinary commitment to safety, for their superior performance as environmental stewards and for their community involvement and support, which enhanced the image of the aggregates industry during 2009-2010.

Lehigh Hanson, Inc.'s Kentucky Quarry in Somerset, Kentucky was named a Safety Excellence Award winner. Congratulations!

[Return to Top](#)

In Memoriam – David N. Hite

KCSA regrets to inform you that David N. Hite, former Chairman of Rose Construction Company passed away January 18, 2011. Mr. Hite was Chairman of the Kentucky Association of Highway Contractors Board of Directors in 2006

In lieu of flowers, expressions of sympathy may be sent to Hospice of Nelson County (111 North 3rd Street, Bardstown, KY 40004-1554), or St. Joseph Catholic Church (310 West Stephen Foster Avenue, Bardstown, KY 40004).

[Return to Top](#)

Meeting Information

2011 KHI Winter Convention

February 26 – March 5, 2011

J.W. Marriott Desert Springs Resort & Spa
Palm Desert, California

2011 KCSA Summer Meeting

July 28-31, 2011

French Lick, Indiana
West Baden Springs Hotel

- If you would like for an employee to receive this newsletter, please forward the email address to info@kycsa.org.
- Let us know if your company has news to be included in the KCSA newsletter, info@kycsa.org.

[Return to Top](#)

MAILING ADDRESS
KENTUCKY CRUSHED STONE ASSOCIATION
P.O. BOX 326
FRANKFORT, KY 40602

RONALD H. GRAY
EXECUTIVE DIRECTOR
GAYE HORTON
OFFICE MANAGER

CONTACT INFORMATION
TOLL FREE: (888) 234-5272
FAX: (502) 223-2370
EMAIL: info@kycsa.org