

TRANSCRIPT OF PROCEEDINGS

PUBLIC MEETING:)
)
MEASURING AND CONTROLLING)
ASBESTOS EXPOSURE)

Pages: 1 through 9
Place: Vacaville, California
Date: May 16, 2002

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DEPARTMENT OF LABOR
MINE SAFETY AND HEALTH ADMINISTRATION

PUBLIC MEETING:)
)
MEASURING AND CONTROLLING)
ASBESTOS EXPOSURE)

Meeting Room
Hampton Inn & Suites
800 Mason Street
Vacaville, CA 95687

Thursday,
May 16, 2002

The parties met, pursuant to the notice, at
9:02 a.m.

BEFORE: REBECCA J. SMITH
Associate Director, MSHA

APPEARANCES:

On behalf of Mine Safety & Health Administration:

JAMES LYNCH
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P R O C E E D I N G S

(9:02 a.m.)

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3 MS. SMITH: Good morning. I am Rebecca J. Smith.
4 I'm the associate director of the Mine Safety and Health
5 Administration's Office of Standards. I will be the
6 moderator this morning for this public meeting.

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

10 Also here today are other individuals from the
11 Mine Safety and Health Administration. On my left, Dr.
12 Carol Jones who is the health manager for our metal/nonmetal
13 program; Al Ducharme is from our solicitor's office. On my
14 right, Wendy Hoch is from our technical support
15 organization. James Lynch is with our standards office.

16 This is the second of seven public meetings. The
17 first meeting was held on May 2 in Pittsburgh, Pennsylvania.
18 The remaining meetings will be held as follows: May 29th in
19 Canton, New York; June 5th in Phoenix, Arizona; June 12th
20 in Virginia, Minnesota; and June 20th in Charlottesville,
21 Virginia.

22 The initial announcement of these public meetings
23 was contained in an advanced notice of proposed rulemaking
24 published on March 29, 2002, in the Federal Register. A
25 subsequent Federal Register notice, published on April the

1 18th, announced that the date of the Charlottesville,
2 Virginia meeting was changed to June 20th, and a public
3 meeting would be held in Phoenix, Arizona on June the 5th.
4 These two Federal Register documents are available to you in
5 the back of the room.

6 The purpose of these meetings is to obtain
7 information from the public that will help us evaluate the
8 following five issues: (1) whether to lower or asbestos
9 permissible exposure limit; (2) whether we should replace
10 our existing fiber analysis method referred to as Phase
11 Contrast Microscopy with a more sensitive method, which is
12 Transmission Electron Microscopy; (3) whether we should
13 implement safeguards to limit take-home exposure; (4)
14 whether our field sampling methods are adequate and how our
15 sampling methods are being used; and (5) what is the likely
16 benefit and cost impact of any rulemaking action we would
17 take on these five issues.

18 These five issues were discussed in the March 29th
19 Federal Register document, and the scope of the issues we
20 are addressing with this advanced notice of proposed
21 rulemaking is very limited. Therefore, this public meeting
22 will be limited to hearing public input on these five issues
23 I just mentioned.

24 In the ANPRM, we asked several questions relating
25 to each of these five issues, and we are particularly

1 interested in responses and information relating to these
2 questions.

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

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

13 The results of the NIOSH study were published in
14 1986, and verified our sampling results that indicated high
15 occupational exposures prior to 1974 at a vermiculite
16 operation in Libby, Montana. The highest exposures were in
17 the mill at that mine.

18 The NIOSH report showed that in 1974, the mine
19 began to use a wet process to concentrate vermiculite in the
20 mill and occupational exposures dropped markedly.

21 The asbestos-exposed miners employed at the
22 vermiculite mine in Libby however inadvertently carried the
23 asbestos fibers home on their clothes and in their personal
24 vehicles, thereby continuing to expose themselves and family
25 members.

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

6 In November of 1998, a Seattle newspaper published
7 a series of articles about the unusually high incidence of
8 asbestos-related illness and fatalities among individuals
9 who lived in the Libby, Montana area. Because MSHA had
10 jurisdiction over the mine, the Department of Labor's Office
11 of the Inspector General began an evaluation of MSHA's role
12 at the Libby mine.

13 The findings and recommendations of the Office of
14 the Inspector General were published in March of 2001.
15 Three of their recommendations would require additional
16 rulemaking by MSHA and those issues are the subject of this
17 public meeting today.

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

25 Recently, MSHA adopted new asbestos sampling

1 techniques and we have increased the scope of sampling for
2 airborne asbestos fibers at mines in an attempt to better
3 determine miners' exposure levels to asbestos. Our efforts
4 have included taking samples at all existing vermiculite,
5 taconite, talc and other mines to determine whether asbestos
6 is present and at what levels.

7 Since the spring of 2000, we have taken almost 900
8 samples, and at more than 40 operations, employing more than
9 4,000 miners. Our preliminary review and analysis of these
10 samples show that there are very few exposure occurred
11 during the sampling period which were at -- excuse me --
12 which were above the OSHA eight-hour time-weighted average
13 of .05 fiber per cubic centimeter of air.

14 The sampling results are now available at our
15 website at www.MSHA.gov. Also, the sampling results will be
16 made part of the rulemaking record if we move forward.

17 The issues surrounding asbestos exposure are
18 important to MSHA and we will use the information provided
19 to us at these public meetings to help us decide how to
20 proceed to address these five issues, so we were interested
21 in hearing public views.

22 These meetings will give miners, mine operators,
23 and their representatives and other interested parties an
24 opportunity to present their views on these five issues that
25 we are considering for potential rulemaking action.

1 The format of this public meeting will be as
2 follows: Formal rules of evidence will not apply, and this
3 meeting will be conducted in an informal manner. Those who
4 have notified MSHA in advance of the intention to speak or
5 have signed up today to speak will make presentations first.
6 After all scheduled speakers have finished, others can
7 request to speak. When the last speaker is finished, we
8 will conclude this public meeting.

9 If anyone wishes to present written statements or
10 information today, please clearly identify that material
11 when you give it to us.

12 You may also submit comments following the
13 meeting. Please submit them to MSHA by June 27th, which is
14 the close of the comment period. Comments may be submitted
15 to MSHA by electronic mail, fax, or regular mail. Please
16 note that the MSHA headquarters office in Arlington,
17 Virginia will be moving on June 10th, and therefore we will
18 have a new address, telephone, and fax information. That
19 new information is also available to you at the back of the
20 room.

21 A verbatim transcript of this meeting will be
22 available upon request, and if you want a personal copy of
23 the transcript, please make arrangements with the court
24 reporter, or you may view it on MSHA's website. It will be
25 posted there within five days after the public meeting.

1 The procedures will be the same for all other public
2 meetings.

3 We have not had anyone signed up yet to speak at
4 this public meeting, so we will go off the record now, and
5 wait and if someone does come in to speak, we will go back
6 on the record to take their comments.

7 (Whereupon, a recess was taken.)

8 MS. SMITH: We are going to go back on the record
9 now. We still do not have any speaker signed up to present
10 information. We have been asked how long we will stay and
11 keep the record open. It is now 10 o'clock. We will keep
12 the record open -- excuse me. We will stay here until 11
13 o'clock, and if we have no speakers we will close the record
14 at 11 o'clock.

15 (Whereupon, a recess was taken.)

16 MS. SMITH: It is 11 o'clock and we have had no
17 speakers to sign up to present information to the panel, so
18 we will close this public hearing.

19 Thank you.

20 (Whereupon, at 11:01 a.m., the hearing in the
21 above-entitled matter was adjourned.)

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REPORTER'S CERTIFICATE

DOCKET NO.: N/A
CASE TITLE: Measuring and Controlling Asbestos
exposure
HEARING DATE: May 16, 2002
LOCATION: Vacaville, California

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 16, 2002

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