30 CFR Parts 58 and 72  
RIN 1219-AB24  

Measuring and Controlling  
Asbestos Exposure  

Pages: 1 through 13  
Place: Spokane, Washington  
Date: May 14, 2002
BE IT REMEMBERED THAT, Pursuant to the Virginia Rules of Civil Procedure, the hearing on Measuring and Controlling Asbestos Exposure was taken before Marta M. Rice, a Certified Shorthand Reporter, and a Notary Public for the State of Washington, on May 14, 2002, commencing at the hour of 9:03 a.m., the proceedings being reported at The Days Inn, 4212 Sunset Boulevard, Spokane, Washington.
MS. SMITH: Good morning. My name is Rebecca Smith. I'm the Associate Director of the Mine Safety and Health Administration's, Office of Standards, Regulations, and Variances. I will be the moderator for this public meeting today.

On behalf of Dave Lauriski, the Assistant Secretary of Labor for Mine Safety and Health, I want to welcome you here today.

Also here today are several other individuals from MSHA. To my left, Dr. Carol Jones is our program manager for our health division for metal, nonmetal. Wendy Hoch is from our technical support center. Al Ducharme is from our solicitor's office. On my right, Carlos Mosley is from our coal organization. And Jim Lynch is from MSHA's standards office.

This is the second of seven public meetings. The first meeting was held on May the 2nd in Pittsburg, Pennsylvania. The remaining meetings will be held on May 16th in Vacaville, California; May 29th in Canton, New York; June 5th in Phoenix, Arizona; June 12th in Virginia, Minnesota; and, June 20th in Charlottesville, Virginia.

The initial announcement of these meetings was contained in the Advanced Notice of Proposed Rule Making,
A subsequent Federal Register Notice published on April the 18th, announced that the date of the Charlottesville, Virginia meeting was changed to June 20th and a public meeting would be held in Phoenix, Arizona on June the 5th. These two Federal Register Documents are available to you in the back of the room.

The purpose of these meetings is to obtain information from the public that will help us evaluate the following five issues.

Number one, whether to lower our asbestos permissible exposure limit.

Number two, whether we should replace our existing fiber analysis method referred to as Phase Contrast Microscopy with a more sensitive method, which is Transmission Electron Microscopy.

Number three, whether we should implement safeguards to limit take-home exposures.

Number four, whether our field sampling methods are adequate and how our sampling results are being used.

And number five, what is the likely benefit and cost impact of any rule making action we would take on these issues.

These five issues were discussed in the March 29th Federal Register Document. The scope of the issues we are
addressing with this Advanced Notice of Proposed Rule Making is limited. Therefore, this public meeting will be limited to hearing public input on the five issues I just mentioned. In the Advanced Notice of Proposed Rule Making, we asked several questions related to each of these five issues. And we're particularly interested in responses and information relating to the these questions.

Now, I'd like to give you some background which has led us to be here today. MSHA's current asbestos standard for coal mining and for metal and nonmetal mining is two fibers per cubic centimeter of air. And these standards date from the mid-1970s.

In 1980 we requested that the National Institute for Occupational Safety and Health, or NIOSH, investigate health problems at vermiculite operations around the country, because our sampling data at that time showed higher than average asbestos exposure among minors.

The results of the NIOSH study were published in 1986 and verified our sampling results that indicated high occupational exposure prior to 1974 at a vermiculite operation in Libby, Montana.

The highest exposures were in the mill. The NIOSH report showed that in 1974, the mine began to use a wet process to concentrate vermiculite in the mill, and occupational exposures dropped remarkably.
The asbestos-exposed miners employed at the vermiculite mine in Libby, Montana; however, inadvertently carried asbestos fibers home on their clothes and in their personal vehicles, thereby continuing to expose themselves and family members.

At that time, we had encouraged the operator to change from dry to wet processing of material and also to reduce take-home contamination by installing showers and requiring the miners to change clothing before leaving the site.

In November of 1999, a Seattle newspaper published a series of articles about the unusually high incident of asbestos-related illnesses and fatalities among individuals who had lived in Libby, Montana.

Because MSHA had jurisdiction over the mine, the Department of Labor's Office of the Inspector General began evaluation of MSHA's role at the Libby mine. The findings and recommendations of the Office of the Inspector General was published in March of 2001. Three of their recommendations would require additional rule making by MSHA, and those issues are the subject of this public meeting today.

These Office of Inspector General recommendations were that MSHA lower the existing permissible exposure limit to a more protective level, that MSHA use a more sensitive
method, Transmission Electron Microscopy, to quantify and identify fibers in our samples rather than the Phase Contrast Microscopy method currently used, and that MSHA address take-home contamination from asbestos.

Recently, MSHA adopted new asbestos sampling techniques, and we have increased the scope of sampling from airborne asbestos fibers at mines in an attempt to better determine miners' exposures to levels of asbestos.

Our efforts have included taking samples at all existing vermiculite, taconite, talc, and other mines to determine whether asbestos is present and at what levels. Since the spring of 2000, we have taken almost 900 samples at more than 40 operations employing more than 4,000 miners. Our preliminary review and analysis of these samples showed that there are very few exposures occurring during the sampling period which were above the OSHA eight-hour timeline average of .1 fiber per cubic centimeter of air.

The sampling results are now available to the public on our web site at www.msha.gov. Also, the sampling results will be made part of the rule-making record, if we move forward.

The issues surrounding asbestos exposure are important to MSHA, and we will use the public meetings to help decide how best to proceed to address these five
issues. So we want to hear the public view.

These meetings will give mine operators, miners, and their representatives, and other interested parties an opportunity to present their views on these five issues that we are considering for potential rule-making action.

The format of this meeting will be as follows: formal rules of evidence will not apply, and this meeting will be conducted in an informal manner. Those of you who have notified us in advance of your intent to speak or have signed up today to speak, will make your presentations first. After all scheduled speakers have finished, others can request to speak. When the last speaker is finished, we will conclude this public meeting.

If you wish to present any written statements or information today, please clearly identify your material, and when you give it to us, we will identify it so for the record.

You may also submit comments following the meeting. And please submit those to us by June 27th, which is the close of the comment period. Comments may be submitted to us by electronic mail, fax, or regular mail.

Please note that our headquarters in Arlington, Virginia will be moving on June the 10th, and therefor we have new address, telephone, and fax information. And that new information is also available to you in the back of the
A verbatim transcript of this public meeting will be available upon request. If you want a personal copy, you may make arrangements with the court reporter, or you may view it on our web site. It will be posted there within five days of the close of this public meeting. The procedures will be the same for each of the other public meetings.

We will begin with persons who have requested to speak. And to assure that we obtain an accurate record, when you speak, please begin by clearly stating your name and organization for the record. Our first speaker this morning is Judy Olson. Judy.

MS. OLSON: Good morning. My name is Judy Olson. I'm the Eastern Washington Director for U.S. Senator Patty Murray here in the Spokane office. And I'd like to thank you for holding this hearing here in Spokane. We very much appreciate it. This morning I have some comments that I would like to make on behalf of Senator Murray.

Senator Murray is very concerned about what has happened in Libby, Montana. This issue resonates for people here in Spokane for a couple of reasons. The first is that a lot of people from Libby have moved here and have received medical care in this community. Libby is only 160 miles from Spokane.
Second, during the 1950s and 1960s, Vermiculite Northwest Incorporated had a plant here in Spokane which processed vermiculite from Libby.

Last summer Senator Murray held a hearing on Asbestos and Workplace Safety in the Senate Health Education Labor and Pension or HELP Committee. Dr. Alan Whitehouse, a chest physician and pulmonologist, from Spokane testified at this hearing in Washington, D.C.

He has treated approximately 400 people from Libby in varying -- with varying degrees of lung damage caused by exposure to asbestos. Approximately 25 percent of his patients never worked for or had a family member who worked for W.R. Grace. Their only exposure to asbestos in Libby was environmental. Five of his patients who were exposed only to asbestos in the environment have died.

Senator Murray hopes that MSHA will -- is making asbestos and other harmful mineral fiber exposures at mines throughout the country a very high priority. Senator Murray is glad that you are holding these public meetings, but hopes that the agency will follow up with rule making in a reasonable time frame, hopefully by the end of the year.

Like so many others, Senator Murray is struggling to understand how Libby could have happened, despite all of the laws and regulations already in place to protect miners and workers.
She strongly supports implementing as soon as possible the recommendations made by the Department of Labor's Inspector General well over a year ago.

Lowering MSHA's permissible exposure limit for asbestos to match OSHA's. Currently, the limit is 20 times that -- 20 times weaker -- excuse me. Currently, MSHA's limit is 20 times weaker than -- this doesn't make sense. Somebody else wrote it. Anyway, it refers to the limits on -- of centimeters per cubic centimeter of fiber. Use more precise methods to measure asbestos and to address the take-home contamination from asbestos.

Senator Murray believes that implementing the Inspector General's recommendations is an important first step in strengthening the protection of miners, their families, and surrounding communities.

She hopes that MSHA will consider expanding its review to include the nonregulated asbestos minerals such as, winchite and richterite and nonasbestos from a variety of regulated forms. These other forms have also been found in Libby.

It may be that our current regulatory framework doesn't protect people well enough because of the narrow definition of asbestos currently in place.

The name of the mineral is far less important than whether there is evidence suggesting fibers of certain
dimensions pose threats to human health.

Senator Murray will submit a more detailed written comment for the record. Senator Murray is currently working on legislation to ban asbestos in consumer products. The bill will make it illegal by 2005 to deliberately or knowingly produce products containing asbestos, the six currently regulated forms.

The bill also requires EPA to create a blue ribbon panel within -- from MSHA, NIOSH, and OSHA to provide recommendations on asbestos and currently nonregulated minerals.

Senator Murray's hoping to introduce the bill in the next couple of weeks. If anyone would like more information about Senator Murray's work on asbestos, they can visit her web site at www.murray.senate.gov. The site provides a link to the Health Education Pensions Committee.

If you have any specific questions about the draft legislation, anyone should contact Anna Knudson, Senator Murray's legislative assistant, at 202-224-2621.

Thank you very much for providing this opportunity for Senator Murray to present her comments. Thank you.

Ms. SMITH: Thank you, Ms. Olson. Could you spell Ms. Knudson's last name for us.

Ms. OLSON: Yes, I will. Anna Knudson, K-n-u-d-s-o-n.
MS. SMITH: Thank you. Before you leave, Ms. Olson, do any of the panel members have any questions for Ms. Olson? Thank you, very much.

MS. OLSON: Thank you again. And the Senator will be providing written comments.

MS. SMITH: Thank you, very much. At this time, we do not have any other speakers who have indicated an interest in presenting information. So we will go off the record at this point, and we will remain. And if we do have other speakers come in, we will go back on the record at that time. Thank you.

(Recess.)

MS. SMITH: We're going to go back on the record for just a second. It's 10 o'clock. We don't have any other speakers signed up as yet. What we'll do is, we'll stay until 11 o'clock. If we have no other speakers by 11 o'clock, we'll close the record officially. So we'll go back off the record now.

(Recess.)

MS. SMITH: We're back on the record. It's 11 o'clock. We have no further speakers indicating an interest to present information, so we're going to officially close the record on this public meeting. Thank you.

(Whereupon, the hearing concluded at 11:03 a.m.)

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REPORTER'S CERTIFICATE

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HEARING DATE: May 14, 2002

LOCATION: Spokane, Washington

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the Department of Labor, Mine Safety and Health Administration.

Date: May 14, 2002

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