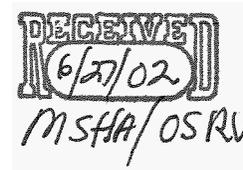


Via Facsimile To:
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 Total of 2 Pages

OMYA, Inc.
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June 25, 2002

Marvin Nichols, Director
 Office of Standards, Regulations & Variances
 Mine Safety & Health Administration
 U.S. Department of Labor
 1100 Wilson Blvd., 21st Floor
 Arlington, VA 22209-3939



Dear Mr. Nichols:

On behalf of **OMYA**, Inc. I am pleased to submit these comments concerning the Mine Safety & Health Administration's ("**MSHA**") Advance Notice of Proposed Rulemaking ("**ANPRM**") related to occupational exposure to asbestos published in the March 29, 2002 Federal Register.

OMYA, Inc. is a leading producer of pulverized natural calcium carbonate worldwide and currently operates quarries and processing plants in six U.S. states. **OMYA**, Inc. shares **MSHA**'s desire to protect the health and safety of all miners, and recognizes the need to control hazardous exposures to asbestos-containing products and materials. We support lowering the Exposure Limit to 0.1 f/cc, provided that **only** real asbestos is regulated in the new standard. It is critical that **MSHA** employ the appropriate definitions and sampling/analytical methods so that other minerals (e.g., non-asbestiform varieties of the asbestos minerals) are not subject to unwarranted regulation, or inadvertently included in the analysis conducted for enforcement purposes.

Therefore, **MSHA must** adopt a discriminate fiber counting method **that** more accurately corresponds to asbestiform minerals. The current federal fiber definition (particles **that** are at least **five** microns long and have a minimum aspect ratio of 3:1) will count as "fibers" cleavage fragments that are common particles in mining dust and our finished products. Because the environment at mines is so different from the environment that **OSHA** regulates, **MSHA cannot** simply adopt the current **OSHA** standard, with its "federal fiber" definition. Phase Contrast Microscopy is insufficiently sensitive to ~~distinguish between different minerals, however, with appropriate discriminate counting rules, it could~~ serve as an effective tool for screening samples for asbestiform fiber content. To properly classify the asbestiform fibers on a sample, it is **necessary** to use electron microscopy analysis. Similarly, any regulation of "take-home contamination" **must focus** on the **true** asbestos and asbestos containing products, as defined in the **OSHA** and EPA asbestos standards, rather than applying such requirements to all and any level of mineral exposures at mines, pits and quarries.

In addition, **MSHA must** critically review the technical and economic feasibility of any future asbestos standard in accordance with the Regulatory Flexibility Act and the Small Business Regulatory Enforcement Fairness Act. Moreover, **MSHA must** comply with the new U.S. Department of Labor guidelines for ensuring and maximizing the quality, objectivity, utility and integrity of information that forms the basis for regulatory decisions. [See DOL Draft Information Quality Guidelines, published



AB24-Comm-23

Marvin Nichols, Director
Office of Standards, Regulations & Variances
Mine Safety & Health Administration
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May 1, 2002.] **Inappropriate or arbitrary decisions as to the classification of minerals, based on flawed scientific conclusions, could well undermine the ability of many mines to remain in business, while at the same time fail to provide any health benefits for miners.**

OMYA requests that the above comments be included in the formal rulemaking record. In addition, we fully endorse the written comments submitted and oral testimony presented by the National Stone, Sand & Gravel Association concerning this rulemaking during the comment period.

Thank you for your consideration of our perspective. We appreciate the opportunity to submit pertinent information and to comment on the ANPRM.

Sincerely,



Neal W. Jordan
Manager of Environmental
& Regulatory Affairs