

COLORADO ROCK PRODUCTS ASSOCIATION

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MSHA
U.S. Dept of Labor

June 7, 2002

Mr. Marvin Nichols
Director, Office of Standards, Regulations, and Variances
Mine Safety and Health Administration
U. S. Department of Labor
1100 Wilson Boulevard, 21st Floor
Arlington, Virginia 22209-3939

RE: MSHA's Advanced Notice of Proposed Rulemaking (ANPRM) for Measuring and Controlling Asbestos Exposure

Dear Mr. Nichols,

The Colorado Rock Products Association (CRPA) appreciates the opportunity to comment on the Mine Safety and Health Administration's (MSHA) advanced rulemaking relating to occupational exposure to asbestos.

CRPA represents 31 producer members and 25 associate members throughout the state of Colorado who produce over 33 million tons of aggregates, crushed stone and sand and gravel, which are used in various forms for construction of highways, sidewalks, residential and commercial buildings, and water and sewage treatment plants. CRPA requests that these comments be included in the formal rulemaking record and we fully endorse the comments and testimony that will be presented by the National Stone, Sand and Gravel Association (NSSGA) concerning this rulemaking.

CRPA 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 Permissible Exposure Limit (PEL) 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 (i.e. non-asbestiform varieties of the asbestos minerals) are not subject to unwarranted regulation, or inadvertently included in the sampling conducted for enforcement purposes.

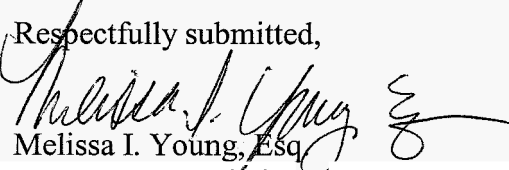
Therefore, MSHA should adopt a discriminate fiber counting method that more accurately corresponds to asbestiform minerals. The current federal fiber definition (particles that are at least five microns long and have a minimum aspect ratio of 3 to 1) will count as "fibers" cleavage fragments that are common particles in mining dust. 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 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 small mines to remain in business, while at the same time failing to provide any health benefits for miners.

Thank you for your consideration of the foregoing comments of the Colorado Rock Products Association. If you have any questions on the above, or would like to speak with us further about our concerns, please do not hesitate to contact me at 303-771-5290.

Respectfully submitted,


Melissa I. Young, Esq.
Regulatory Specialist

cc: NSSGA