

January 19, 2010

Occupational Safety & Health Administration
OSHA Docket Office, Technical Data Center
Room N-2625
Department of Labor
200 Constitution Ave., NW.,
Washington, DC 20210

*Re: OSHA Advanced Notice of Proposed Rulemaking:
Combustible Dust – Docket No.: OSHA-2009-0023*

Dear Sir/Madam:

The American Trucking Associations, Inc. (ATA) appreciates the opportunity to provide comments to the Occupational Safety and Health Administration's (OSHA) advanced notice of proposed rulemaking on combustible dust.¹ ATA is the national trade association representing the trucking industry². Our comments on the ANPRM will be brief as ATA is not aware of any incidents involving a combustible dust explosion at a trucking company facility.

As a trade association, ATA is not in a position to respond to the array of questions posed by OSHA seeking specific data on combustible dust but will instead respond to two of the more general questions in the ANPRM as follows:

Question 1: What business are you in? What NAICS industry or industries are you in?

ATA Response: Our members are involved in truck transportation NAICS code(s): **484 Truck Transportation**. There are additional NAICS codes reflecting subsets of trucking and trucking operations; however, none of the NAICS codes within truck transportation are reflected in the ANPRM's listing of industries having at least one recorded combustible dust explosion.³

¹ See 74 *Federal Register* 54334 (October 21, 2009) (hereinafter "ANPRM").

² ATA is a united federal of motor carriers, state trucking associations, and national trucking conferences created to promote and protect the interests of the trucking industry. Its members include more than 2,000 trucking companies and industry suppliers of equipment and services. Directly and indirectly through its affiliated organizations, ATA encompasses over 37,000 companies and every type and class of motor carrier operation.

³ See *Table 1 – Industries Having At Least One Recorded Combustible Dust Incident Reported Since 1980, According to OSHA Research*, 74 *Federal Register* at 54335.

Question 8: Do you have any dusts that you assume to be combustible, and, thus, preclude the need or expense of testing?

ATA Response: Because our members haul many different types of materials and commodities that are most often palletted and with hazardous materials shipped in sealed DOT containers, we do not believe that a risk of any type of combustible dust explosion would occur during their transport. This belief is supported by OSHA’s own data on combustible dust incidents.⁴ Any risk presented by combustible dust would lie with the manufacturer and the end user or recipient of the shipment(s), as they open packages and handle the materials that could accumulate as combustible dust. The truck transportation industry has had little or no incidences involving a combustible dust explosion.

ATA Recommendation: Trucking companies transport millions of packages every day. The absence of combustible dust explosions in the trucking industry is compelling evidence that OSHA should not extend new regulatory requirements aimed at mitigating combustible dust incidents to the trucking industry. OSHA should not adopt a “one-size-fits all” approach to regulating this hazard. As the Agency recognizes in the ANPRM, “it may be appropriate for OSHA to treat specific industries differently, based at least in part on current national consensus standards.”⁵

Trucking companies are regulated by several existing OSHA regulations that potentially mitigate or prevent dust explosions. Such as 29 CFR:

- 1910 Subpart E App - Exit Routes, Emergency Action Plans, and Fire Prevention Plans.
- 1910 Subpart H - Hazardous Materials
- 1910.120 - Hazardous waste operations and emergency response.
- 1910 Subpart I - Personal Protective Equipment
- 1910.146 - Permit-required confined spaces
- 1910 Subpart L - Fire Protection
- 1910.176 - Handling materials - general.
- 1910.269-Electric power generation, transmission, and distribution
- 1910.334(d)-Occasional use of flammable or ignitable materials
- 1910.1200-Hazard Communication

For the above referenced reasons, ATA does not believe that any combustible dust standard promulgated by the Agency should be applied to the trucking industry. Truck transportation does not have the same safety and health risks as the many other industries referenced in the ANPRM.

⁴ *Id.*

⁵ 74 *Federal Register* 54341

On behalf of ATA, I appreciate the opportunity to comment on this ANPRM and urge the Agency to consider our comments and recommendations during the rulemaking process on combustible dust. If you have any questions concerning the issues raised herein, please contact the undersigned at (703) 838-1905.

Sincerely,

A handwritten signature in cursive script that reads "Christina Cullinan".

Christina Cullinan
Director, Workplace & Fleet Safety