

**STATEMENT OF DAVID D. LAURISKI
ASSISTANT SECRETARY OF LABOR FOR
MINE SAFETY AND HEALTH
BEFORE THE
COMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSIONS
UNITED STATES SENATE**

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Mr. Chairman and Members of the Committee:

I am pleased to appear before you today to discuss the ongoing efforts of the Mine Safety and Health Administration (MSHA) to promote miners' safety and health. At the outset, I want to tell you that I am honored and humbled to have been nominated by President Bush and confirmed by the Senate to the position of Assistant Secretary of Labor for Mine Safety and Health. Having spent virtually all of my life and career associated with the mining industry, it is a privilege for me to serve the American people, Secretary Chao, and President Bush in this important capacity. We will do everything we can to improve upon the tremendous advances in safety and health in the mining industry that have occurred in the past 30 years. The programs, policies, and initiatives of this Administration will be devoted to protecting the more than 350,000 miners working at the Nation's approximately 15,000 mining operations.

In my first 2 ½ months as Assistant Secretary, I have been continually impressed with the knowledge and dedication of the more than 2,000 MSHA employees. I have met, both at headquarters and in the field, the MSHA employees who work in our enforcement, education, training, or technical support activities, as well as those who work in meeting our programming, equipment and budgetary, and personnel needs. I challenge anyone to find another group of employees with a greater sense of mission.

This hearing focuses on workplace safety and asbestos contamination. These are extremely important issues that present us with many opportunities. First, however, I would like to give you some insights into my general approach and objectives for MSHA.

In addition to meeting with the MSHA staff throughout the country, I've met with miners and operators, representatives of industry and labor organizations, State Grant representatives,

and a myriad of other members of the mining community. The meetings have had two objectives: to hear first hand from everyone about their safety and health issues and concerns; and to set goals. If we are to continue to make progress in improving miners' safety and health, I believe it is vitally important to establish goals. The Secretary and I have challenged our own staff and our stakeholders to work with us to reduce mining industry fatalities by 15 percent each year over the next four years and to reduce the non-fatal days lost (NFDL) injury rate by 50 percent by 2005. In addition, we are currently working to establish specific health goals as well. I believe that these goals are achievable, as long as we have the commitment and help of everyone associated with our industry.

I have shared with the MSHA staff my priorities and expectations, and would like to share them with you. Mining in the 21st century presents us with new opportunities. If we are to continue the success of the past, we must find new and creative approaches to protecting safety and health. I am firmly committed to carrying out our responsibilities under the Federal Mine Safety and Health Act of 1977 (the Mine Act). But, as both the Secretary and I have said, investments in up-front prevention, through compliance assistance, education, training, and other outreach activities are critical if we are to move off the plateau that we have seemed to reach in the past few years. In this regard, I have asked MSHA staff, miners, mine operators, as well as representatives of the mining and labor associations, to think creatively. I am firmly committed to hearing the thoughts, suggestions, and ideas of our stakeholders. I can assure you that all will be consulted, and that we will make the most reasoned, informed decisions possible, all with miners' safety and health enhancements as our focus.

Since my appointment, two final rules to protect miners' health have become effective. These rules address both underground coal and metal and nonmetal miners' exposure to diesel particulate matter(dpm). The rule protecting underground coal miners from exposure to dpm, which was not challenged, became effective in May 2001. The metal and nonmetal rule, which was challenged, became effective earlier this month, on July 5, 2001. I would like to thank those industry, labor and government representatives who worked to reach the partial settlement agreement in the metal and nonmetal diesel particulate litigation. This settlement agreement, I believe, shows how we can work with our stakeholders in the best interest of miners' safety and health.

Beginning last week, and continuing through August, MSHA is holding a series of outreach seminars across the country to help miners and mine operators comply with the metal and nonmetal diesel particulate rule. These seminars are part of our concerted effort to use all of the tools available under the Mine Act to enhance miners' health and safety. Providing the metal and nonmetal mining community with knowledge of the rule at the beginning of the process is critical to their ability to understand and comply with the rule.

This approach, addressing demonstrated safety and/or health issues using the most effective and efficient tools, and providing the mining community with the benefit of our reasoning and expertise, will be our standard operating procedure.

I would like to devote the remainder of my testimony to MSHA's work to protect miners' from exposure to asbestos.

MSHA's asbestos regulations date to 1967. At that time, the Bureau of Mines (MSHA's predecessor) used a 5 mppcf (million particles per cubic foot of air) standard. In 1969, the Bureau proposed a 2 mppcf and 12 fibers/ml standard, which was promulgated in 1969. In 1970, the Bureau proposed to lower the standard to 5 fibers/ml, which was promulgated in 1974. MSHA issued its current standard of 2 fibers/ml at the end of 1978. Since enactment of the Mine Act, MSHA has conducted regular inspections at both surface and underground operations at metal and nonmetal mines. During its inspections, MSHA routinely takes samples, which are analyzed for compliance with its standard.

In briefings with the MSHA staff, I was advised of the issues surrounding vermiculite mining in Libby, Montana and elsewhere. I was pleased to learn that the Agency had taken steps to determine current miners' exposure levels to asbestos, including taking samples at all existing vermiculite, taconite, talc, and other mines to determine whether asbestos was present and at what levels. Since the Spring of 2000, MSHA has taken almost 900 samples at more than 40 operations employing more than 4,000 miners. During our sampling events, the MSHA staff also discussed with the miners and mine operators the potential hazards of asbestos and the types of preventive measures that could be implemented to reduce exposures. These efforts continue today.

MSHA also keeps in frequent contact with its sister Agency, OSHA, and others, including the Environmental Protection Agency, the National Institute for Occupational Safety and Health, which has mine health and safety research responsibilities, and the United States Geological Survey, to ensure that our staff is aware of and involved in discussions concerning asbestos related issues. I expect the MSHA staff to keep up with the science and on-going research activities, as well as other Agencies' experiences concerning asbestos. I can assure you that we will continue to act responsibly, and take action when the facts demonstrate that it is necessary to protect miners' safety and health.

I have read the Office of the Inspector General's (OIG) "Evaluation of MSHA's Handling of Inspections at the W.R. Grace & Company Mine in Libby, Montana," which was issued in March. The report does contain five major recommendations, and I can assure you that we are diligently working to address the issues raised in those recommendations.

The OIG recommended that MSHA lower its existing permissible exposure limit for asbestos to a more protective level, and address take-home contamination from asbestos. It also recommended that MSHA use Transmission Electron Microscopy to analyze fiber samples that may contain asbestos. We are currently considering these recommendations, which would involve rulemaking. I appreciate the review and analyses conducted by the OIG, and am giving considerable thought to their recommendations as we work toward our decisions. Please be assured that I share your conviction that miners' health must be protected, and certainly miners should not be exposed to contaminants at hazardous levels. Our objective is to ensure that our actions will address the underlying health issues that led to the OIG's recommendations, and that whatever course of action we take, miners and their families are not over-exposed to harmful substances as a consequence of their decision to work in the mining industry.

The OIG also recommended that the Agency remind its staff of the Mine Act's prohibition on giving advance notice of inspections. Section 103(a) of the Mine Act states, in part that: "...In carrying out the requirements of this subsection, no advance notice of an inspection shall be provided to any person...." I am pleased to report that MSHA recently reissued a memorandum to the Agency's metal and nonmetal enforcement personnel reminding

them of this provision. We will be happy to provide the Committee with a copy of this reminder.

MSHA's inspectors undergo thorough training at the National Mine Health and Safety Academy in Beckley, West Virginia. We train our inspection staff not only in the requirements of the Mine Act and the implementing regulations, but also in the Agency's inspection procedures and policies. In addition to continuing to train and retrain our inspectors in the prohibition on giving advance notice, we will remind our employees of their responsibilities and inspection procedures annually.

A fifth recommendation in the OIG's report dealt with training the MSHA inspectors and other health professionals on asbestos-related matters. On April 17-19, 2001, MSHA held a training session for its metal and nonmetal health staff at our National Mine Health and Safety Academy. The training, which was attended by industrial hygienists and other health specialists, covered the major health issues currently facing MSHA and the mining industry, including miners' exposure to asbestos. Included in this training were discussions of asbestos case studies, a review of the Libby experience, as well as sampling and analytic methodologies. The individuals who received this training are providing similar training to other inspection personnel in their respective district and field offices. In addition, as we reported to the OIG, MSHA has established a committee to develop specific training on asbestos-related matters for its inspectors.

Education and training are critical to promoting miners' safety and health. They provide mine operators and miners with the knowledge to take needed actions to prevent injuries and illnesses. Sharing our knowledge and information with the mining public and other interested parties is part of our education and training efforts. In this regard, MSHA has several items on its home page concerning asbestos, including our health regulations, a discussion of sampling procedures for airborne contaminants, and a program information bulletin reminding the mining industry of the potential health hazards from exposure to asbestos fibers. In addition, we are working to consolidate these materials and other information regarding asbestos on a single site on our home page.

The Mine Act, in my view, gives MSHA all the tools necessary to protect miners' safety and health. The history of miners' safety and health over the past 25-30 years demonstrates the statute's effectiveness. The Libby experience is, of course, troubling. More effective and efficient use of the Mine Act's enforcement, education, training and technical support authorities will help us to achieve even greater improvements in our industry. These provisions, as well as those outlining our rulemaking authorities and responsibilities, provide us with the necessary framework to ensure miners are appropriately protected from harmful contaminants, including asbestos.

In conclusion, Mr. Chairman, I have devoted my life to miners' safety and health, and I am passionate about this important work. My thirty years associated with this industry have taught me many valuable lessons, the most important of which is that safety and health improvements demand creative ideas from everyone involved. We at MSHA have a number of challenges and opportunities facing us, and among the most important is our obligation to protect miners from over-exposure to asbestos. However, I am sure that with the involvement of miners, mine operators, as well as their representatives, we will protect and improve miners' safety and health.

Mr. Chairman, other members of the Committee, that concludes my prepared remarks. I would be happy to answer your questions.