

**TOGETHER WE ARE STRONGER**



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December 10, 2013

The Honorable David Michaels  
Assistant Secretary of Labor  
Occupational Safety and Health Administration  
U.S. Department of Labor  
Room S-2002  
200 Constitution Ave., NW  
Washington DC 20210

Re: Notice of Intention to Appear at Informal Public Hearing (Docket No. OSHA-2010-0034)

Dear Dr. Michaels,

The Mason Contractors Association of America (MCAA) hereby files this Notice of Intent to Appear at the Informal Public Hearing on OSHA's Proposed Rule for Occupational Exposure to Respirable Crystalline Silica. Pursuant to OSHA's September 12, 2013 Federal Register notice, the MCAA provides the following information regarding its intended testimony.

#### Background on MCAA

The MCAA is comprised of both union and open shop mason contractors from across the U.S. Our membership is comprised of small contractors who do business under \$500,000 a year all the way on up to some of the largest mason contractors in the country. Nearly all of our members are classified as small businesses and while our larger member firms may have designated safety experts on staff, our typical contractor does not have a safety staff as economics simply does not allow for it. The vast majority of our contractors act as their own Human Resources Department and are responsible for all the day to day operations of their firms.

The MCAA was founded in August of 1950 and has always had a very keen interest in promoting a safe work environment among its member firms. In the early 1970's the MCAA was one the first organizations to have a forklift safety program, which complied with the OSHA rule regarding training on the forklift. In the 1990's the MCAA founded the Council for Masonry Bracing, which unified our industry in defining what a properly braced masonry wall meant. In the early 2000's MCAA worked diligently to help develop a solution for the silica issue and worked with OSHA and multiple state agencies and MCAA chapters to determine exposure hazards and to promote sound silica practices to prevent excessive exposure. It was for that reason that in 2009 the MCAA backed and pushed heavily for what is now ASTM standard E-34, a consensus produced document on how silica should be controlled and monitored on the job-site.



The Mason Contractors Association of America (MCAA) is the national trade association representing mason contractors. The MCAA is committed to preserving and promoting the masonry industry by providing continuing education, advocating fair codes and standards, fostering a safe work environment, recruiting future manpower, and marketing the benefits of masonry materials.

The following individuals will provide testimony as representatives and we request that each individual have 1/2 Hour to present their testimony. As a result, we request 1 ½ hours of time to present on the proposed rule:

Jerry Painter  
Painter Masonry, Inc.  
2425 N.E. 19th Dr.  
Gainesville, FL 32609  
352-378-7511  
jerry@paintermasonry.com

Mark Kemp  
Superior Masonry Builders  
12699 W. Arden Pl.  
Butler, WI 53007  
262-781-4777  
mark@superiormasonry.com

Rashod Johnson  
The Roderick Group  
P.O. Box 198911  
Chicago, IL 60619  
rashod@rodgrp.com  
312-624-8198

#### Statement of Position:

The MCAA is still reviewing the proposed rule and developing positions on the rule. Early on, individuals representing MCAA will address the following issues raised by the proposed rule, among others:

The proposed exposure limit (PEL) for the masonry industry.

Feasibility issues both economical and technological related to the application of the proposed rule

Brief history of how the masonry industry has complied with the current PEL and concerns about ability to comply with the new PEL.

ASTM standard and the consideration it had in the rule making process.

2003 SEBREFEA panel issues related to current 2013 conditions.

#### Documentary Evidence

The MCAA is still considering documentary evidence we may use, if any, as our position is still developing. Notwithstanding this, the MCAA may utilize the following types of documents during the hearing:

ASTM E-34

MCAA's written pre-hearing comments on the proposed rule

OSHA's underlying data and analyses supporting its Preliminary feasibility findings

2003 SEBREFEA panel testimony

Documents posted on the Federal Registry to comment on proposed rule

MCAA generated analyses of feasibility, job-site testing and industry generated analysis of costs and benefits.

We appreciate the opportunity to participate in the Informal Public Hearing on this important proposed rule.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Buczkiewicz". The signature is written in a cursive, flowing style.

Jeff Buczkiewicz

President

Mason Contractors Association of America