



December 17, 2007

Spring PMD meeting to spotlight perchlorate, climate change, MSHA enforcement

Planning is well underway for PMD's 2008 Spring Meeting, which will take place at the Las Vegas Hilton on March 10 in conjunction with NSSGA's Annual Convention and CONEXPO-CON/AGG. The draft one-day meeting agenda approved by PMD's Executive Committee this month includes presentations on:

- How the aggregates industry and equipment manufacturers are positioning themselves in the climate change policy debate;
- The policy and public relations challenges for pulverized CaCO₃ producers posed by heightened government and public scrutiny of perchlorate, a common ingredient in explosives;
- How railroads are dealing with capacity problems at both an operational and public policy level;
- Recent advances in the use of lasers to analyze particle size; and
- A presentation by NSSGA staff on recent regulatory developments at the Mine Safety & Health Administration (MSHA) and Environmental Protection Agency (EPA).

**Happy Holidays and Best
Wishes for 2008!**



Following up on the success of discipline-specific roundtables at the 2007 PMD Annual Meeting, the Las Vegas agenda also includes meetings of PMD's three standing committees: Technical, Government Affairs, and Environment and Regulatory.

For more information about the NSSGA Annual Convention, go to:
http://www.nssga.org/calendar/2008_Convention/.

To register now for the PMD Meeting, go to:
https://www.nssga.org/commerce/Convention_0308_regform.cfm

NSSGA legislative work takes center stage for PMD in '07

With mine safety and environmental issues at the top of the congressional agenda in recent months, the work of NSSGA Vice President of Government Affairs Pam Whitted and the rest of NSSGA's legislative team took on new importance for PMD in 2007. In recent months, NSSGA has been working on a number of bills important to pulverized calcium carbonate producers, including the Supplemental Mine Improvement

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PMD Newsline

December 17, 2007

Page 2 of 3

and New Emergency Response Act (S-MINER), the definition of minerals in the Ban Asbestos in America Act, and the Clean Water Restoration Act.

S-MINER moves through House, floor action possible in '08

S-MINER was introduced in June 2007 by House Education and Labor (E&L) Committee Chairman George Miller (D-CA), fulfilling a promise he made after the Democrats took control of Congress. Earlier this year he introduced two bills: S-MINER (H.R. 2768) and the Miner Health Enhancement Act (MHEA) (H.R. 2769). S-MINER deals with changes in mine operations and penalties for safety violations, while the MHEA addresses health standards. The MHEA would require the Mine Safety and Health Administration (MSHA) to adopt National Institute of Occupational Safety and Health (NIOSH) recommended exposure limits (RELs) for chemicals used in mining as permissible exposure limits (PELs) without notice to or comment by affected stakeholders.

The legislation gained renewed momentum after the Crandall Canyon mine disaster in August. On Oct. 31, the E&L Committee approved the S-MINER bill (rolling the MHEA into it) on a straight party line vote with 26 Democrats voting for the bill, 18 Republicans voting in opposition, and 2 Republicans absent.

NSSGA sent two targeted grassroots legislative action alerts to industry leaders living in the districts of E&L Committee members. NSSGA staff met with the senior Republican members of the E&L Committee and Workforce Protections Subcommittee, as well as with both majority and minority staff of the E&L and the Senate Health, Education, Labor and Pensions (HELP) Committees. NSSGA held an "Educate on Aggregates" Fly-In in September and reactivated a coalition of potential allies. NSSGA has communicated with all members of Congress urging opposition to the S-MINER bill because it:

- Will not improve safety;
- Is punitive;
- Is not needed in view of the fact the MINER Act was passed last year and is still being implemented;
- Denies due process; and
- Undermines the federal rulemaking process.

Although Republicans do not have sufficient votes to defeat the bill, NSSGA and its partners have been working for a strong "no" vote when the bill comes to the floor. The association is also reaching out to conservative Democrats living in congressional districts with aggregate operations. Due to a crowded legislative schedule, S-MINER is not expected to be considered by the full House until January at the earliest.

Leading the charge for reasonable asbestos legislation

On Oct. 4, the Senate passed by unanimous consent the Ban Asbestos in America Act of 2007 (S. 742), legislation intended to eliminate asbestos from products sold in the U.S.

In a letter to the chief sponsors of the bill - Sens. Patty Murray (D-WA), Johnny Isakson (R-GA), Barbara Boxer (D-CA), and James Inhofe (R-OK) - NSSGA and its *ad hoc* group of allied interests congratulated the senators for reaching agreement on a bipartisan bill that accomplishes drafters' objectives without having

PMD Newsline

December 17, 2007

Page 3 of 3

inadvertent and unacceptably detrimental effects on the U.S. economy (especially the agriculture, homebuilding, construction, land development, and the aggregates industries.)

Early drafts of the legislation would have, among other things, misclassified as "asbestos" common rocks that are similar to asbestos in their mineral composition but wholly dissimilar in structure (i.e. they have no "asbestos" fibers and pose no health risk). However, NSSGA rallied and led a broad-based coalition of allies, including the U.S. Chamber of Commerce, the National Association of Homebuilders, the Associated General Contractors, the National Mining Association, the Associated Equipment Distributors, and others, that caused lawmakers to resolve problems with the original text.

NSSGA now turns its attention to the House, where a companion bill, H.R. 3999, has been referred to the House Energy and Commerce Committee. NSSGA and its allied interests group have begun to educate House committee members on the issue, urging passage of legislation that mirrors the Senate bill, which was the result of many months of painstaking negotiations.

Threat of expanded federal water jurisdiction still looms

NSSGA has also been playing a leadership role in opposition to House Transportation and Infrastructure (T&I) Committee Chairman James Oberstar's (D-MN) Clean Water Restoration Act (H.R. 2421). By removing the word "navigable" from the Clean Water Act, Oberstar's bill would extend the reach of the federal government over "all waters of the U.S." and any activity that affects these waters.

The legislation would be devastating to all mining sectors because it could put holding ponds and similar water bodies under federal jurisdiction. NSSGA is part of a coalition working to educate members of Congress on the potential impact of the bill and has succeeded in deterring members from cosponsoring the legislation and a House T&I Committee hearing scheduled for December was cancelled.

Preventing enactment of H.R. 2421 remains a top priority for NSSGA in 2008. PMD members are urged to become actively involved in our efforts.