In the Matter of: )
PUBLIC MEETING ON MEASURING )
AND CONTROLLING ASBESTOS )
EXPOSURE )

Pages: 1 through 12
Place: Pittsburgh, PA
Date: May 2, 2002
DEPARTMENT OF LABOR
Mine Safety and Health Administration

In the Matter of:

PUBLIC MEETING ON MEASURING 
AND CONTROLLING ASBESTOS 
EXPOSURE

Thursday, 
May 2, 2002

Ramada Inn South Hills 
164 Fort Couch Road 
Pittsburgh, Pennsylvania

The meeting in the above-entitled matter was convened, pursuant to Notice, at 9:00 a.m.

BEFORE: REBECCA SMITH
Moderator

PANELISTS:

MARVIN J. NICHOLS, JR.
CAROL J. JONES
JAMES G. LYNCH
SHARON AINSWORTH
ALFRED D. DuCHARME
PROCEEDINGS

(9:00 a.m.)

MS. SMITH: Good morning. My name is Rebecca Smith. I am the associate director for the Mine Safety and Health Administration's Office of Standards, Regulations, and Variances. This morning I will be your moderator for this public meeting. On behalf of Dave Lauriski, the assistant secretary for mine safety and health, I would like to welcome you this morning. Also with me are several other individuals from Mine Safety and Health. Marvin Nichols, on my left, is the director of MSHA's Office of Standards. Carol Jones is MSHA's director of health for metal and nonmetal. Jim Lynch is also from MSHA, and he is with the Office of Standards. Sharon Ainsworth is from our technical support organization, and Al DuCharme is from our solicitor's office.

This is the first of seven public meetings to be held on May 14th in Spokane, Washington; 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 public meetings was contained in an advance notice of public rulemaking published on March 29, 2002 in the Federal Register. A subsequent Federal Register notice, published on April 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 5th. These two Federal Register notices are available to you in the back of the room.

The purpose of these public meetings is to obtain information that will help us evaluate the following five issues: number one, whether to lower our asbestos permissible exposure limit; 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 exposure; number four, whether our field sampling methods are adequate and how are sampling results are being used; and number five, what is the likely benefit and cost impact of any rulemaking action we would take on these five issues.

These five issues were discussed in the March 29th Federal Register document. The scope of the issues we are addressing with this advance notice of proposed rulemaking is limited. Therefore, this public meeting will be limited to hearing input on the five issues I just mentioned. In the advance notice of proposed rulemaking we asked several questions relating to these five issues, and we are particularly interested in responses and information relating to them.

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Now I would like to give you some background about why we are here today. MSHA'S current asbestos standard for coal mining is two fibers per cubic centimeter of air and dates from 1976. Our current asbestos standard for metal and nonmetal mining is two fibers per cubic millimeter of air and dates from 1978. In 1980, we requested that the National Institute for Occupational Safety and Health, NIOSH, investigate health problems at vermiculite operations around the country because our sampling data at that time showed higher than average asbestos exposure among miners. 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 markedly. The asbestos-exposed miners employed at the vermiculite mine in Libby, however, inadvertently carried the asbestos fibers home on their clothes and in their personal vehicles, thereby continuing to expose themselves and family members. 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 incidence of asbestos-related illnesses and fatalities among individuals who lived in Libby, Montana. Because MSHA had jurisdiction over the mine, the Department of Labor's Office of the Inspector General began an evaluation of MSHA's role at the Libby mine. The findings and recommendations of the Office of the Inspector General were published in March of 2001.

Three of the recommendations would require additional rulemaking by MSHA, and those issues are the subject of this public meeting today.

These 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 identify and quantify fibers in our samples rather than the phase-contrast microscopy method which was currently being used by MSHA, and that MSHA address take-home contamination from asbestos.

Recently, MSHA adopted new asbestos sampling techniques, and we have increased the scope of sampling for airborne asbestos fibers at mines in an attempt to better determine miners' exposure levels to 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 show that few exposures occurred during the sampling period which were above the OSHA eight-hour, time-weighted average of .1 fiber per cubic centimeter of air.

The sampling results are now available to the public on our Web site, and that's MSHA.gov. Also, the sampling results will be made part of the rulemaking record if we move forward in rulemaking.

The issues surrounding asbestos exposure are important to MSHA, and we will use this information provided to us at these public meetings to help us decide how to best proceed to address these five issues. So we want to hear views from the public. 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 rulemaking 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 who have notified MSHA in advance of their intent to speak or have signed up today to speak will make 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 anyone wishes to present written statements or information today, we will accept that material and make it part of the record. Comments will continue to be accepted until June 27th, which is the close of the comment period. Comments may also be submitted to MSHA by electronic mail, fax, or regular mail, but please note that the MSHA headquarters office in Arlington, Virginia, will be moving on May 17th; and, therefore, we will have new address, fax, and telephone information, and that new information is available also to you in the back.

A verbatim transcript of this public meeting will be available on request of the public. If you want a personal copy, please make arrangements with the court reporter, or you may view it on MSHA's Web site, which will be posted there within five days of the completion of this public meeting. These procedures will be the same for the other six meetings.

When we came in this morning, we did not have anybody signed up to speak. Does anybody wish at this point in time to speak?

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MS. SMITH: Since we have no speakers at this
point in time, what we will do is go off the record
temporarily, wait for a while, and if we have speakers come
in, then we will go back on the record to hear the
information they are presenting.

(Whereupon, at 9:07 a.m., a brief recess was
taken.)

MS. SMITH: All right. We'll go back on the
record. We do have a speaker, Mike Wright. Good morning.
If you are ready, please --

MR. WRIGHT: My name is Mike Wright. I'm the head
of the health, safety, and environment department of the
steelworkers' union here in Pittsburgh. I hadn't really
intended to make a statement this morning, but since you
were kind enough to come all the way to this hearing and
schedule it about a mile and a half from where I live, I
would hate to have you all miss the trip.

We do care deeply about this rule. I had not
intended to speak because we are going to submit written
comments later on when we become a little more learned on
it, but let me say a couple of things. One is that, first,
for the record we represent most of the unionized miners in
the metal and nonmetal sector. We represent a number of
people in the quarry and limestone industry as well. We
represent some coal miners in Canada but not in the U.S.

We are interested in this rule for a couple of
reasons. One is that although MSHA's sampling results show
generally low exposures, I have been in a number of mines
and have seen asbestos materials used in things like brake
linings and pipe lagging and the kinds of places you would
expect to find it. In fact, I have never been in any
industrial work place that is more than 30 years' old where
you cannot find asbestos somewhere, and so this is an
important rule, especially for people who have to maintain
that equipment and have to sometimes do things like tear out
old piping in especially milling operations, so it's an
important issue for us for that reason.

Second, we have obviously a lot of workers exposed
to asbestos foreign minerals as part of the mining process.
As you may be aware, there is an excess of mesothelioma in
a couple of counties on the iron range in Minnesota. We are
still trying to figure out where that excess comes from.
One theory is it may have been from an asbestos processing
plant, but we are suspicious that it may have been either
from asbestos used in the mining process in mining equipment
or, and I'm afraid we've come to the conclusion this is more
likely, from asbestos foreign minerals found with the
taconite ore. We know of one case where a company, for
example, found a vein of what they took to be amosite as
they opened up a new area of a mine, and that, of course, is
a very dangerous material. So we think this is a very
important standard.

We have not been involved in an asbestos
rulemaking at MSHA in the past. We have been heavily
involved in the OSHA rulemaking. We think the OSHA limit of
.1 fiber per cubic centimeter is a good limit. In the OSHA
case it's based on feasibility. The level was chosen for
reasons of feasibility. The risk assessments show a risk
even below that level. We think that's a good starting
point for MSHA. We are interested in seeing whether we can
find a feasible way to go even lower.

That's about all I want to say at this time. We
are very much in support of this rulemaking, we think it's
overdue, and we look forward to participating in the process
as it goes along. Thank you.

MS. SMITH: Thank you, Mr. Wright. We appreciate
your comments. Would anyone else like to speak at this
point?

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MS. SMITH: All right. We'll go off the record
again.

(Whereupon, at 9:13 a.m. a recess was taken.)

MS. SMITH: Ladies and gentlemen, we're going to
go back on the record for just one moment. We still do not
have additional speakers for this morning. We have been
asked how long we plan to stay this morning. I think we
will stay until about 11, and then we will close out this public meeting. So we'll go back off the record again. If anybody does come to speak between now and 11, we will reopen the record to allow those comments. Thank you.

(Whereupon, at 10:01 a.m., a recess was taken.)

MS. SMITH: Ladies and gentlemen, we have had no further requests to speak, so we are going to officially close the record on this public meeting. Thank you for coming.

(Whereupon at 10:52 a.m., the public meeting was concluded.)
REPORTER'S CERTIFICATE

DOCKET NO.: N/A
CASE TITLE: Public Meeting on Measuring and Controlling Asbestos Exposure
HEARING DATE: May 2, 2002
LOCATION: Pittsburgh, Pennsylvania

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.

Date: May 2, 2002

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