

**NSSGA<sup>®</sup>**

NATIONAL STONE, SAND  
& GRAVEL ASSOCIATION

**STATEMENT OF RIC SUZIO  
VICE PRESIDENT, YORK HILL TRAP ROCK QUARRY Co.**

**ON BEHALF OF  
THE NATIONAL STONE, SAND, & GRAVEL ASSOCIATION**

**BEFORE THE HOUSE  
COMMITTEE ON SMALL BUSINESS**

**HEARING ON  
BURDENDOME REGULATIONS: EXAMINING THE EFFECTS OF DOL  
RULEMAKING ON AMERICA'S JOB CREATORS**

**WASHINGTON, D.C.  
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Chairman Williams, Ranking Member Velázquez, and Distinguished Members of the Committee:

Thank you for extending the invitation for me to share insights and perspectives before the House Committee on Small Business. I am Ric Suzio, and I am here today to represent both The Suzio York Hill Company and the National Stone, Sand, and Gravel Association (NSSGA).

The National Stone, Sand & Gravel Association otherwise known as NSSGA is the leading voice and advocate for the aggregates industry in the United States. It represents over 400 producers of crushed stone, sand, and gravel across the United States, as well as the equipment manufacturers and service providers that support these industries.

I am privileged to work for my family company as the Vice President of Suzio York Hill Company. Our family business is rooted in Connecticut's construction history since 1898, which was the vision of my forefather, Leonardo Suzio. From foundational projects like the Polish Falcon Hall, to our specialization in road building by the 20th century, we have been pivotal in molding Connecticut's infrastructure.

Our story is not just about construction; it's about community and commitment. Our family-run enterprise has always been deeply embedded in community initiatives, supporting local landmarks and institutions like the Gaylord Hospital. Our environmental consciousness led us to adopt innovative systems like the Johnson-Marsh, earning us public recognition.

Today, as I represent the aggregates industry, including hundreds of small producers, I bring forth the concerns and triumphs of countless businesses that, like mine, juggle innovation, community responsibility, and the challenges of an ever-evolving regulatory landscape.

The heart of our concerns today evolves around the ever-changing regulatory environment which poses disproportionate challenges to small businesses. As small businesses, we often lack the resources to interpret, comply, and adapt to these regulations, inevitably leading us to hire expensive external experts. The financial strain such regulations place on us is substantial, with many of us absorbing these costs. Over time, this financial burden risks driving consolidation within the industry, overshadowing the essential role of small businesses.

The Suzio York Hill Company is multi-generational 125-year-old family operation that currently boasts a dedicated team of 93 employees. With a rich history that spans generations, the company is proud to have second-generation coworkers who have upheld and continued the legacy of their predecessors. Over the years, many of our coworkers have shown unmatched loyalty and dedication, as evidenced by several coworkers who have retired after serving the company for over 40 years. Moreover, the Suzio York Hill Company is actively engaged with the International Union of Operators

Apprenticeship Program, showcasing their commitment to professional growth, training, and ensuring that their workforce remains at the forefront of industry standards and practices.

I would also like to highlight that in celebration of our 125-year legacy, the Suzio York Hill Company is generously donating \$1,000 for each year of our history, amounting to \$125,000 in charitable contributions, over and above our regular philanthropic efforts. At my company, we believe in the power of community engagement and hands-on experiences. When the Boys and Girls Club members visit, we offer them an extensive tour of our facilities. The sheer curiosity and excitement in their eyes as they explore our operations are genuinely heartwarming. Being a proud member of the Lions Club, we actively participate in their initiatives and events, championing community service and promoting a sense of unity.

Our collaboration with both the Boy Scouts and Girl Scouts has been particularly rewarding. We frequently host tours tailored for them, diving deeper into areas of interest that align with their badges or projects. Moreover, our team has had the honor of offering resources and guidance for numerous Eagle Scout and Gold Award projects, fostering a spirit of mentorship and shared learning.

Our involvement with these groups is a testament to our commitment to enriching the community, sharing our knowledge, and nurturing the next generation of leaders and innovators. Every interaction, tour, and collaboration underlines our core belief – community always comes first.

The aggregates industry, comprising stone, sand, and gravel businesses, is pivotal in developing America's infrastructure. Small businesses like ours are its backbone. Yet, we find ourselves grappling with regulations, changing societal expectations, and the perpetual drive for sustainable innovation. For small businesses, navigating these waters is an uphill task. Consider, for instance, the financial toll recent price hikes have taken - 33% for tires and 20% for cement. These aren't mere statistics; they're real challenges that affect our daily operations and long-term viability.

Many times, the businesses in our industry go above and beyond regulatory frameworks that are in place by federal, state and local entities. Although regulations are essential for standardization and safety, they often times come with unintended repercussions for small businesses. Multiple changing and conflicting standards create extreme uncertainty and unnecessary red tape. Small businesses, unlike larger corporations, do not have the dedicated teams to parse through and implement regulatory changes. As a result, they resort to hiring expensive external consultants, a substantial financial burden. Over time, these financial pressures can lead to industry consolidation, diminishing the role and impact of small businesses.

In my testimony I would like to highlight some of the regulations that have recently come from the U.S. Department of Labor, and their impacts on small businesses.

## **Tracking of Workplace Injuries and Illnesses**

In 2022, the Occupational Safety and Health Administration (OSHA) unveiled the Proposed Rule, "Improve Tracking of Workplace Injuries and Illnesses," underlining their commitment to worker safety and the aspiration of ensuring that every employee returns home unharmed each day. This is a mantra lived by my company and the members of the NSSGA, we have no greater mission than protecting our coworkers.

Central to this initiative is the mandate for enterprises to provide electronic reports detailing injury statistics. OSHA's dedication to maintaining workplace transparency and holding establishments accountable is unquestionable. However, for small businesses, the landscape this rule paints is considerably different. The foundational ethos of many small enterprises is rooted in trust, close-knit community ties, and an almost familial rapport between the employer and employees. The potential for public exposure of intricate injury data not only risks eroding this bond but also presents a myriad of logistical hurdles. Small businesses, often operating without extensive technological systems or dedicated IT personnel, could find themselves overwhelmed. Furthermore, the evolving nature of OSHA's regulations, marked by periodic adjustments, presents an environment of flux. For compact enterprises, this translates to regularly recalibrating their compliance approaches — a task that is not just tedious but can also strain their already limited resources.

## **Worker Walkaround Representative Designation Process**

In a recent proposed rulemaking by OSHA, there is a significant change regarding workplace inspections. The rule aims to grant OSHA inspectors the authority to be accompanied by external entities such as union organizers, community activists, or other third-party representatives during a workplace inspection, provided an employee makes such a request. This new stipulation applies irrespective of whether the workplace in question is unionized or not, marking a significant departure from traditional inspection protocols.

For small businesses, this proposed rule presents a plethora of challenges. First, the logistical and administrative burdens of accommodating expanded inspections could exert undue pressure on their limited resources. Small businesses often operate with a more direct and intimate employer-employee dynamic, and the introduction of external entities into this setting could disrupt this equilibrium. Furthermore, with the potential involvement of individuals whose intentions and affiliations might be unfamiliar to the business owner, there's a heightened risk of unforeseen liabilities. We are also concerned that some entities, who have negative intentions may utilize the new walkaround powers to cause future harm to our establishments. This uncertainty, combined with the potential for frequent policy adjustments by OSHA, leaves small businesses in a precarious position, constantly needing to adapt and reassess their compliance strategies.

## **Proposed Rulemaking on Overtime Pay Exemptions**

The essence of the Wage and Hour proposal to increase overtime pay is rooted in justice and fair compensation, advocating that every coworker should be adequately compensated for extended working hours. Our employers are family. We pay them extremely well and we have multigenerational employees who work in our company. Our turnover rates are extremely low as we are proud to provide a healthy work life balance. This is true not only in our company but across the entire industry.

Yet, while the intention might be commendable, its ramifications for small businesses are pronounced. For small enterprises, already grappling with myriad challenges, a sudden 55% hike in the minimum salary threshold for overtime exemption poses a significant strain. It is worth noting that many small businesses pride themselves on nurturing familial ties with their employees, often going above and beyond to offer competitive wages that reflect the dedication and hard work of their teams. They strive to ensure an equilibrium between fair compensation and the sustainability of their operations. Introducing such a steep increase, compounded by the unpredictability of automatic triennial updates, not only threatens this delicate balance but can also introduce financial volatility. Small businesses thrive on predictability; frequent, automatic changes hinder their ability to strategically plan, potentially jeopardizing both their stability and the well-being of their employees.

## **Proposed Silica Rule**

We appreciate the work of the Mine Safety and Health Administration (MSHA) to update the existing occupational exposure limit for respirable crystalline silica and reducing the exposure limit to the limit adopted by the Occupational Health and Safety Administration (OSHA) in 2016. While a safe silica exposure limit is paramount to protecting miners, we are concerned that the proposed rule established new, one-sized fits all, regulatory criteria that will result in the misallocation of limited resources and, consequently, fails to adequately protect the health of many of our nation's miners.

The vast majority of mining in America occurs in above ground, metal non/metal (MNM) mines where there is very little risk of potentially hazardous silica exposures. For example, in the aggregates industry, many operations mine materials (for example, limestone) that contain very little if any crystalline silica. A number of aggregates operations, particular sand and gravel operations, are wet, the material is dredged from a pond, or the material is mined hydraulically with water and sold without being dried. In the aggregates industry, which accounts for 10,000 of America's 13,000 mining operations, there is no evidence of a silica crisis as operators have been diligent limit exposure where respirable crystalline silica may exist.

We are concerned that the proposed rule will apply unnecessary reporting, surveillance, and sampling requirements on America's material producers, which will result in producers incurring costs in excess of MSHA's estimates. MSHA estimates that the proposed rule will cost of \$1,220 per \$1 million in revenue for small operators. We

understand that the cost of sampling alone for small operators will exceed the MSHA estimate, largely because small operators will use outside resources for sampling and do not benefit from the reduction in costs because of volume like large operators. MSHA also estimated the annual cost of engineering controls for all MNM to be \$4.89M. We have been advised that the 2023 engineering controls budget for one company is approximately equal to MSHA's estimate for all of MNM.

Further, the current infrastructure of testing labs and surveillance clinics does not exist to implement the proposed MSHA standards. If the proposed rule should go into effect, many operators would be unable to meet the requirements under the proposed timelines as they would not be able secure the needed materials, testing and surveillance leading to severe backlogs and supply chain shortages.

We are urging MSHA to make changes to the proposed rule to conform the MSHA silica standard for MNM operations to the OSHA silica standard adopted in 2016. OSHA's silica regulation takes a risk based approach, requiring additional silica monitoring and sampling when the potential for silica exposure exceeds a risk based threshold. In addition, OSHA includes a "Table 1" that lists tasks, with known and auditable engineering controls that limit exposures, and does not require additional sampling for these tasks if the strict requirements in Table 1 are complied with. Aligning MSHA's proposed rule with OSHA's 2016 risk-based standard will ensure that limited resources are being applied to address silica exposure risk, and, conversely will avoid wasting time and money sampling and providing medical surveillance to miners who, for example, work on a dredge in a pond, or mine material that contains no silica.

In addition, as many MNM operations are co-located with OSHA regulated properties, having a more unified standard will eliminate confusion and duplicative sampling and testing regime placed on workers.

We are also concerned that the proposed effective date of 120 days will not provide the adequate time for material and mineral operators to comply with the proposed regulatory regime MSHA has proposed. This is especially important for small operations that do not have in-house compliance teams and have limited resources to hire new lawyers and consultants. Also, as we noted above, there needs to be additional time to allow the analytic labs and the resources that provide medical surveillance services to increase their capacities to meet the increased demand that will result from the MSHA rule. The OSHA general industry standard received a two-year effective date (June 2018). The 120 day effective date exacerbates the cost issue, particularly as companies work to understand exposures and develop engineering controls.

### **Independent Contractors**

On the significant issue of the classification of employees versus independent contractors, particularly under the proposed changes by the Department of Labor. The recent rule modifications seek to redefine the criteria that differentiate independent contractors from regular employees. However, these changes bring with them

unintended consequences that disproportionately affect small businesses across the nation.

Historically, small businesses have relied heavily on the flexibility offered by hiring independent contractors – not just to manage their costs but also to efficiently adjust to dynamic market demands. The simpler criteria provided by the 2021 Independent Contractor Rule gave clarity and certainty to these businesses. With its potential repeal, many small enterprises face the dual challenges of increased costs and bureaucratic complexities. For instance, in the aggregates industry, where independent contractors are integral, businesses frequently mobilize hundreds of such contractors daily. Imposing more rigid classifications would lead to added taxes, fees, and administrative burdens, potentially increasing the cost of essential materials during an already inflationary period. Furthermore, as many contractors value their independence and the freedom to dictate their work schedules, this change could exacerbate the existing labor shortages, putting an undue strain on small businesses trying to meet their operational demands.

While the intent behind ensuring fair worker classifications is laudable, the potential repercussions on small businesses cannot be ignored. We urge the committee to consider the wider implications of this rule change, especially its impact on the backbone of our economy: our small businesses.

### **Davis Bacon**

The initial proposed changes to the Davis Bacon Act generated concerns among the construction materials industry. A salient issue arose from the new definition of "material suppliers," potentially categorizing even temporary material production facilities on job sites under Davis Bacon standards. Such redefinitions would have inadvertently classified suppliers setting up temporary, portable equipment on sites as contractors— an impractical standard that could have disrupted the current, efficient methods of material supply and escalate costs.

On August 8, the final rule included a clarification for material suppliers, that activities that are incidental to material supply, such as loading, unloading and pickup, do not constitute construction activity. However, if a material supplier is also performing construction activities at the project (i.e. supplying aggregates and paving on a highway project) then all employees including the material supplier would be subject to Davis Bacon.

Furthermore, if small businesses do not fall into this exclusion, the changes will present significant barriers to participation in federally funded projects, especially for minority-owned and smaller enterprises. Such businesses often lack the extensive resources and legal infrastructure required to navigate the labyrinthine regulations, which could inadvertently edge them out of crucial public works projects. This is antithetical to the spirit of fostering diversity and inclusivity in our nation's entrepreneurial landscape. Moreover, the proposed shift in wage and fringe benefit surveys, from capturing 50% to

just 30% of responses, could distort wage structures, adversely impacting both employers and employees. We urge the Committee to consider these potential ramifications, especially on our nation's small businesses, and reassess the modifications to the Davis Bacon Act. Your attention to this matter will ensure the continued vitality and inclusivity of our nation's construction materials industry.

### **Joint Employer**

The NLRB's recent proposal seeks to modify the definition of joint-employer status, emphasizing both direct control and indications of reserved and/or indirect influence over essential employment conditions. While the intent – to ensure clarity in employer-employee relationships and promote collective bargaining – is commendable, the broader implications for small businesses, especially those involved in franchising or subcontracting relationships, cannot be overlooked.

From the vantage point of small businesses, the proposed rule raises significant concerns:

1. **Operational Ambiguity:** The introduction of concepts like "indirect" and "reserved" control could lead to ambiguities in contractual relationships. For small businesses, which often lack the legal resources of larger corporations, this ambiguity could result in an inability to clearly define roles and responsibilities with their business partners.
2. **Liability Concerns:** Small businesses could find themselves unexpectedly liable for actions or decisions over which they had minimal or no actual influence, simply because of a perceived reserved or indirect control.
3. **Impact on Collaborative Business Models:** Franchising, a popular business model among small entrepreneurs, relies heavily on a clear distinction between the roles of franchisors and franchisees. The proposed rule might deter larger companies from entering into franchising agreements, thereby limiting opportunities for small entrepreneurs.
4. **Economic Implications:** Increased legal uncertainties could lead to higher litigation costs, which small businesses are ill-equipped to bear. This might discourage them from pursuing growth opportunities, hiring more staff, or even continuing their operations.

As the Committee deliberates on this matter, I urge you to consider the unique challenges faced by small businesses and ensure that the final rule fosters an environment where they can continue to thrive and contribute to our nation's economic fabric.



## **OMB SBREFA**

OIRA's long-standing open-door policy has been instrumental in providing stakeholders, especially small businesses, with a platform to voice concerns about regulations that directly affect them. The Small Business Regulatory Enforcement Fairness Act (SBREFA) was designed to specifically acknowledge and address the unique challenges faced by small enterprises in the regulatory process. However, the OMB's new draft guidance, with its emphasis on prioritizing outreach based on historical interactions, risks sidelining the targeted input that SBREFA aims to capture for small businesses. By potentially prioritizing some entities over others and setting an inflexible stance against repeat meetings, this guidance may inadvertently silence small businesses, which often don't have the same resources as larger entities to constantly engage but offer invaluable, on-the-ground insights when they do. The adjustments proposed in Executive Order 14094, particularly raising the economic significance threshold, further risk sidelining regulations that, while not meeting this new higher bar, could still profoundly impact small business sectors.

## **Conclusion**

In conclusion, I would like to extend my heartfelt gratitude to the committee members for allowing me the opportunity to testify on this pivotal matter. It is crucial to recognize the disproportionate regulatory burdens placed on small businesses when overarching rules fail to account for their unique challenges. Small businesses, the backbone of our economy, deserve regulations that support their growth rather than hinder it. We earnestly hope our insights shed light on these complexities. We eagerly look forward to any questions you may have and appreciate the committee's commitment to understanding and addressing these concerns.