

# TRANSCRIPT OF PROCEEDINGS

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

Pages:            1 through 12

Place:            Pittsburgh, PA

Date:             May 2, 2002

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## HERITAGE REPORTING CORPORATION

*Official Reporters*  
1220 L Street, N.W., Suite 600  
Washington, D.C. 20005-4018  
(202) 628-4888  
[hrc@concentric.net](mailto:hrc@concentric.net)

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

P R O C E E D I N G S

(9:00 a.m.)

1  
2  
3 MS. SMITH: Good morning. My name is Rebecca  
4 Smith. I am the associate director for the Mine Safety and  
5 Health Administration's Office of Standards, Regulations,  
6 and Variances. This morning I will be your moderator for  
7 this public meeting. On behalf of Dave Lauriski, the  
8 assistant secretary for mine safety and health, I would like  
9 to welcome you this morning. Also with me are several other  
10 individuals from Mine Safety and Health. Marvin Nichols, on  
11 my left, is the director of MSHA's Office of Standards.  
12 Carol Jones is MSHA's director of health for metal and  
13 nonmetal. Jim Lynch is also from MSHA, and he is with the  
14 Office of Standards. Sharon Ainsworth is from our technical  
15 support organization, and Al DuCharme is from our  
16 solicitor's office.

17 This is the first of seven public meetings to be  
18 held on May 14th in Spokane, Washington; May 16th in  
19 Vacaville, California; May 29th in Canton, New York; June  
20 5th in Phoenix, Arizona; June 12th in Virginia, Minnesota;  
21 and June 20th in Charlottesville, Virginia. The initial  
22 announcement of these public meetings was contained in an  
23 advance notice of public rulemaking published on March 29,  
24 2002 in the Federal Register. A subsequent Federal Register  
25 notice, published on April 18th, announced that the date of

1 the Charlottesville, Virginia, meeting was changed to June  
2 20th, and a public meeting would be held in Phoenix,  
3 Arizona, on June 5th. These two Federal Register notices  
4 are available to you in the back of the room.

5 The purpose of these public meetings is to obtain  
6 information that will help us evaluate the following five  
7 issues: number one, whether to lower our asbestos  
8 permissible exposure limit; two, whether we should replace  
9 our existing fiber analysis method, referred to as phase-  
10 contrast microscopy, with a more sensitive method, which is  
11 transmission electron microscopy; number three, whether we  
12 should implement safeguards to limit take-home exposure;  
13 number four, whether our field sampling methods are adequate  
14 and how are sampling results are being used; and number  
15 five, what is the likely benefit and cost impact of any  
16 rulemaking action we would take on these five issues.

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

1           Now I would like to give you some background about  
2 why we are here today. MSHA'S current asbestos standard for  
3 coal mining is two fibers per cubic centimeter of air and  
4 dates from 1976. Our current asbestos standard for metal  
5 and nonmetal mining is two fibers per cubic millimeter of  
6 air and dates from 1978. In 1980, we requested that the  
7 National Institute for Occupational Safety and Health,  
8 NIOSH, investigate health problems at vermiculite operations  
9 around the country because our sampling data at that time  
10 showed higher than average asbestos exposure among miners.  
11 The results of the NIOSH study were published in 1986 and  
12 verified our sampling results that indicated high  
13 occupational exposure prior to 1974 at a vermiculite  
14 operation in Libby, Montana. The highest exposures were in  
15 the mill.

16           The NIOSH report showed that in 1974 the mine  
17 began to use a wet process to concentrate vermiculite in the  
18 mill, and occupational exposures dropped markedly. The  
19 asbestos-exposed miners employed at the vermiculite mine in  
20 Libby, however, inadvertently carried the asbestos fibers  
21 home on their clothes and in their personal vehicles,  
22 thereby continuing to expose themselves and family members.

23       We had encouraged the operator to change from dry to wet  
24 processing of material and also to reduce take-home  
25 contamination by installing showers and requiring the miners

1 to change clothing before leaving the site.

2 In November of 1999, a Seattle newspaper published  
3 a series of articles about the unusually high incidence of  
4 asbestos-related illnesses and fatalities among individuals  
5 who lived in Libby, Montana. Because MSHA had jurisdiction  
6 over the mine, the Department of Labor's Office of the  
7 Inspector General began an evaluation of MSHA's role at the  
8 Libby mine. The findings and recommendations of the Office  
9 of the Inspector General were published in March of 2001.  
10 Three of the recommendations would require additional  
11 rulemaking by MSHA, and those issues are the subject of this  
12 public meeting today.

13 These recommendations were that MSHA lower the  
14 existing permissible exposure limit to a more protective  
15 level, that MSHA use a more sensitive method, transmission  
16 electron microscopy, to identify and quantify fibers in our  
17 samples rather than the phase-contrast microscopy method  
18 which was currently being used by MSHA, and that MSHA  
19 address take-home contamination from asbestos.

20 Recently, MSHA adopted new asbestos sampling  
21 techniques, and we have increased the scope of sampling for  
22 airborne asbestos fibers at mines in an attempt to better  
23 determine miners' exposure levels to asbestos. Our efforts  
24 have included taking samples at all existing vermiculite,  
25 taconite, talc, and other mines to determine whether

1 asbestos is present and at what levels. Since the spring of  
2 2000, we have taken almost 900 samples at more than 40  
3 operations employing more than 4,000 miners. Our  
4 preliminary review and analysis of these samples show that  
5 few exposures occurred during the sampling period which were  
6 above the OSHA eight-hour, time-weighted average of .1 fiber  
7 per cubic centimeter of air.

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

12           The issues surrounding asbestos exposure are  
13 important to MSHA, and we will use this information provided  
14 to us at these public meetings to help us decide how to best  
15 proceed to address these five issues. So we want to hear  
16 views from the public. These meetings will give mine  
17 operators, miners and their representatives, and other  
18 interested parties an opportunity to present their views on  
19 these five issues that we are considering for potential  
20 rulemaking action.

21           The format of this meeting will be as follows.  
22 Formal rules of evidence will not apply, and this meeting  
23 will be conducted in an informal manner. Those who have  
24 notified MSHA in advance of their intent to speak or have  
25 signed up today to speak will make presentations first.

1 After all scheduled speakers have finished, others can  
2 request to speak. When the last speaker is finished, we  
3 will conclude this public meeting. If anyone wishes to  
4 present written statements or information today, we will  
5 accept that material and make it part of the record.  
6 Comments will continue to be accepted until June 27th, which  
7 is the close of the comment period. Comments may also be  
8 submitted to MSHA by electronic mail, fax, or regular mail,  
9 but please note that the MSHA headquarters office in  
10 Arlington, Virginia, will be moving on May 17th; and,  
11 therefore, we will have new address, fax, and telephone  
12 information, and that new information is available also to  
13 you in the back.

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

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

24 --

25 MS. SMITH: Since we have no speakers at this



1 point in time, what we will do is go off the record  
2 temporarily, wait for a while, and if we have speakers come  
3 in, then we will go back on the record to hear the  
4 information they are presenting.

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

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

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

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

25 We are interested in this rule for a couple of

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

12           Second, we have obviously a lot of workers exposed  
13 to asbestos foreign minerals as part of the mining process.

14   As you may be aware, there is an excess of mesothelioma in  
15 a couple of counties on the iron range in Minnesota. We are  
16 still trying to figure out where that excess comes from.

17   One theory is it may have been from an asbestos processing  
18 plant, but we are suspicious that it may have been either  
19 from asbestos used in the mining process in mining equipment  
20 or, and I'm afraid we've come to the conclusion this is more  
21 likely, from asbestos foreign minerals found with the  
22 taconite ore. We know of one case where a company, for  
23 example, found a vein of what they took to be amosite as  
24 they opened up a new area of a mine, and that, of course, is  
25 a very dangerous material. So we think this is a very

1 important standard.

2 We have not been involved in an asbestos  
3 rulemaking at MSHA in the past. We have been heavily  
4 involved in the OSHA rulemaking. We think the OSHA limit of  
5 .1 fiber per cubic centimeter is a good limit. In the OSHA  
6 case it's based on feasibility. The level was chosen for  
7 reasons of feasibility. The risk assessments show a risk  
8 even below that level. We think that's a good starting  
9 point for MSHA. We are interested in seeing whether we can  
10 find a feasible way to go even lower.

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

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

18 --

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

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

22 MS. SMITH: Ladies and gentlemen, we're going to  
23 go back on the record for just one moment. We still do not  
24 have additional speakers for this morning. We have been  
25 asked how long we plan to stay this morning. I think we

1 will stay until about 11, and then we will close out this  
2 public meeting. So we'll go back off the record again. If  
3 anybody does come to speak between now and 11, we will  
4 reopen the record to allow those comments. Thank you.

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

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

10 (Whereupon at 10:52 a.m., the public meeting was  
11 concluded.)

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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

Joel Rosenthal  
Official Reporter  
Heritage Reporting Corporation  
Suite 600  
1220 L Street, N. W.  
Washington, D. C. 20005-4018