

TRANSCRIPT OF PROCEEDINGS

30 CFR Parts 58 and 72
RIN 1219-AB24

Measuring and Controlling
Asbestos Exposure

Pages: 1 through 13
Place: Spokane, Washington
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DEPARTMENT OF LABOR
MINE SAFETY AND HEALTH ADMINISTRATION

30 CFR Parts 58 and 72
RIN 1219-AB24

Measuring and Controlling
Asbestos Exposure

May 14, 2002

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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.

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P R O C E E D I N G S

(9:00 a.m.)

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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,

1 published on March the 29th, 2002 in the Register.

2 A subsequent Federal Register Notice published on
3 April the 18th, announced that the date of the
4 Charlottesville, Virginia meeting was changed to June 20th
5 and a public meeting would be held in Phoenix, Arizona on
6 June the 5th. These two Federal Register Documents are
7 available to you in the back of the room.

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

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

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

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

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

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

24 These five issues were discussed in the March 29th
25 Federal Register Document. The scope of the issues we are

1 addressing with this Advanced Notice of Proposed Rule Making
2 is limited. Therefore, this public meeting will be limited
3 to hearing public input on the five issues I just mentioned.

4 In the Advanced Notice of Proposed Rule Making, we
5 asked several questions related to each of these five
6 issues. And we're particularly interested in responses and
7 information relating to the these questions.

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

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

18 The results of the NIOSH study were published in
19 1986 and verified our sampling results that indicated high
20 occupational exposure prior to 1974 at a vermiculite
21 operation in Libby, Montana.

22 The highest exposures were in the mill. The NIOSH
23 report showed that in 1974, the mine began to use a wet
24 process to concentrate vermiculite in the mill, and
25 occupational exposures dropped remarkably.

1 The asbestos-exposed miners employed at the
2 vermiculite mine in Libby, Montana; however, inadvertently
3 carried asbestos fibers home on their clothes and in their
4 personal vehicles, thereby continuing to expose themselves
5 and family members.

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

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

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

23 These Office of Inspector General recommendations
24 were that MSHA lower the existing permissible exposure limit
25 to a more protective level, that MSHA use a more sensitive

1 method, Transmission Electron Microscopy, to quantify and
2 identify fibers in our samples rather than the Phase
3 Contrast Microscopy method currently used, and that MSHA
4 address take-home contamination from asbestos.

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

9 Our efforts have included taking samples at all
10 existing vermiculite, taconite, talc, and other mines to
11 determine whether asbestos is present and at what levels.

12 Since the spring of 2000, we have taken almost 900
13 samples at more than 40 operations employing more than 4,000
14 miners. Our preliminary review and analysis of these
15 samples showed that there are very few exposures occurring
16 during the sampling period which were above the OSHA
17 eight-hour timeline average of .1 fiber per cubic centimeter
18 of air.

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

23 The issues surrounding asbestos exposure are
24 important to MSHA, and we will use the public meetings to
25 help decide how best to proceed to address these five

1 issues. So we want to hear the public view.

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

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

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

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

22 Please note that our headquarters in Arlington,
23 Virginia will be moving on June the 10th, and therefor we
24 have new address, telephone, and fax information. And that
25 new information is also available to you in the back of the

1 room.

2 A verbatim transcript of this public meeting will
3 be available upon request. If you want a personal copy, you
4 may make arrangements with the court reporter, or you may
5 view it on our web site. It will be posted there within
6 five days of the close of this public meeting. The
7 procedures will be the same for each of the other public
8 meetings.

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

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

20 Senator Murray is very concerned about what has
21 happened in Libby, Montana. This issue resonates for people
22 here in Spokane for a couple of reasons. The first is that
23 a lot of people from Libby have moved here and have received
24 medical care in this community. Libby is only 160 miles
25 from Spokane.

1 Second, during the 1950s and 1960s, Vermiculite
2 Northwest Incorporated had a plant here in Spokane which
3 processed vermiculite from Libby.

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

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

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

22 Like so many others, Senator Murray is struggling
23 to understand how Libby could have happened, despite all of
24 the laws and regulations already in place to protect miners
25 and workers.

1 She strongly supports implementing as soon as
2 possible the recommendations made by the Department of
3 Labor's Inspector General well over a year ago.

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

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

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

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

24 The name of the mineral is far less important than
25 whether there is evidence suggesting fibers of certain

1 dimensions pose threats to human health.

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

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

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

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

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

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

24 MS. OLSON: Yes, I will. Anna Knudson,
25 K-n-u-d-s-o-n.

1 MS. SMITH: Thank you. Before you leave, Ms.
2 Olson, do any of the panel members have any questions for
3 Ms. Olson? Thank you, very much.

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

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

12 (Recess.)

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

19 (Recess.)

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

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

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