

# TRANSCRIPT OF PROCEEDINGS

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DEPARTMENT OF LABOR

MINE SAFETY AND HEALTH ADMINISTRATION

A PUBLIC HEARING  
ON REGULATIONS FOR MINER SAFETY AND HEALTH TRAINING

Pages: 1 through 142

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UNITED STATES OF AMERICA

DEPARTMENT OF LABOR

MINE SAFETY AND HEALTH ADMINISTRATION

**A PUBLIC HEARING**

ON REGULATIONS FOR MINER SAFETY AND HEALTH TRAINING

Biltmore III Room  
Georgia International Trade & Convention Center  
1902 Sullivan Road  
College Park, Georgia

Thursday, January 7, 1999  
8:00 a.m.

MSHA PANEL MEMBERS PRESENT:

KATHY ALEJANDRO, Presiding  
ROSYLN FONTAINE, Member  
RODRIC BRELAND, Member  
KEVIN BURNS, Member

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1                                   P R O C E E D I N G S

2                   MS. ALEJANDRO: Good morning.

3                   My name is Kathy Alejandro, and I am with Metal and  
4 Nonmetal Mine Safety and Health with the Mine Safety and  
5 Health Administration.

6                   On behalf of the Mine Safety and Health  
7 Administration I would like to welcome you to the last of  
8 seven public meetings on regulations for miner safety and  
9 health training.

10                  These meetings are intended to give individuals and  
11 organizations, including miners and their representatives,  
12 and mine operators, both large and small, an opportunity to  
13 present their views on the types of requirements that will  
14 result in the most effective miner safety and health  
15 training.

16                  These regulations would apply at those nonmetal  
17 surface mines where MSHA currently cannot enforce existing  
18 training requirements.

19                  I would like to take this opportunity to introduce  
20 the members of the MSHA panel who are here with me this  
21 morning.

22                  To my immediate left is Rosyln Fontaine of the  
23 Office of Standards, Regulations, and Variances with MSHA;

24                  To my immediate right is Rod Breland who is the  
25 Western Operations Manager of the newly-formed Educational

1 Field Services within MSHA; and

2 To my far right is Kevin Burns who is also with  
3 Metal and Nonmetal Mine Safety and Health with MSHA.

4 Since 1979, MSHA has been guided by a rider to its  
5 appropriations. The restriction currently states that:

6 ...none of the funds appropriated shall be  
7 obligated or expended to carry out Section 115 of the Federal  
8 Mine Safety and Health Act of 1977, or to carry out that  
9 portion of Section 104(g)(1) of such Act relating to the  
10 enforcement of any training requirements with respect to  
11 shell dredging, or with respect to any sand, gravel, surface  
12 stone, surface clay, colloidal phosphate, or surface  
13 limestone mine.

14 In the omnibus budget passed by Congress on October  
15 21st, 1998, MSHA f directed to:

16 ...work with the affected industries, mine  
17 operators, workers, labor organizations, and other affected  
18 and interested parties to promulgate final training  
19 regulations for the affected industries by September 30,  
20 1999. It is understood that these regulations are to be  
21 based on a draft submitted to MSHA by the Coalition for  
22 Effective Miner Training no later than February 1, 1999.

23 MSHA expects to publish a proposed rule in the  
24 *Federal Register* some time in the spring of 1999.

25 The regulations that MSHA will be developing must

1 include the minimum requirements in Section 115 of the  
2 Federal Mine Safety and Health Act of 1997, and I will give  
3 you a short summary of those requirements.

4 Section 115 provides that every mine operator shall  
5 have a health and safety training program that is approved by  
6 the Secretary of Labor, and that complies with certain  
7 requirements.

8 Section 115 specifies that surface miners are to  
9 receive no less than 24 hours of new miner training, no less  
10 than eight hours of refresher training annually, and task  
11 training for new work assignments.

12 Section 115 also requires that the training cover  
13 specific subject areas, provides that the training is to be  
14 conducted during normal work hours at normal rates of pay,  
15 requires that miners be reimbursed for additional costs they  
16 incur incidental to such training, and provides that mine  
17 operators must maintain miners' training certificates and  
18 furnish such records to the miners.

19 In addition to these minimum requirements, MSHA is  
20 looking for suggestions, MSHA is looking for suggestions and  
21 comments as to how best to achieve effective miner safety and  
22 health training consistent with the Mine Act, including any  
23 additional requirements that should be included in the  
24 proposed rule and, most importantly, why.

25 Public meetings have already been held at six

1 locations: In North Brook, Illinois; Denver, Colorado;  
2 Albany, New York; Portland, Oregon; Ontario, California; and  
3 in Dallas, Texas.

4 These meetings have been intended to give as many  
5 individuals and organizations as possible an opportunity to  
6 present their views on these issues.

7 We intend to conduct this meeting in an informal  
8 manner. As you can see, a court reporter is making a  
9 transcript of the proceedings. Anyone who wishes to speak at  
10 this meeting and has not signed up in advance should sign up  
11 on the speakers' list which is located currently on this  
12 table with me.

13 We also ask that everyone who is here today,  
14 whether or not you wish to speak, sign the attendance sheet  
15 which is located in the back of the room on table with the  
16 water.

17 Anyone who wishes may also submit written  
18 statements and information to us either during the course of  
19 this meeting, or at some point after the meeting, and we will  
20 incorporate this information in the record when the proposed  
21 rule is developed.

22 Although there is no formal deadline for the  
23 submission of written comments, we are encouraging everyone  
24 to submit their comments on or before February 1st of 1999 to  
25 ensure that we can give full consideration to your

1 suggestions and your input.

2           Although we are most interested in what you have to  
3 say to us, we will also attempt to answer any questions you  
4 may have to clarify the process and the purpose of this  
5 meeting.

6           We are specifically interested in comments  
7 addressing certain areas, although you are strongly  
8 encouraged to comment on any issue related to miner safety  
9 and health training at currently-exempt mines. These issues  
10 were outlined in the November 3rd *Federal Register* notice  
11 that announced the schedule of public meetings, and I will  
12 summarize them:

13           Should certain terms, including "new miner" and  
14 "experienced miner" be defined?

15           Which subjects should be taught before a new miner  
16 is assigned work, even if the work is done under close  
17 supervision?

18           Should training for inexperienced miners be given  
19 all at once, or over a period of time, such as several weeks  
20 or months?

21           Should supervisors be subject to the same training  
22 requirements as miners?

23           Should task training be required whenever a miner  
24 receives a work assignment that involves new and unfamiliar  
25 tasks?



1           Should specific subject areas be covered during  
2 annual refresher training? If no, what subject areas should  
3 be included?

4           Can the eight hours of annual refresher training  
5 required by the Mine Act be completed in segments of training  
6 lasting less than thirty minutes?

7           Should the records of training be kept by the mine  
8 operator at the mine site, or can they be kept at other  
9 locations?

10           Should there be minimum qualifications for persons  
11 who conduct miner training? If so, what qualifications are  
12 appropriate?

13           I would now like to introduce the first speaker  
14 this morning. We ask that all speakers state their name for  
15 the court reporter before beginning their presentation, and  
16 also spell their names.

17           And, again, thank you very much for attending this  
18 morning.

19           The first speaker on our list is Dick Martin from  
20 Watson Gravel. Mr. Martin.

21 DICK MARTIN, WATSON GRAVEL

22           MR. MARTIN: I am Dick Martin with Watson Gravel in  
23 Cincinnati, Ohio.

24           We are a small operator up in that area, and we  
25 have been involved in this part of this training area since

1 19 -- let's see, it was the first year it was put into effect  
2 -- '78, '77 or '78.

3 When I came away from that meeting, and there was  
4 probably about a dozen people in Vincennes, Indiana at that  
5 time at the meeting -- we had like a Sears and Roebuck  
6 catalog with us as far as the training and everything, and it  
7 scared everybody to death.

8 I hope that this new thing here that you're putting  
9 in won't do that, and I've got some comments, and I have  
10 talked to a lot of the operators in the Cincinnati area, the  
11 small operators, and also I am a past board member for Ohio  
12 Aggregate Association for the small groups of people, and I  
13 talked to them, too, and it's almost the consensus of opinion  
14 through the whole group that we need something that we can  
15 work with there, and we hope that it's a little bit simpler.

16 I think the first thing here I would like to talk  
17 to is here is a copy of an outline for training, and with  
18 that it says 24 hours of training before a person can start  
19 to work.

20 Most people I think when they make this thing out  
21 is that it's almost like a pie, it's 24 hours, and then they  
22 try to work out the segments and different things that's in  
23 here as far as statutory rights of miners, first aid, things  
24 like that. And they come up with something that's really not  
25 workable.

1           We have people in our area that's got four or five  
2 mine operators that work there, and to sit down and talk to  
3 them for two or three hours about the statutory rights of  
4 miners or, you know, they try to put this in it's just -- but  
5 we have inspectors come in, and periodically they will ask  
6 somebody "Have you been trained?" "Yeah." "How much  
7 training?" and then they will come back to the operator and  
8 say "That man says that you didn't talk to him for so many  
9 hours."

10           You know, it's just like on some electrical. We've  
11 got people who have -- a front-end loader, they load into a  
12 hopper, and it's only got one conveyor, and you can't talk to  
13 that person I don't think about the hazards of electricity  
14 for six hours when he's only got one thing to do, and that's  
15 press a button, you know, to make it run.

16           So I hope these things are taken into consideration  
17 on this thing here.

18           We don't want anybody to get hurt on the job. When  
19 you're a small operator I think you're even closer to your  
20 people than you are when you're a large operator, and we're  
21 almost like family.

22           So we want something that we can prove to you that  
23 we've done the training, that the people know what's going  
24 on, you can talk to them freely. Our doors are always open  
25 to inspectors. We just want something workable.

1           On the 24 hours of training, I think that that  
2 shouldn't be set in stone. I just don't think so, because  
3 the 24-hour training before you put somebody to work, the way  
4 we do it and the training that you do after the fact, after  
5 they first get started and things like that, it always adds  
6 up to more than 24 hours.

7           And it's an ongoing thing. Training is an ongoing  
8 thing in the gravel industry especially, and I imagine most  
9 every place else you just constantly do this.

10           Some people when it gets down so far you call it  
11 refresher training, but mainly, you know -- and I think if we  
12 could do this, get the person that's trained on the job and  
13 all the things that you're asking for here within thirty to  
14 sixty days I think is good, and I think it's workable. I  
15 think that would work fine.

16           We do have some people there that come in. We have  
17 a large farming area there, and we have people, a lot of  
18 people we hire in, they're the farm boys and things like  
19 that. They know a lot of things before they ever get the  
20 job, and they might be newly-hired inexperienced people, but  
21 they're experienced in heavy equipment and things like this,  
22 and electric, and hazards, and so I think you just as a -- I  
23 think it's almost a refresher training for them, it's not a  
24 new training, and this should be taken into consideration.

25           On the one thing that they hit on here very hard,

1 and it's very important, and that is first aid training. To  
2 bring a person in off the street and give him seminars on  
3 first aid training, CPR, and things like this before you ever  
4 take him out and put him in the gravel pit, I just don't  
5 think that that's necessary for that whole thing to be done.

6 I think that you can cover some CPR and control  
7 bleeding, pressure points, things like this, and we've got  
8 first aid around the gravel company there and things like  
9 this, that that should be sufficient for something like that  
10 because we -- every year we have open-door policy for first  
11 aid training in our company. And just like I say, we're just  
12 a small company, we've got two small gravel pits there.

13 And we've had a lot of other people in the area  
14 follow our course on the thing, and that is that we offer  
15 first aid training for the people, we give them CPR, the full  
16 amount of it every year, and we give them refresher training  
17 every year on the thing there. So we've got a constant flow  
18 of first aid training going on all the time.

19 We bring people in, and they do it in the  
20 conference room, which we have a conference trailer. I've  
21 done it in the small motels there in town that's got a  
22 conference room, I bring them in there, and it's workable.

23 We do it for two reasons. For the employee that he  
24 knows what he's doing when he's on the job, and it's also for  
25 when he's at home or away from the job there. It's proved

1 out it's worked real good for that.

2           On the new hire/experienced miners, I've got -- I  
3 think that everybody up there has done the same thing is that  
4 after verbal questioning on qualifications for the job they  
5 are hired and basic off-the-job hazard training should be  
6 completed, and the rest of the health and safety training  
7 could be completed on the job there, just like we normally do  
8 that now.

9           And then this information could be put on their  
10 certificate. In other words, if a person comes in he might  
11 have been running a backhoe for somebody on a construction  
12 site for two or three years, or driving a dump truck on the  
13 job, and they come in there, they're a new hire,  
14 inexperienced miners, but they've got the experience in the  
15 thing that they're going to do, and I think that should be  
16 taken into consideration, and that can be put on their hiring  
17 thing there so that's part of the training there.

18           Refresher training. We have safety meetings and  
19 information meetings where we sit down and talk to the  
20 people, and I think that this should tally in on their  
21 refresher training as far as their jobs. We have refresher  
22 training on first aid. We cover these things.

23           It might only be maybe ten or fifteen minutes to  
24 the meeting, or maybe twenty minutes to the meeting, but I  
25 think that should count in on the thing.

1           And I don't think we should have to have a score  
2 card to say, well, ten minutes here, ten minutes there, and  
3 then have an inspector come in and say "Well, you only did an  
4 hour and five minutes here" because I just -- I don't want to  
5 have the score card there.

6           On employees assigned to the task we'll say, this I  
7 think is the -- when you get around a small operation like we  
8 have, almost without -- I'll say there's probably only about  
9 two or three people there that don't do all the jobs, that  
10 haven't been trained on all the jobs, and they're so close,  
11 and they work with the people.

12           And then that gets to another point here is that I  
13 feel that the people that are on the jobs know more about the  
14 jobs than anybody, and they should be the ones that can train  
15 if they want to do the training.

16           The outline says that if there's a competent person  
17 there that can do they training they can do it. That one  
18 thing right there, I hope you people take into consideration  
19 one thing. We have a lot of good people there. They don't  
20 have a lot of schooling and things like that, but they know  
21 what they're doing, and they're good instructors. They can  
22 teach a person to do their job, and do it safely and things  
23 like this. And it gives them a little bit of pride.

24           I took some of our people to a safety meeting here  
25 two years ago in Columbus to just give them some exposure and

1 let them see what's going on, and there was an MSHA inspector  
2 there, and in his talk he told the people there that they  
3 could be held responsible if somebody got hurt on the job  
4 after they trained them.

5 I almost lost my trainers, because they didn't want  
6 to be held responsible to where they could go to jail or  
7 things like that.

8 And I did have one MSHA inspector tell the  
9 personnel on the job, and the man that we work with in the  
10 state there is Okie Ritter, and Okie Ritter is a good man. I  
11 got back to him and told him what went on and things like  
12 that. But these were some inspectors that come in from out  
13 of state, they were loaners to him.

14 So I hope that doesn't happen any more, because  
15 we've got too many good people out there that want to do a  
16 job, and they have some pride in their job, and I think that  
17 when it comes to competent people the person on the job is  
18 mostly the one that do it running.

19 When I asked to come down here for this meeting I  
20 didn't know I was going to be a speaker, and I'm not a  
21 speaker, but I'm just talking for our company and some of the  
22 people around there. I want you to know that I appreciate  
23 the opportunity to do this.

24 I think that the little operator out there just  
25 needs to be heard. Just like I say, I'm not a paid



1 representative of these people, but I've had most of the  
2 people --

3           Let me take a minute or two here to tell you, we're  
4 in the -- our gravel operation is in the glacier deposits  
5 down in the Great Miami River Valley there, so we're  
6 basically strip miners, that's what we -- When it comes to a  
7 high wall, if we get thirty feet of gravel we're tickled to  
8 death, that's a high wall to us. Most of ours is drag line  
9 and things like this, underwater and things like that.

10           Our inspectors that come around, we have good MSHA  
11 inspectors. I don't -- in twenty years we've only had a  
12 couple of times where we've had if you want to call it an  
13 incident with an inspector, and most of the time it's a  
14 little bit of a misunderstanding on their part, because our  
15 -- you can talk to Mr. Ritter up in Ohio there -- our doors  
16 are always open, people can come in, and we don't hide  
17 nothing, we turn them loose.

18           The only time we get mad is that if finds something  
19 that's wrong that we should have corrected, that's when we  
20 get mad at ourself. And just like I say, the inspectors do a  
21 good job here.

22           But it's -- I know that if you make laws it's like,  
23 you know, you have highway speeds out here, it's 65 and  
24 they'll allow you to run seventy, you know, but when it comes  
25 to some of these things that come down as laws, if you try to

1 reason with the inspector, "That's what it says, Dick," you  
2 know. There's no gray area there.

3 I have on several occasions had citations that I  
4 talked to them, and reasoned with them, with you people --  
5 I'll say you people, and we have had -- I've lost a couple,  
6 I've won a couple.

7 I cherish the opportunity to do this, because it  
8 seems like it makes things a lot easier. I haven't had  
9 anything held against me so far.

10 But the safety training here is something that I  
11 think is, it's important. I think most all the gravel  
12 operators do it. They do it in different phases on the  
13 thing.

14 And just like I say, I hope that you come up with  
15 something here that we can work with, that we can train the  
16 people, give them the opportunity to take advantage of other  
17 training, both on the job and off the job.

18 We're nonunion people there, so our people they  
19 switch if you want to call it classifications continuously.  
20 Absenteeism, vacations, and things like that, a man might run  
21 a drag line one day, and a dredge the next. If they need a  
22 loader operator, the plant man might run the loader. They  
23 switch things around like that.

24 So we do need training in all the areas, and they  
25 do need to be protected in all the areas, and I think that we

1 can -- I know we can do it, and I know that we can have a  
2 simpler outline for safety that will get the job done with  
3 competent people on the job.

4 And I want to thank you very much.

5 MS. ALEJANDRO: Thank you, Mr. Martin.

6 I have got a couple of follow-up questions, and  
7 other people on the panel may as well.

8 You stated that you didn't think that the 24 hours  
9 of new miner training should be set in stone, and I just want  
10 to clarify what your point was.

11 As you probably know, the 24 hours minimum is in  
12 the Mine Act, so in this regulation we really can't do  
13 anything to change how much new miner training has got to be  
14 given to new miners.

15 However, one of the issues that we're looking at --  
16 and I think that that's maybe where you were coming from --  
17 is how much of the new miner training has got to be given to  
18 a miner before he or she begins work, and you may know -- or  
19 maybe you don't know -- but in Part 48 it establishes eight  
20 hours of minimum training before a miner can begin work, and  
21 that's what we're trying to figure out here is in this  
22 regulation do we set a minimum like that and, if so, is it  
23 cast in terms of hours, or in subject areas, or things like  
24 that.

25 We have gotten comments saying that eight hours is

1 too much, particularly for smaller operations where there  
2 really isn't that much to the operation.

3 Other people have suggested maybe two hours  
4 minimum. Other people have spoken in terms of subject areas  
5 that should be covered before a miner begins work.

6 I think that the thinking is a miner should get  
7 something before he or she begins work, and I was just  
8 wondering if you had any specific comments on that.

9 MR. MARTIN: One reason I said the 24 hours is  
10 because we've had the inspectors come in, and they have said,  
11 you know -- and I, you know, said "Well, you know, it doesn't  
12 say it's 24 hours before they ever walk out the door."

13 MS. ALEJANDRO: Right.

14 MR. MARTIN: "No, it's 24 hours, Dick," you know,  
15 "and I'll get the reg and I'll show it to you," and things  
16 like that. That's where our conflict has been on the thing.

17 The amount of training before a person goes out,  
18 I'll tell you what we do, and that is that a new hire comes  
19 in, sits down and goes through all of his paperwork that he  
20 has to sign and do things like that before, you know, he's  
21 hired on type of situation.

22 He comes in to work -- well, we might start him  
23 that day. Before the person ever goes out and does the job  
24 that he's hired to do there, the man or woman, we talk to  
25 them at least two hours. I've got an outline book and things

1     like that that we go over.

2                 I've got a large -- we do a flyover of all the  
3     gravel operations in Ohio there, and we have a picture on the  
4     wall showing our gravel operations, and so we can show them,  
5     you know, "This is where you are now, and this is where the  
6     gravel operation is here," you know, "and this is the garage  
7     area, and this is the escape routes" if you want to call it  
8     that, which you can go anywhere in a surface mine to get  
9     away.

10                But the thing of it is is that we cover all the  
11     areas of "These are the things that you want to look out  
12     for." In the booklet I go over the guarding and things that  
13     we do, the safety checks on all the machinery and the  
14     equipment before we start every shift.

15                I have a sheet there that shows them -- there's a  
16     check sheet for every piece of equipment, no matter where  
17     they're going. Even if they're if you want to call it a  
18     laborer around the plant area there, all they do is keep the  
19     place clean, it's that "These are the things that you check  
20     every time we start out on a job," and go over it with them  
21     when we take them out on the job, you know.

22                So we do a couple of hours, and from then on we get  
23     them with a person that is experienced on the job, and then  
24     they work with that person until we feel that the man or  
25     woman can handle that job, stick with it.

1           And then we come back to them, and we never leave  
2 them, they're never out of eyesight of anybody there. They  
3 go to work, and they're free to ask any question. Just like  
4 I tell them all, you know, nobody knows everything; ask any  
5 question. It might be the dumb question today, but tomorrow  
6 it will be the simplest thing.

7           So I think that a couple of hours is sufficient to  
8 get them out there on the job.

9           MS. ALEJANDRO: Okay. Do you have any opinion as  
10 far as how long operators should have to give the new miners  
11 the balance of the training? I mean they need to give them  
12 24 hours if they're new miners, but what period of time  
13 should that 24 hours be given in?

14          MR. MARTIN: I think within thirty to sixty days  
15 that we ought to be able to cover all aspects of the job  
16 there.

17          MS. ALEJANDRO: Okay.

18          MR. MARTIN: The thing, the only part of it that  
19 might all outside of that would be the first aid training  
20 because we might not -- we'll just say for instance you might  
21 have hired me today and you go over some of the basic things  
22 that you normally would for first aid, you know, where the  
23 first aid stations are, who handles first aid, and things  
24 like that, and tell the person, you know, tell them the first  
25 of March we're going to have our first aid training, and you

1 will be involved in this, it will be paid for, you know, it  
2 might be done here, or we might do it down at the Shady Rest  
3 Hotel down here, you know, and then have that -- the first  
4 aid training would be picked up within at least eight or nine  
5 months of the time they get there. I mean that is complete  
6 first aid training.

7 Now, we do also -- on first aid training we have  
8 had a problem with a few people that didn't want to do it,  
9 and the reason for it was that they didn't want to -- there  
10 are some people in life don't want to fail in front of  
11 somebody else, and they were afraid that they might not pass  
12 it.

13 But just like I told them, the inspectors pass  
14 everybody. they keep working with you time and time again,  
15 and here again is where we have some people on the job,  
16 competent people on the job that can talk to this person and  
17 say, yeah, you know, we have had the training where, you  
18 know, they went back and -- especially the CPR. I've had  
19 people pull the heads off the dummies and everything else,  
20 you know.

21 They can work with this, and they can get that  
22 training in, and then they get the full training out of it,  
23 and then they get their certificate from it.

24 MS. ALEJANDRO: Okay. I have one other question.

25 You were raising the issue of what individual

1 should be considered experienced, I guess meant to decide who  
2 needs to get the 24 hours of training, and you indicated  
3 you've got people who have got experience, and pretty  
4 significant experience on the equipment that you use,  
5 although it might not have been mining experience.

6 Do you have any suggestions for how we might in the  
7 rule address that, I mean as far as I mean somebody coming in  
8 with that kind of experience, not clearly mining experience,  
9 but obviously relevant experience of then deciding who's an  
10 experienced miner and who is a new miner for purposes of the  
11 training requirements?

12 MR. MARTIN: You're talking about somebody we would  
13 hire that would be an inexperienced miner, but he's like a  
14 truck driver for example?

15 MS. ALEJANDRO: Yeah, I mean somebody who maybe  
16 doesn't have any mining experience, or little mining  
17 experience, but is very experienced on the kind of things  
18 that he's going to be doing at the site.

19 MR. MARTIN: Most -- I shouldn't say most -- a lot  
20 of our employees come into the gravel operation, and they are  
21 truck drivers, and they haul gravel. Say they haul gravel  
22 out of our plant, not only our plant, but any of the gravel  
23 companies around there, and so they're very familiar with the  
24 operations, you know, around even though they're not out of  
25 truck running around all over.



1 MS. ALEJANDRO: Are they your employees, or are  
2 they contract?

3 MR. MARTIN: No, they're some of what we call  
4 brokers, people that come in, and they just want to get out  
5 of truck driving, and they apply for a job, if we've got an  
6 opening there, and we also -- we don't hire from anybody, we  
7 don't take people away from anybody. If somebody says yeah,  
8 go ahead and hire the person we bring them on.

9 This just happened about three months ago, a man  
10 that had driven a truck out of our plant there for about six  
11 years, and he wanted to get out of the truck, and so he hired  
12 on, and it just so happened we had a job at the plant there  
13 which was a truck driver in the pit area that would haul  
14 materials from one end to the other there, which fit right  
15 in. We didn't have to give him truck driver training, we  
16 didn't have to give him the safety training because he had  
17 his CDLs from the truckers.

18 And so all those qualifications, and I think at  
19 that time, you know, you could sit down and say "Well, Dick  
20 worked here, you know, and he's driven a truck for so many  
21 years" and things like that, and we could cover all that, and  
22 that covers a lot of territory there.

23 MS. ALEJANDRO: Uh-huh.

24 MR. MARTIN: And so I just think -- and we have  
25 some people who are backhoe operators and dozer operators who

1 work for contractors that do home building and things like  
2 that, and we hire them on and, you know, they've got all this  
3 experience, and they've probably got -- you know, maybe some  
4 of them have got ten or twelve years. Because the  
5 construction business is -- they lay off a lot in the winter  
6 time, we don't a whole lot, and so they want to get off that,  
7 and so here's some experienced people coming in, and that  
8 should be taken into consideration and written up.

9 MS. ALEJANDRO: People like that you're saying  
10 shouldn't be considered to be new miners for purposes of  
11 training?

12 MR. MARTIN: Yeah.

13 MS. ALEJANDRO: Okay. Do you have anything?

14 MR. BURNS: Yeah, I have a question concerning the  
15 24 hours training.

16 You mentioned that you have a program or a check  
17 list that you go through for new hires.

18 MR. MARTIN: Pardon me?

19 MR. BURNS: You mentioned you have a check list or  
20 a program that you go through for new hires. Would you be  
21 able to make that available to us?

22 MR. MARTIN: You can get one to you. If you can  
23 give me an address, I can send it to you

24 MR. BURNS: Okay. I'll give you the address  
25 afterwards, unless you want to write it -- I don't know if

1     you have a pen and pencil right now.

2                 MR. MARTIN: We don't have a lot of -- I'll say  
3     there's a lot of companies that have got booklets of things,  
4     you know, but we have just a basic thing that we do on any  
5     new hire as to what we cover as far as, you know, all the way  
6     from insurance, talking to them about their insurance and  
7     things like that, all the way down, and then it comes down  
8     into, you know, pre-hiring just like we're talking about here  
9     as to what we talk to them about before we put them out on  
10    the job. And that's all -- it will all be one big thing  
11    there, so you know that.

12                MR. BURNS: Okay. I'll give you the address for  
13    that where you can send it to me.

14                MR. MARTIN: Yes.

15                MR. BURNS: The other thing is how many -- I'm  
16    looking at your experience with that program, and your  
17    experience with the new hires that are trained in that way.

18                As far as, you know, your accident and injury  
19    experience with those miners trained in that way, would you  
20    be able to comment on that?

21                MR. MARTIN: On the -- I'm not following you, I'm  
22    sorry.

23                MR. BURNS: Well, I guess I'm trying to see if you  
24    can clarify or explain the effectiveness off training based  
25    upon your accident and injury experience with those miners.

1           MR. MARTIN: Oh, okay. Yeah, we've got a very low  
2 accident record there with our mines there.

3           We have the things where if they hit their finger  
4 or something like that, but as far as people for instance  
5 getting caught in unguarded pulleys and things like that, no;  
6 people having accidents with rubber-tired loaders, trucks,  
7 and things like that, no. We have never had anybody run over  
8 anybody, we haven't upset any equipment like that.

9           We have just had if you want to call it the normal  
10 things. We've had one incident where a man who was an  
11 experienced man on the crusher operation there for about  
12 seven or eight years, and he shut the crusher off, and it was  
13 a jaw crusher -- and all of you are familiar with how a jaw  
14 crusher works like this [indicating] -- and it was jammed,  
15 and he went in and pulled the stone out, and it wasn't  
16 running, it was locked out and everything, and he pulled the  
17 stone out, and as he did the thing cycled one more time and  
18 mashed two fingers, and we consider that a severe accident at  
19 our place.

20           But, no, we've been very fortunate, we haven't had  
21 any bad accidents.

22           MR. BURNS: I don't want to overburden you, but if  
23 you could go back like for a five-year period and sort of if  
24 possible document like over a six-month period the experience  
25 with your new miners, and then maybe over a one-year period,

1 because that's really what's relevant for this training issue  
2 is how do they perform within that initial period of their  
3 employment, and that would be very helpful to validate --

4 MR. MARTIN: If you could do me a favor and write  
5 down exactly what you want there, I'll go back and --

6 MR. BURNS: I'll do that.

7 MR. MARTIN: -- when I go back I'll get our  
8 accident reports, reportable accidents to MSHA, and I'll pull  
9 them out, and then I'll --

10 MR. BURNS: Yeah, but I'm looking at particularly  
11 the new miners, because that would be very helpful to  
12 document how this sort of training is effective.

13 MR. MARTIN: When you're talking new miner --

14 MR. BURNS: New employees.

15 MR. MARTIN: -- how far after the date of  
16 employment do you consider a new miner?

17 MR. BURNS: Well, I'm looking at maybe a six-month  
18 period and a one-year period to see, because that's really  
19 where the new miner training should have its impact during  
20 that period of time.

21 MR. MARTIN: Yeah, I can do that very easily.  
22 Yeah, I'll give you a copy of it.

23 MR. BURNS: I'll put that down specifically with  
24 the address. I appreciate that.

25 MR. MARTIN: Yeah. No problem.

1           MR. BURNS: The other question I had was on the  
2 annual refresher training, and we've had a lot of comments  
3 that the ten-, twenty-, thirty-minute safety meeting talks,  
4 or tailgate talks, many people feel if they're done properly  
5 that continuous type of safety talk throughout the year is  
6 very effective.

7           The other thing you mentioned was that you didn't  
8 want to have a score card, but how would you be able to I  
9 guess document or square away that there was in fact eight  
10 hours done whenever an inspector or someone comes on the  
11 property? because the other thing you mentioned was that, you  
12 know, an inspector may talk to the miner and they don't  
13 remember, you know, getting this many hours. I think if you  
14 don't have a score card you're going to have that problem.

15           MR. MARTIN: I think the minutes of our safety  
16 meetings are very sufficient for that.

17           MR. BURNS: The minutes cover all that?

18           MR. MARTIN: Yes.

19           MR. BURNS: Okay. So there is some documentation  
20 you can point to?

21           MR. MARTIN: Yes. All our -- in the -- in fact, we  
22 have information meetings and safety meetings combined, and  
23 just like I say we just -- we like to keep the people  
24 informed what's going on.

25           To give you a for instance, we just went through a

1 situation here in the last year where we traded some  
2 properties in order to get a little bit more area to mine in  
3 the future, which people were -- you know, they wanted to  
4 know what was going on, what their future was, and so in  
5 these meetings we would go over things as where we are right  
6 now, and then when we do that I always -- either I or the  
7 supervisor that I have there, I feed him and the lady over in  
8 Air Spare the information as far as ny inspection we might  
9 have had by either the State of Ohio or MSHA, the things that  
10 was covered and discussed at that time, any citations we  
11 might get, or anything like that, or any comments and things  
12 like that.

13           These things all work in there, and it's an ongoing  
14 thing there, and that's where the safety keeps -- we just  
15 keep feeding the safety back in there on the thing, and it's  
16 in the minutes right there what was covered and things like  
17 that.

18           And then we recap every year anything that  
19 happened, you know, any injuries, reportable or unreportable  
20 injuries. We keep records of all those.

21           MR. BURNS: Okay. The only other thing is we are  
22 going to try to address this prior experience issue, you  
23 know, because it is something that keeps coming up in all the  
24 meetings. You know, in this particular industry there's a  
25 lot of going back and forth between construction and mining

1 of workers. That is an issue we intend to try to address.

2 MR. MARTIN: It's kind of hard to take somebody  
3 with twenty years of bulldozer experience, and you hire him,  
4 and you give him all new training, and the guy is sitting  
5 there looking at you like, you know, "I know more than you  
6 do," you know, and a lot of times they do. Sometimes they  
7 don't.

8 You know, sometimes people bring bad habits with  
9 them. You know, I'm not gonna say they're all perfect, we're  
10 not perfect. There's only one person perfect, and he's not  
11 here today.

12 MR. BURNS: Okay. That's all the questions I have  
13 for you.

14 I guess I do have one other one.

15 Are there are sort of materials, or would you view  
16 any sort of training materials that MSHA would develop for  
17 these short safety talks, would you find that beneficial,  
18 something that's timely like on crushers, or on conveyor belt  
19 safety, or things like that? Would you welcome that sort of  
20 training assistance?

21 MR. MARTIN: I think that there's -- there's  
22 booklets that's available from you people right now on  
23 guarding, and these type things that I think are very good,  
24 and I will say one thing that when I call for them or ask for  
25 them I get them in numbers that I can pass out to people, and



1     they're pretty good documented things.

2             There is one thing that I think that might be  
3     available and maybe I don't know about it, and that is if  
4     there are some video type things that you could use that  
5     would be available.

6             I know that there is a safety, Baum Safety, they  
7     supply us with a lot of the videos, and they are very, very  
8     good, and they're returnable things. We use them and send  
9     them back, and sometimes we purchase them and keep them for  
10    certain topics that we really want, and I think those would  
11    be available.

12            MR. BURNS: Okay. So if there is a deficiency, we  
13    should try to work on more training videos for the sand and  
14    gravel people that can be used in short safety meetings?

15            MR. MARTIN: I'm having an awful time hearing you.

16            MR. BURNS: So if there is a deficiency, you would  
17    recommend that we work on more training videos for sand and  
18    gravel operators that they can use in the short safety  
19    meetings?

20            MR. MARTIN: Yeah.

21            MR. BURNS: Okay.

22            MR. MARTIN: I would say that of the things that I  
23    -- I guess you people sort of generalize on a lot of this  
24    covering the coal and --

25            MR. BURNS: Right.

1           MR. MARTIN:  -- and I have had some comments from  
2 several of the people.  In Kentucky, there's no sand in  
3 Kentucky, and we move a lot of sand down there, the coal  
4 haulers bring it back, and so we get to talk to the people  
5 that run the quarries, because all the limestone quarries are  
6 in Kentucky and they haul to the quarries, and so I get to  
7 talk to those people there, and I have had some comments from  
8 some of those people in the quarry business that they felt  
9 that you people could do a lot better if you had some things  
10 that were strictly the quarry operations and the stone.

11           MR. BURNS:  Okay.  Thank you very much.

12           MS. ALEJANDRO:  Rod.

13           MR. BRELAND:  Just a couple.

14           Mr. Martin, you had talked about being a small pit.  
15 I'm not sure that I really understood.  How many employees do  
16 you have year round, and is it seasonal?

17           MR. MARTIN:  The high side we hit about forty-five.

18           MR. BRELAND:  And is that just like again in the  
19 seasonal time of the year?  Do you drop down to half that  
20 in -- ?

21           MR. MARTIN:  No.  We are very lucky.  If we have a  
22 layoff it's when like it is up home right now when it gets  
23 down to about five below zero, and we let anybody who wants  
24 to work, because there's always some repairs that can be  
25 done, and there's things that we can take inside and work on,

1 and anybody who wants to work, you know, we'll allow them to  
2 work there.

3 The only problem we have is we do have our own  
4 truck drivers, and those people there, there would be a  
5 layoff in the year, at the end of the year, and probably that  
6 would probably be about five or six people that they usually  
7 get laid off right about now because we just don't need that  
8 many truck drivers and things like that, but we run about  
9 forty-five people most of the time.

10 MR. BRELAND: Is that for the two plants?

11 MR. MARTIN: Yes, sir.

12 MR. BRELAND: Okay. Also you talked about the two-  
13 hour kind of indoctrination you did. When you're done with  
14 that, do you send them out under some close supervision  
15 typically?

16 MR. MARTIN: Yes, the foremen, they take them from  
17 there, and then they take them out, and then they either stay  
18 with them -- it's all according to what the job is -- they  
19 stay with them, or else they'll put them with somebody who is  
20 experienced on the job, and they work with that person there.  
21 That person never leaves them until they're -- I'd say  
22 probably if you go from loader operator -- See, we don't put  
23 people out on the loader operators and make them loader  
24 operators because, you know, we've got \$300,000 worth of  
25 equipment there, and you just can't afford to have that tore

1 up or get somebody hurt there.

2 Most of our people that are inexperienced  
3 altogether that come into the mine, they will be laborers  
4 around the sifting and classifying area, plant area, or they  
5 will go into training as a plant operator because the plant  
6 operator is strictly a person that just sits and watches the  
7 different screens and pressures, and got a control board  
8 there, and they would easily work into that area first.

9 And then if they want to be loader operators, then  
10 that's -- and truck drivers if they haven't had any truck  
11 driver experience, then that's when it takes some time there.  
12 And you can't have two people riding in the same loader  
13 because there's only one seat, and so --

14 For instance, if we have somebody that wants to be  
15 a loader operator we'll take them in an area that's flat,  
16 there's no lakes, there's no cliffs that they're going to go  
17 over, or anything like that, and we'll give them some  
18 instructions on how to run the loader, let them just drive it  
19 around for a while, and then we'll let them load our pit  
20 truck. If they tear the pit truck up it don't make those  
21 people half as mad as it makes the brokers that come in.

22 And we work them from there, and we just let them  
23 do that, and then they work from there to -- they work their  
24 way up, and that can take anywhere from two to three weeks to  
25 get them to the point where they can safely operate that

1     thing.

2                 We go through them, and there's a safety check we  
3     go through on every piece of equipment. They check off that  
4     they have checked the oil, the water, the tires, the fire  
5     extinguisher, the glass area, the whole thing, and so we go  
6     through that.

7                 MR. BRELAND: Okay. Well, I suspected that you did  
8     that, which is like an extension of the training at least  
9     initially, even for the laborers if you're watching them, and  
10    on-the-job type training is what it sounds like you do after  
11    you've gone over some outlines of your expectations I guess  
12    and mine awareness initially in that outline that you're  
13    going to provide to us.

14                Also you talked some about the competent people  
15    doing the training, and we would agree that a lot of the  
16    experienced miners would be the people to do the training,  
17    but do you have some method that you use to evaluate the  
18    effectiveness of the training? assuming that some of these  
19    people are better than others, if you're going to have an  
20    equipment operator train you may have a favorite-type person  
21    to do that. Is that just based on the results of the new  
22    employees' training capabilities maybe?

23                MR. MARTIN: The first is a loader operator.  
24    Number one, you look at the standpoint of how safe the person  
25    is as far as is it somebody that does run in fourth gear,

1 tries to run over everybody, that you have to talk to all the  
2 time; is it somebody that takes care of the equipment and  
3 knows how to grease it and oil it, and take care of it, and  
4 things like that.

5           You know, we've got one guy that we call him Down  
6 Hill Bill because he's a good loader operator, but he  
7 continuously digs down. You want somebody that doesn't do  
8 that, that keeps the pit floor clean and level, things like  
9 that.

10           And I'll have to say there are some people that are  
11 better trainers than they are operators, you know, but we  
12 look at the people who do the job efficiently, they take care  
13 of the equipment.

14           You know, most of the time the people who work  
15 around them will let you know how good they are.

16           MR. BRELAND: Okay. Thank you, Mr. Martin.

17           MS. ALEJANDRO: Do you have anything?

18           MS. FONTAINE: Mr. Martin, the agency is  
19 responsible for developing a regulatory flexibility analysis  
20 to determine the costs and benefits of the proposed rules.

21           You said you have forty-five full-time employees.  
22 Could you give me a ballpark estimate of what it costs you to  
23 train your employees on an annual basis?

24           MR. MARTIN: No, I couldn't.

25           MS. FONTAINE: Okay. Could you send some

1 information in later?

2 MR. MARTIN: I can send you some information, yeah.

3 MS. FONTAINE: Okay.

4 MR. MARTIN: Yeah, I can get you something on that.

5 MS. FONTAINE: Okay. Thank you.

6 MS. ALEJANDRO: Thank you very much, Mr. Martin.

7 MR. MARTIN: Thank you very much.

8 MS. ALEJANDRO: All right. The next speaker on our  
9 list is Ronnie Colson from Kentucky-Tennessee Clay Company,  
10 who is not here I don't believe.

11 The next speaker on the list is Ben Hart from the  
12 Florida Department of Environmental Protection.

13 MR. HART: If I could, I would like to defer to a  
14 little later.

15 MS. ALEJANDRO: Okay.

16 The next speaker is Charles -- and I apologize for  
17 the pronunciation --

18 MR. MACHEMEHL: Yes, ma'am.

19 MS. ALEJANDRO: Excuse me?

20 MR. MACHEMEHL: I don't want to speak now either,  
21 but I will.

22 MS. ALEJANDRO: Okay. I appreciate it.

23 And you're from the Georgia Crushed Stone  
24 Association.

25 MR. MACHEMEHL: That's correct.

1 MS. ALEJANDRO: And if you could, spell your name  
2 for the court reporter.

3 MR. MACHEMEHL: I'll try.

4 MS. ALEJANDRO: All right.

5 MR. MACHEMEHL: When I was in the second grade  
6 everybody could spell their last name but me. I signed mine  
7 Charles M. M-a-c-h-e-m-e-h-l, Machemehl.

8 As you say, I'm executive director of the Georgia  
9 Crushed Stone Association. We are a part of the Coalition  
10 for Effective Miner Training.

11 I'm sure you've heard these points before that I  
12 want to talk to you about, but I will try to inject some  
13 things, and then the people that will speak behind me will go  
14 into a little more detail on some of it.

15 The Coalition for Effective Miner Training -- I  
16 guess most people call it CEMT -- believes that effective  
17 employee training is an important component of a  
18 comprehensive safety program that also includes other equally  
19 important ingredients including, but not limited to,  
20 management culture, employee involvement, hazardous  
21 identification, evaluation and control, program personnel  
22 evaluation, feedback, record keeping, and continuous  
23 improvement.

24 The second point is CEMT's commitment to the  
25 development of MSHA-enforceable effective training for



1 employees.

2           And the third point is the current Part 48 training  
3 requirements were designed for other segments of mining,  
4 parentheses, coal and underground stone mines, parentheses  
5 closed, the needs of which differ from those of exempt  
6 industries.

7           The fourth point, CEMT is committed to meeting both  
8 the letter and the spirit of the training requirements set  
9 forth in Section 115 of the Federal Mine Safety and Health  
10 Act of 1977.

11           The fifth point, to be effective training must be  
12 performance oriented, not prescriptive, and be flexible,  
13 recognize current developing innovations in instructional  
14 techniques, and fully take into account the unique needs,  
15 conditions, and circumstances of exempt industries, including  
16 small operators.

17           And the last point, Number 6, CEMT believes the  
18 primary responsibility for training of an operator's  
19 employees rests with the operator.

20           Contractors are responsible for the training of  
21 their employees; however, the operators must provide the  
22 contractor with site-specific information appropriate to  
23 training.

24           Okay. That's because I'm representing the  
25 Coalition for Effective Miner Training, and I wanted to be

1 sure that I covered all the points.

2 Now I put on my other hat as head of the Crushed  
3 Stone Association, and I will cover some things that might be  
4 interesting to you, and probably could be used in other  
5 states throughout the United States.

6 As a way of telling you my background so you'll  
7 know where some of the points came from, before I ran the  
8 stone association I worked with Vulcan Materials for about  
9 thirty years, and I'm very close to the military. I was in  
10 the active duty reserve, the guard, and served about thirty  
11 years.

12 So I would probably be a better MSHA inspector than  
13 a Vulcan employee or head of the stone association, so that's  
14 the way I'm going to comment, but I wanted you to know where  
15 I was coming from.

16 I'm an engineer, I'm registered in about six  
17 states; I'm a surveyor in about three states.

18 Now, what we do in the stone association, we work  
19 very close with the mining association and the Georgia Dump  
20 Truck Association, and inside our association we have an  
21 extensive training and education program.

22 We've got a management development school that's  
23 been going on about three or four years. The biggest part of  
24 that school, when somebody comes to work -- and I wish I had  
25 had that training thirty years ago -- it takes about a year

1 to go to school one or two days a month for a year, they're  
2 given tests, they graduate those people, and those people are  
3 -- we've done about four years now, and they are taking over  
4 and becoming the leaders of the industry.

5 Inside that program a big part of it is safety, and  
6 it's put on by people that understand the industry. We use  
7 retired people.

8 Our safety committee -- Ken Stockton will talk  
9 after me -- they do a big part of the training, Bobby Rider  
10 from Vulcan, and they cover a lot of training, a lot of MSHA  
11 requirements in the school, they cover a lot of practical  
12 things because you've got a lot of people in there, and so  
13 when a person gets through that school he's really going to  
14 be a good manager, and he's going to put safety number one.

15 Another part of the education -- I'll stay on  
16 education first -- is skill training, and what we do in skill  
17 training we teach people -- the first course we did was in  
18 welding, and we've got one we just finished on electrical,  
19 and we're starting on plant maintenance.

20 Now, in those courses, the skilled trade, the most  
21 important part and the first part is safety, and it's also  
22 put together by our people that understand operations and  
23 understand safety.

24 And then we've got a degree program we're just  
25 getting off the ground that will start in the fall of this

1 year with Southern Tech. A lot of that program will be  
2 safety.

3           So we believe that in order to have effective  
4 safety you've got to have training, and over the years I can  
5 assure you that we've found at Vulcan Materials Company that  
6 the safer we were the more money we made, and I've told many  
7 inspectors -- and I'm a material engineer by trade -- that  
8 the tougher they were on me the more money I would make, and  
9 I think Vulcan is the biggest in the world, and probably the  
10 most successful. Marker, Tranes Dezell who runs Marker, so  
11 he might argue that he's more successful, but I think any one  
12 of those people would tell you that if you do something safe  
13 you're going to make more money.

14           Now, from the military side, and I'll speak to that  
15 in just a little bit, you can learn a lot from the military.  
16 They probably do a better job of training than anybody else,  
17 because in the military you've got to take whoever will be  
18 willing to serve, and you've got to train that person to be  
19 effective, and you've got to train that person to win.

20           So you've got to do probably more extensive  
21 training than you do any other way, and the way you do that  
22 is very simple.

23           As Mr. Martin was saying, you use a lot of OJT, and  
24 you put a person with somebody that understands that position  
25 or that job. There's a lot more record-keeping than he would

1 like, because you've got to have records to show that you've  
2 done it, and you give people different levels.

3           There was a question by one of you all how do you  
4 know effective your training is. Well, in the military  
5 you've got -- and the Army and the Air Force, everybody uses  
6 the same system -- you've got three-level, five-level, and  
7 seven-level, and so as the person is trained you reach those  
8 particular levels, and that's the way you get promoted, and  
9 that's the way you're given responsibility.

10           Of course, on anything we do, whether it's  
11 military, whether it's in Vulcan, or whether it's with the  
12 stone association, we have to stand on our record, so if  
13 we've a good safety record in Georgia, well, then, we've done  
14 a good job.

15           If we win when we go to war -- I used to tell my  
16 troops if you go -- I said "I'm tough as hell on you," and I  
17 was, but I said "we're gonna win," and I said "if we go to  
18 war you're going to come back alive." And I meant that, and  
19 I played football that way, I ran the military that way, I  
20 worked at Vulcan that way, I run the stone association that  
21 way.

22           And we work very close, though, with the mining  
23 association, and they're outstanding. In many areas they do  
24 a better job than we do in the stone association, so we work  
25 very close with them.

1           Ken Jackman is here, he'll talk to you about what  
2 they do, and Ken Stockton who will talk behind me is my  
3 chairman of the safety committee, and the safety committee  
4 does an outstanding job.

5           To prove that point with you on how we put safety  
6 -- and so you don't just think I'm giving you a lot of words  
7 -- we do these directories every two years, and I'll give you  
8 this, and this was -- Matter of fact, it's got a date right  
9 on here, it was done 6/11/97, and here's the Georgia Crushed  
10 Stone safety mission statement right in the front of the  
11 book, so we put safety number one, we give everybody MSHA  
12 training, and we have internally in the stone association  
13 workshops. Our last work shop, the title of it was Safety  
14 and the Environment. Out of six sessions we had four of them  
15 on safety.

16           As far as the -- The only advice I would give you  
17 -- and I guess I'm older than anybody in the room, so I guess  
18 I can give advice -- is make sure that what you come up with  
19 as CEMT suggests is flexible, make sure that you allow the  
20 people that are putting on the training to select who is  
21 going to do the training, and then make sure -- the other  
22 problem you've always got, and I'll liken this to the IG, if  
23 you get inspectors -- in the military they call them  
24 inspector generals -- if they're smart and they know what  
25 they're doing and they have experience you'll have a better

1 outfit, a better unit. If they're not, they can cause a lot  
2 of problems.

3 So MSHA has the challenge of making sure that when  
4 these people inspect us and make sure we are complying with  
5 the training, which right now we all accomplish. We  
6 represent 98 percent of the crushed stone in Georgia, and I'd  
7 put our training programs from individual companies against  
8 anybody in the United States.

9 But it's very important that you all have people  
10 that are competent as inspectors, because our mission here is  
11 to keep people alive, and we don't want anybody hurt, and we  
12 want everybody to --

13 What we fight for in the military, to give you a  
14 little bit of, lecture you a little bit on that, we fight so  
15 people can have freedom, and everybody in this room has  
16 freedom. The reason we're having what we're having today,  
17 the public hearing, is people before us fought so we've got  
18 freedom. That's the most valuable thing, and that freedom is  
19 only good if we're alive.

20 So we've got to keep our people alive, and that's  
21 our mission. We don't want anybody hurt, and that's the  
22 mission. But I'll tell you this, you will make more money,  
23 and you'll win, and we'll stay the greatest country in the  
24 world if we do comply with that mission.

25 I probably missed some points, but that's -- and

1 I'll leave this with you, but I'll be glad to try to answer  
2 any questions you have on anything.

3 MS. ALEJANDRO: I just have a couple of questions.

4 My first question is, our impression has been the  
5 people who have been coming to these public meetings  
6 generally are giving their employees good, comprehensive  
7 safety and health training.

8 One of the things that we're trying to do is get a  
9 sense of what percentage, or what number of the exempt  
10 operations may not be giving their employees any, or very  
11 little safety training.

12 Do you have a sense in your area, I mean in the  
13 area that you're familiar with, on what that breakdown might  
14 be? I don't want to you on the spot.

15 MR. MACHEMEHL: No, I have no secrets. You know,  
16 in our area the only challenge we have, or problem we have,  
17 Kathy, is -- and that's why we work so -- we've got a dump  
18 truck association, and the fellow that runs it used to work  
19 for me, he does an outstanding job on the safety committee,  
20 started the safety committee in the dump truck association.

21 I think our real challenge in our industry is not  
22 with the small producer, because I think the small producer  
23 by being a part of the association does accomplish the  
24 training, and I think Mr. Martin probably accomplishes the  
25 training.



1           I don't think the small producer gets credit for  
2     accomplishing the training, and I think the small producer  
3     probably may do a better job than the larger producer,  
4     because there's a more intimate relationship there.

5           They probably do a much poorer job keeping the  
6     records, and what they've got to do there, though, is just  
7     bite the bullet and have somebody carry a card in a pocket  
8     and check off their training. I think they can do that.

9           But we have no problem with any small producer that  
10    I'd say does not accomplish training. The real problem  
11    you've got is maybe with the contractors and that sort of  
12    thing.

13           This industry is moving like every industry to the  
14    point where you're doing more by contract, and what we've got  
15    to do is be very sure that we get that accomplished, too.

16           And we work very closely with your people. We have  
17    safety meetings at workshops, we have MSHA people come in and  
18    talk to us, and we're very familiar with the problems that we  
19    have on the trucking accidents, and the contractor accidents  
20    and that.

21           We know what the challenge is, but as far as to  
22    single out and say we've got a small producer that's not  
23    accomplishing training, I would say you're in the -- you  
24    know, you're talking about one, or two, or three, or four  
25    percent.

1           You've got some very, very small operators here,  
2 not more than one or two or three, that may not be in the  
3 association, and I think it's gonna work a hardship on them,  
4 but I don't think you're gonna be able to do anything about  
5 that.

6           I think you all are going to have to bite the  
7 bullet and make sure that those guys comply as well as  
8 everybody else, because they get killed -- you can be easy  
9 and get along with them, play politics and get that guy  
10 killed just as easy as you can kill somebody in Vulcan  
11 Materials.

12           That's my answer, two percent.

13           MS. ALEJANDRO: Okay. You referred to contractors,  
14 though, as maybe a source of a problem.

15           MR. MACHEMEHL: They are.

16           MS. ALEJANDRO: Could you maybe expand on what you  
17 foresee as the problem in the area of contractors?

18           MR. MACHEMEHL: Well, the problem is that what  
19 we've got to do is be sure there is a clear-cut, there's a  
20 clear-cut way that training of contractors' people is  
21 accomplished.

22           MS. ALEJANDRO: Okay.

23           MR. MACHEMEHL: Now, that can best be done, again  
24 not by MSHA telling us if you will how to do it, but telling  
25 us that it should be done, and then letting us accomplish it.

1 MS. ALEJANDRO: You mean as far as who's  
2 responsible for ensuring that contractor employees have got  
3 their training that they're required to have?

4 MR. MACHEMEHL: Sure.

5 MS. ALEJANDRO: One of the things that we've been  
6 hearing about is we've had a number of commentators indicate  
7 that they believe that the contractors, the companies of the  
8 contractors should be responsible for ensuring that the  
9 contractor employees get the 24 hours of training, or the  
10 eight hours of training; that the production operator, I mean  
11 the mine site operator should then be responsible for giving  
12 those employees site-specific hazard training when they come  
13 onto the mine property.

14 Do you share that view, or do you have any --

15 MR. MACHEMEHL: Absolutely, a hundred percent.

16 MS. ALEJANDRO: Okay.

17 MR. MACHEMEHL: In other words, the basic training  
18 has to come from the contractor himself, but when you get the  
19 contractor to perform the job, then you've got to tell the  
20 contractor himself that there is a hazardous line under this  
21 area, or you've got to be sure that -- there's a train that  
22 runs through here, you have to run over this track. Whatever  
23 the local situation is, you've got to be sure he does it.

24 You're responsible, though, for two things. Being  
25 sure his people are trained, and then making sure he's

1 familiar with the local area. But therein is the challenge.

2 MS. ALEJANDRO: Is that typically the way that it's  
3 happening now, or I mean is that your point that it's not  
4 really happening any particular way as far as who's  
5 responsible for contractor employee training?

6 MR. MACHEMEHL: My point is that that is gonna be  
7 more and more of the challenge of the industry. I think  
8 we're trying to do that now, but the challenge of the  
9 industry is you're gonna do more by contractor.

10 What I foresee in the stone industry, and I don't  
11 think it's too far in coming, and Zellnick could tell you  
12 this a lot better than I can, he gave an outstanding talk  
13 -- he's head of Marker, Stu Zellnick -- you're gonna have  
14 maybe one or two or three people, it's gonna be like our kids  
15 running the computer, you're gonna have those people running  
16 the plant, you're gonna have maybe one person, two people  
17 running the plant, and a lot of that other stuff is gonna be  
18 done by contractor. And we're not far from that point in  
19 this industry.

20 MS. ALEJANDRO: Okay.

21 MR. MACHEMEHL: We are very close to that point  
22 now. You can computerize -- and I'm quoting Zellnick -- you  
23 can computerize a plant right now to the point it will run  
24 itself. You can do that right now.

25 Well, if you do that and then the plant goes down,

1 you're gonna have to have somebody come on the plant, and  
2 that's going to be the challenge of MSHA and the challenge of  
3 the industry to make sure that person is trained in safety,  
4 and at the same time that he understands the local situation.

5 But I basically agree with you. We've been in with  
6 CEMT, we've got more supports from the state standpoint, from  
7 the local standpoint in Georgia than any other state.

8 In other words, if you look down the list of who's  
9 a member of CEMT, the stone association, the mining  
10 association, kaolin, you've got more people here than any  
11 other state.

12 So we've worked, you know, we've debated with them,  
13 so what they're telling you we basically agree with.

14 MS. ALEJANDRO: Okay. And I just have one  
15 additional question.

16 We are under an obligation, as I indicated in my  
17 opening statement, to develop a final rule that will be  
18 published on or before September 30th of 1999, and after the  
19 date of publication there's some period of time that will be  
20 given for the industry and everyone affected by the  
21 requirements of the rule to come into compliance.

22 Do you have any opinion as far as how much time the  
23 industry would need after the rule is published to come into  
24 compliance? Obviously that's going to depend on what the  
25 requirements look like to a degree, but do you have any sense

1 of how long it is going to take for the industry to comply  
2 with these, how much time we should give in the rule for the  
3 industry to comply with these requirements?

4 MR. MACHEMEHL: I would say that you're exactly  
5 right. To comment on that intelligently you'd have to say  
6 "Well, what is the rule?"

7 MS. ALEJANDRO: Right.

8 MR. MACHEMEHL: But if the rule is what we think  
9 it's going to be, I would say we could do that -- you all  
10 could do that, and we could do that in six months.

11 MS. ALEJANDRO: Okay.

12 MR. MACHEMEHL: I don't think -- I think most  
13 people are complying right now, but I think the problem is  
14 going to be -- the other problem could be you want to be very  
15 careful that you don't try to make this retroactive, because  
16 as you go forward and you say "Okay, here are the rules that  
17 we're going to go out and inspect by," you've got to be very  
18 sure that you don't go in there and send the inspector and  
19 say "Well, you haven't been doing this, you haven't been  
20 doing this so we're gonna write you up and give you  
21 citations, et cetera, et cetera, so that there's gonna have  
22 to --

23 What we do with MSHA, and the reason we work very  
24 close with them, I'll be very honest with you, if you  
25 understand the inspector and he understands you, you don't

1 have any problem. But if you don't, you've got a problem.

2 So once you publish that thing you've got to give  
3 us time for our people to understand it, and then you've got  
4 to make sure your people understand it.

5 MS. ALEJANDRO: Oh, absolutely.

6 MR. MACHEMEHL: And then we go forward together,  
7 because ultimately we have the same goal.

8 MS. ALEJANDRO: Okay. Thank you.

9 Do you have any questions?

10 MR. BURNS: I just have a few.

11 You had mentioned that through your association you  
12 do quite a bit of training for management people.

13 MR. MACHEMEHL: Absolutely. Well, for skilled  
14 trades. Not just management, we cover the -- it's a three-  
15 pronged training program. It's management development, and  
16 then it's also skilled trades, and then a degree program, so  
17 we try to get young kids into the mining industry. It's  
18 three prongs.

19 MR. BURNS: As far as the -- I don't know how you  
20 can -- the management training, that's been going on for  
21 about four years?

22 MR. MACHEMEHL: Yes, sir.

23 MR. BURNS: Have you been able to notice any sort  
24 of trend or effect from that training as far as how it's  
25 impacted safety and health in the operations due to the

1 supervisors being trained? And a lot of this is geared  
2 towards miners right now, what we're talking about, but  
3 there's also a supervisor aspect to the training that we'd  
4 like to hear feedback on.

5 MR. MACHEMEHL: The supervisors have come to  
6 respect the importance of safety much more than they did  
7 before, because -- and this will increase as the years go by  
8 because the people going through this program are imbued with  
9 their responsibility towards safety, and I would differ with  
10 Mr. Martin on that point very much on your responsibility.

11 If you work for me and I train you, and you get  
12 hurt, killed, or anything, I feel a personal responsibility  
13 for that, and that's the point we try to get across to the  
14 people in the management.

15 And they go through all the MSHA training, and all  
16 the rules, and all the legal training, and our safety people  
17 are in there with them, and so when a guy comes out of that  
18 thing he's scared probably, you know, and he should be,  
19 because -- and so what happens over time when these guys are  
20 promoted, and they're promoted, but I'll tell you another  
21 thing, you can care about a person and he knows sincerely you  
22 care about him, he's gonna do a hell of a lot better job for  
23 you, and then he's gonna get promoted because he's gonna have  
24 the same attitude you do.

25 That's the kind of thing that comes about by the



1 supervisors, and the fellow that's gonna talk right after me  
2 -- we're putting together a workshop right now which is in  
3 February, which any of you are welcome to come to in the  
4 audience, or MSHA, or anybody -- the 25th and 26th of  
5 February, and he didn't feel like they had enough safety in  
6 the program -- and I told you that story, Kevin -- and he  
7 went in there and he put all -- and these are the top people  
8 in the company, he said he put all of them in a brace before  
9 it was over, and they did what he wanted.

10 So I think the respect for safety in Georgia right  
11 now is very, very high. I hope we keep it that way, though,  
12 because as you know the results are the only thing that  
13 really count. That's the only thing that counts.

14 MR. BURNS: I agree with you. I know when I first  
15 started in mining I had forty hours, I worked in underground  
16 coal, and I know the first couple of weeks I was pretty  
17 scared. I mean I wasn't mortified working underground, but I  
18 was cautious. That was part of the training, and I think  
19 that's part of effective training is -- I mean someone that's  
20 new in the mining industry shouldn't go in there thinking,  
21 you know, this is going to be a piece of cake.

22 MR. MACHEMEHL: I think the point we try to get  
23 across is -- and I really don't tolerate this from anyone,  
24 and a point we try to get across is the fact that years ago I  
25 think what happened, I think MSHA is the greatest thing that

1 happened to the industry making everybody get safe, because I  
2 happen to know how many lives it's saved over the years, but  
3 I think years ago people said "Well, hell, that's just  
4 something we've got to do." Now what we've got to do is get  
5 on with the program.

6 And I think what we have proven to ourselves over  
7 time is if you do something safely you're gonna make more  
8 money.

9 I was chairman of -- Dick back there, we worked  
10 together, he's from New Mexico, I'm surprised he came all the  
11 way over here, he runs the state association out there -- and  
12 we had a fellow talk one time, he was a contractor, at one of  
13 our meetings, and this guy gave a whole talk on this. I mean  
14 he spent an hour up there proving to you that the safer you  
15 were the more money you made, and the guy was a very  
16 successful contractor, road builder, and so I think the point  
17 -- but it's something you can't relax on.

18 In other words, if you relax and say "Well, hell,  
19 we've got a good safety program, we're doing great," you  
20 know, tomorrow you may have somebody get killed.

21 So to answer your question, I think we're -- I  
22 think it's great, and I give the mining association a lot of  
23 credit for that in Georgia, because they have a great  
24 conference every year, and we work with their committee, and  
25 I think they probably have done over the years -- in the past

1 they have done a better job on safety than we have.

2 I think we're probably even with them now, but we  
3 work with them very, very close, and we're trying to bring  
4 the dump truck association to that. Maybe we can do the  
5 contractors with the ADC or somebody like that.

6 I don't know, it's a big challenge.

7 MR. BURNS: And that's really what we want to do  
8 here is we don't want to have a training rule where people  
9 feel like they have to do their compliance training, and  
10 somewhere else they do their safety training. That's what we  
11 really want to avoid.

12 I appreciate your comments.

13 MR. MACHEMEHL: Well, I don't know, though, you've  
14 got to be -- you know, you've got to be tough if you're an  
15 inspector if you're gonna be a good one. Hell, if you're not  
16 gonna -- you might as well not have MSHA if you all are not  
17 gonna make us comply.

18 MR. BURNS: I agree with that, but I think they  
19 should be the same thing.

20 MR. MACHEMEHL: Sure.

21 MR. BURNS: I don't have any more questions. I  
22 don't know if Rod does.

23 MR. BRELAND: Just a couple of follow-up.

24 On the brochure you're going to give us, that's a  
25 safety training --

1           MR. MACHEMEHL: No, no. This is a Georgia Crushed  
2 Stone directory, and what I said is this is the mission  
3 statement for safety.

4           MR. BRELAND: Oh, okay.

5           MR. MACHEMEHL: Now, we have a -- the fellow that's  
6 going to talk after me can cover that in more detail, but  
7 they do teach in this management development course for a day  
8 safety, which they get MSHA to help them, and, you know,  
9 there's a lot more detail in that.

10           This manual right here, this is a directory, so it  
11 covers everything in the industry.

12           MR. BRELAND: Okay. I see.

13           MR. MACHEMEHL: The point I was trying to make is  
14 we put safety number one, and here it is in the front of the  
15 manual, and it's a mission statement. It says the Georgia  
16 Crushed Stone Association's safety committee mission  
17 statement so, you know, that's the point I was trying to  
18 make.

19           But the detail that you're looking for probably  
20 would best come out of the management development course for  
21 the day that they talk to the people I would think, and then  
22 if you want to go deeper than that, when we write these  
23 skilled training manuals we can send you -- the first chapter  
24 is always on safety, like welding, and we could send you  
25 that, it's got a lot of detail in it, and then we could also

1 send you the electrical we just finished, and the first  
2 chapter is always safety on those skilled training courses.

3 We've got a lot of detail that we can get to you if  
4 you desire.

5 MR. BRELAND: Yeah, I think that's good information  
6 for us to have.

7 Does the association provide an outline for a  
8 general training plan that might fit what's in Part 48 now?  
9 I'm not sure if I understood that.

10 MR. MACHEMEHL: No, they do not. To answer that  
11 question, we do not.

12 MR. BRELAND: Okay. And then also you talked about  
13 the --

14 MR. MACHEMEHL: They leave it up to individual  
15 members on that. The fellow that comes behind me is one of  
16 the individual members, so he can speak to you from that  
17 company's, the way they do it.

18 There's another fellow in the audience here, Bobby  
19 Rider from Vulcan, he could speak to the way they do it.

20 They comply, but now that's the point I'm trying to  
21 make with you really. You need to give us enough flexibility  
22 if you will to let those individual people accomplish that  
23 training as they would accomplish it, and I think therein  
24 lies the real challenge.

25 In other words, how much do you as an inspector,

1    how much detail are you going to go into as an inspector?  
2    Are you just gonna say have an hour on first aid? Or are you  
3    gonna tell me exactly what I do on first aid? And therein  
4    lies the real challenge, and there's got to be some  
5    confrontation, disagreement there I guess, but the more  
6    flexibility you give us probably the better job we're gonna  
7    do.

8               MR. BRELAND: Okay.

9               MR. MACHEMEHL: But if you don't think we're doing  
10   a good job, then you certainly need to slap us down and make  
11   us do it.

12              The military does the same thing. In other words,  
13   there's more flexibility there than you might realize.

14              MR. BRELAND: Okay. That's all I have. Thank you.

15              MR. MACHEMEHL: Okay.

16              MS. ALEJANDRO: Thank you very much, Mr. Machemehl.

17              MR. MACHEMEHL: Thank you, ma'am.

18              MS. ALEJANDRO: I think we're probably going to  
19   take a short, maybe about a ten-minute break here.

20              In the break I would ask the people who have come  
21   in since the beginning to sign up on the attendance sheet  
22   that's in the back of the room on the table, and also if  
23   there's anyone here who has not signed up to be a speaker who  
24   would like to speak, I have the speakers' list up here on  
25   this table, so I ask that you come up and sign the list.

1 [A brief recess.]

2 MS. ALEJANDRO: The next speaker -- actually not  
3 the next speaker, but Ronnie Colson from the Kentucky-  
4 Tennessee Clay Company has arrived, so I would ask that he  
5 come up.

6 MR. COLSON: Do I go over here?

7 MS. ALEJANDRO: Yes, please, and if you could state  
8 and spell your name for the court reporter.

9 MR. COLSON: All right. Thank you, ma'am.

10 Ronnie Colson, R-o-n-n-i-e C-o-l-s-o-n, with the  
11 Kentucky-Tennessee Clay Company, Safety Director of the  
12 Georgia operations.

13 We are a small mining company, 350 employees  
14 scattered throughout Georgia, South Carolina, North Carolina,  
15 Tennessee, Kentucky, Mississippi, and Mexico. I appreciate  
16 you giving us this opportunity to be here with you. Glad we  
17 could make it.

18 I've been a little bit disturbed, though, about  
19 some of the recent publications I've read and gave me the  
20 impression that MSHA really thinks that the mining industry  
21 is not involved in safety training, and that we don't even  
22 have a plan to train our miners safety. It disturbed me a  
23 little bit.

24 I can only speak for what I know, and that's the  
25 ball clay, feldspar, and kaolin industry. We are very active

1 members in the Ball Clay Mining Association, the Georgia  
2 Mining Association as well, and each of these associations  
3 are very active in the safety of our miners. We have safety  
4 committees, we have paid professional people whose job it is  
5 to promote and protect safety laws and our miners. We're  
6 very active through legislative branches, public, and  
7 employee education on safety.

8 A few comments on the Part 48 training alternate  
9 draft. Section 1-1, Definitions, Part B, it states that a  
10 competent person designated by the operator. Now, the  
11 current law 30 CFR 4823, Part 3, requires that the trainer is  
12 to be MSHA approved instructors. I'm kind of concerned  
13 about who makes the decision as competent person.

14 Normally now instructors are required to complete  
15 80 hours of MSHA training and certification.

16 MS. ALEJANDRO: Mr. Colson, if I could interrupt  
17 you. Just for the record, the draft that you're referring to  
18 I assume is a draft of the Coalition for Effective Miner  
19 Training, and what's the date on that? Is there a date? just  
20 as far as which --

21 MR. COLSON: Yes. 11/24/98 -- 10/30/98.

22 MS. ALEJANDRO: Okay. You've got the coalition's  
23 draft from that date. Okay.

24 MR. COLSON: In Part (f) it talks about newly-hired  
25 experienced miners, states "...who has had at least twelve



1 months' mining experience."

2           This is much more open-ended than the current laws  
3 which requires miners who have acceptable miner MSHA training  
4 within the preceding twelve months, or at least twelve  
5 months' experience in and underground mine during the past  
6 three years, or who has received new miner training the  
7 preceding twelve months.

8           Section 1-2 of the same document talks about  
9 training, and the (b) part talks about training requirements  
10 for newly-employed inexperienced miners, they must receive  
11 eight hours' instruction before being assigned to tasks,  
12 unless those tasks are under close supervision.

13           Now, I don't think the hours, I don't think the  
14 quantity is as important as it is quality. If you've got one  
15 guy, you can train him four hours in a classroom under all of  
16 these things, and then four hours introduction to the work  
17 area, and surely that's sufficient. I don't think hours is  
18 that important.

19           I'm concerned about that statement "unless under  
20 close supervision." Now, it's been my experience that the  
21 guy who can train me adequately is certainly talented and  
22 competent to train me to operate a front-end loader, he's  
23 usually not the guy who can train me on respirator use and  
24 certify me to use say respirator fit testing. So it could be  
25 a problem with that statement.

1 Under (d) it talks about experienced miner, and  
2 returning after five years only requires eight hours of  
3 training. Now, I think a guy who's been out of the mining  
4 industry for five years is certainly inexperienced. I would  
5 really feel uncomfortable bringing a guy back who hadn't been  
6 around the mining industry for five years, you know, treat  
7 him as an experienced miner.

8 Under (f) it talks about hazard training, and the  
9 current law requires hazard training annually. This one  
10 doesn't specify how often the training should be done.

11 Under 1-13(a) it talks about refresher training,  
12 and it states appropriate training. Now, this leaves the  
13 operator subject to a wrong decision if you will, the  
14 statement "appropriate."

15 Currently the subjects are covered under the 30 CFR  
16 4828, annual refresher training. I'm a little bit concerned  
17 about "appropriate" as to who makes that decision.

18 The (b), it talks about short safety talks being a  
19 part of annual refresher training. Now, short safety talks  
20 are very effective for the immediate task or the immediate  
21 situation. They are very effective as a brain tickler if you  
22 will, but they're not -- I don't think in any case should be  
23 taking the place of a structured classroom training.

24 We use it as an addition to your classroom  
25 instruction, not as a part of it. I think it needs to be in

1 addition to.

2 1-4, Contractors, (b), it talks about contractors  
3 shall assure that their contract employees are trained in  
4 work practices. Contractors, bless their hearts, we need  
5 them and all this, but they're really someone you have to  
6 really watch out for. I guess everybody that's a miner knows  
7 this; we love them, we need them, we work with them, but you  
8 better keep your eyes on them.

9 We treat them pretty much like miners. If they  
10 come onto the plant and they're involved in the milling, and  
11 extraction, and the drilling and all that, we treat them just  
12 like miners, and we require the eight-hour annual refresher  
13 training, and we've got to have the 5023 certification just  
14 like we do our own people. Contractors bleed and die just  
15 like miners.

16 In 1-15 it talks about training certification. In  
17 the (a) part it states that operators shall certify that  
18 required training has been provided.

19 I'm not quite sure, are we talking about  
20 certification for operators' employees, certification for  
21 contractors? You know, who is he required to have  
22 certification for?

23 I have been around mines for 29 years. I started  
24 out as a laborer in the plants, and the warehouses, and kind  
25 of worked my way down into management.

1           We never had a fatality, knock on wood somewhere.  
2   We worked 1.9 million hours without a lost time accident;  
3   that's a little bit over three and a half years for a little  
4   old small company.

5           I talk to our miners there in the plants and other  
6   places, and we talk about MSHA inspecting, safety training  
7   files. I have been through the whole thing with them, you  
8   know, and they seem to think that this draft is not nearly as  
9   stringent as the current federal safety laws, and I haven't  
10   been able to convince them that an inspector looking into our  
11   safety files is going to keep any of them from getting  
12   killed.

13           They are pointing out, and what they're telling me  
14   was that they would like to see MSHA use their vast  
15   resources, all the videos, all the pamphlets, all the  
16   personnel to come in and do an on-site training, education,  
17   that type of stuff, rather than hiring people to come out and  
18   inspect and being the bad police and that sort of thing.

19           They do feel like that MSHA should target without  
20   any reservations locations where our miners are getting  
21   killed. They fully agree with that, and I do too, that's  
22   where we need to be focusing.

23           But they don't feel like, and I don't either, that  
24   MSHA should be an adversary, you know, coming around slapping  
25   industry in the head, and certainly they don't feel like we

1 need any more laws either.

2 Basically what they're telling us that we really  
3 need to pool our resources together, you know, don't be anti  
4 this or that, and train and educate our people, the public  
5 and the miners.

6 I think everyone needs to understand that the  
7 mining industry, our main concern and the goal is to protect  
8 our most precious resources, and that's our people. I don't  
9 have any problem with that statement that the majority of all  
10 mining companies are out to protect their miners.

11 Thank you.

12 MS. ALEJANDRO: Mr. Colson, I've got a couple of  
13 follow-up questions, and others on the panel may as well.

14 You read from the coalition draft, earlier draft,  
15 the definition of competent person as far as an individual  
16 who can give training.

17 From your remarks are you saying that you support a  
18 definition that's more along the lines of the Part 48  
19 definition? I mean are you saying that MSHA should approve  
20 instructors, or are you just saying that competent person is  
21 too vague a term?

22 MR. COLSON: I think competent person is kind of  
23 vague, and leaving it open to -- yeah, it's leaving it open  
24 to who decides.

25 Currently we have laws stating what the instructor

1     should do. We certainly don't have any problem, and I don't  
2     think the industry has any problem. Most of them I know have  
3     the certifications. All our instructors are certified.

4             MS. ALEJANDRO: Okay. So you're saying you would  
5     support a Part 48 type of program for instructors?

6             MR. COLSON: Yeah. We're living under those laws  
7     now, we've been living under those for the whole time.

8             MS. ALEJANDRO: Okay. And also as far as  
9     definition of new miner, you're saying that the current  
10    definition of new miner in Part 48 is the definition that you  
11    would support?

12            MR. COLSON: Right. The Part 48 definition of new  
13    miner is not an experienced miner. That's what it states.  
14    So if he's not an experienced miner, then he's a new miner.

15            MS. ALEJANDRO: Okay. And again annual refresher  
16    training, although you say that the safety talks, the short  
17    safety talks are good and effective that you don't think that  
18    the time spent on those should be counted towards satisfying  
19    the eight hours of annual refresher training?

20            MR. COLSON: I think they should be in addition to.

21            MS. ALEJANDRO: Okay. So you give eight hours of  
22    more formal classroom-type instruction for the eight hours of  
23    refresher training, and then safety talks on top of that are  
24    good?

25            MR. COLSON: I don't think it needs to be a law.

1 MS. ALEJANDRO: Okay.

2 MR. COLSON: I think it's in practice.

3 MS. ALEJANDRO: Okay.

4 MR. COLSON: I don't think it needs to be  
5 installed; I think it's just a common sense practice.

6 And also I don't think we need to get hung up on  
7 hours of training. I know you've got guidelines and all  
8 this, but I'm telling you you can train a guy four hours, and  
9 you get in there and do a good job one-on-one you can do it n  
10 four. But now if you've got a classroom of twenty guys,  
11 yeah, it may take you five, six, or seven hours.

12 The quantity of hours I don't think is the issue.  
13 I think it's how well you do it and, like I say, if you've  
14 got one it's not going to take half as much time.

15 MS. ALEJANDRO: Okay. I just have one other  
16 question.

17 You indicated that your operation, I mean the  
18 contractors that you have, the ones that are involved  
19 directly in the processing or extraction you treat them like  
20 miners, and they get the kind of training that the other  
21 miners get.

22 Do you have contractors whose ties to your  
23 operation are maybe less regular, less close to the actual  
24 process, I mean service people who come onto the property for  
25 short periods of time? And, if so, do you have any views as

1 far as how we should approach training for those kinds of  
2 people?

3 MR. COLSON: Yes, we have a certified form, and  
4 we've had it approved through MSHA, and it's one page, but  
5 it's long, and we train all vendors, everybody that comes on  
6 the property.

7 MS. ALEJANDRO: When you say train, what do you  
8 mean?

9 MR. COLSON: Hazard training.

10 MS. ALEJANDRO: Okay. Site-specific hazard  
11 training?

12 MR. COLSON: Right.

13 MS. ALEJANDRO: Okay. And then they get that?

14 MR. COLSON: Yes.

15 MS. ALEJANDRO: Okay. But as far as, you know, the  
16 eight hours of annual refresher, the new miner training,  
17 those contractors as far as you know, I mean they get it,  
18 it's given to them by their employers?

19 MR. COLSON: Right. Now, occasionally we do train  
20 contractors.

21 MS. ALEJANDRO: Okay.

22 MR. COLSON: If we let out a bid, and the project  
23 engineer comes up and says "I've let this to so and so," and  
24 I look and I say "Well, gosh, he hasn't got any training.  
25 Where's his training?" "I didn't know." I say "Well, okay,



1    yeah," and under the circumstances I will train contractors,  
2    but normally they're responsible for their own training and  
3    having the certification form.

4               MS. ALEJANDRO:   Okay.   But you give them site-  
5    specific hazard training?

6               MR. COLSON:   Also, in addition to that.

7               MS. ALEJANDRO:   All right.   That's all I have.  
8               Kevin or Rod?

9               MR. BRELAND:   I just have a couple of follow-ups.  
10              One, I would like to commend the work record.  
11    That's pretty impressive, that many millions of hours without  
12    a lost-time accident.

13              But you say you do the Part 48 training now, or  
14    comply with that.   Is that including the record-keeping and  
15    all of that you're doing as well?

16              MR. COLSON:   Sure.

17              MR. BRELAND:   So this proposed rule is less  
18    stringent than what you're doing, or the coalition is  
19    offering?

20              MR. COLSON:   I know this has reduces fatalities.  
21    We've got sufficient laws on the books.   You know, I don't  
22    think we need any more laws.

23              MR. BRELAND:   Okay.   That's all I had.   I wondered  
24    if you were doing the paperwork as well right now.

25              MR. COLSON:   All right.

1 MS. FONTAINE: Mr. Colson, could you give me an  
2 estimate of what it costs for you to train your employees on  
3 an annual basis?

4 MR. COLSON: Gosh. Just in Georgia we're probably  
5 spending with all the little gimmicks and the shirts and  
6 jackets I'm going to say it's around twenty thousand just in  
7 Georgia.

8 MS. FONTAINE: Do you usually do your training on  
9 site, or do you send your employees -- ?

10 MR. COLSON: The majority of our training is on  
11 site.

12 MS. FONTAINE: Okay. Do you bring professionals  
13 in?

14 MR. COLSON: Occasionally I will bring them in, or  
15 I'll send out people. And we also have a -- we have fifty  
16 hourly employees, but we also have like sixteen certified  
17 instructors.

18 MS. FONTAINE: Thank you.

19 MR. BURNS: I just have a question on the annual  
20 refresher training.

21 You indicated that that draft is a little bit too  
22 vague, it just says they pick whatever subjects are  
23 appropriate. I guess other people bring the concern that,  
24 you know, Part 48 lists all kinds of subjects, and they feel  
25 that perhaps some of those areas don't really need to be

1 addressed, they would rather focus on some of the safety  
2 concerns that they have at their particular property, and  
3 they would like to have more flexibility to pick and choose  
4 those subjects which are relevant, you know, in any given  
5 year. Would you support something along those lines?

6 MR. COLSON: Sure, yeah. And it states in the  
7 draft training, and it works the same way now. Part 48-28  
8 talks about explosives. Well, obviously we don't use  
9 explosives and blasting, so, you know, we don't do that, so  
10 we're not required.

11 MR. BURNS: Thank you.

12 MS. ALEJANDRO: Thank you very much, Mr. Colson.

13 The next speaker on our list is Ken Stockton from  
14 GCSA/Benchmark.

15 MR. STOCKTON: My name is Ken Stockton, I'm the  
16 safety director for Benchmark Materials, Southeast Region.  
17 That's Stockton, S-t-o-c-k-t-o-n.

18 I am also representing the Georgia Crushed Stone  
19 Association safety committee, and the members of the Georgia  
20 Crushed Stone Association.

21 Basically what I am here for is to state that the  
22 Georgia Crushed Stone Association and its members are behind  
23 the efforts of the Coalition for Effective Miner Training, to  
24 bring flexible and more specific training to our segment of  
25 the industry.

1           And I'll stop there and let you ask questions.

2           MS. ALEJANDRO: Okay. Are you saying you support  
3 the draft, the latest coalition draft as far as what the  
4 requirements in a proposed rule would be?

5           MR. STOCKTON: Yes.

6           MS. ALEJANDRO: Okay. Do you have anything to add  
7 to that?

8           MR. STOCKTON: Not really. The latest draft that I  
9 have is 11/19/98.

10          MS. ALEJANDRO: I think actually there's a later  
11 draft, but they're pretty similar.

12          MR. STOCKTON: They're similar.

13          MS. ALEJANDRO: Okay. Well, let me ask you this  
14 question: As I said earlier, and as I have asked earlier, we  
15 have got to figure out -- once we decide what the  
16 requirements in this rule are going to be we've also got to  
17 determine how long we're going to give to the affected  
18 industries to come up to compliance with these requirements,  
19 and obviously as I said earlier how much time is needed is  
20 going to depend to a certain extent on what the requirements  
21 look like, but assume, you know, hypothetically that the rule  
22 looks somewhat like the latest draft that you have seen, in  
23 your best guess how long do you think the agency should give  
24 the industry to come into compliance with those requirements?

25          MR. STOCKTON: Twenty years.

1 MS. ALEJANDRO: Okay.

2 [Laughter.]

3 MR. STOCKTON: I believe it's in the proposal for  
4 one year. Is that correct?

5 MS. ALEJANDRO: Okay. So you think that's a good  
6 time?

7 MR. STOCKTON: -- for the industry to come in line.

8 MS. ALEJANDRO: Okay. Do you think it ought to be,  
9 the requirements ought to be phased in? I mean that's one of  
10 the things that we have discussed at some of the other  
11 meetings is for example I mean an operator has got to have a  
12 training program, would it make sense to have that  
13 requirement go into effect sooner than perhaps the  
14 requirement that the miners be trained, or do you think that  
15 all requirements ought to go into effect at about the same  
16 time?

17 Would that, you know, enhance the likelihood that  
18 maybe some of the people out there who aren't doing training  
19 will be able to come into line with it easier, or do you not  
20 think it matters a great deal?

21 MR. STOCKTON: Say that again. You have the  
22 training program --

23 MS. ALEJANDRO: Okay. I mean operators have got --  
24 you know, under the Act, I mean under Section 1-15 of the  
25 Act, and it's a requirement that we have no choice, I mean

1 it's got to be included into any rule that we develop, mine  
2 operators have got to develop and implement a training  
3 program for their miners.

4 MR. STOCKTON: Okay.

5 MS. ALEJANDRO: And then on top of it they've got  
6 to train the miners after they have developed the training  
7 program.

8 For a compliance deadline do you think that it  
9 would enhance the ability of some of the operators out there  
10 to come into compliance if say hypothetically we made it a  
11 requirement that went into effect in six months that the  
12 operator develop their plan, and then six months thereafter  
13 -- I mean we basically give them a year to actually train  
14 their miners under the plan they developed, or do you not --  
15 that's just an example -- or do you not think that that  
16 really makes a great deal of difference, we should just give  
17 a year for operators to comply with everything?

18 MR. STOCKTON: I think you ought to give them the  
19 same amount of time for everything.

20 MS. ALEJANDRO: Okay. A year -- I mean if you were  
21 going to pick a year then you would give them a year to  
22 develop their plan, and also to train their miners?

23 MR. STOCKTON: Correct.

24 MS. ALEJANDRO: Okay. I don't have any more  
25 questions. Do you, Kevin or Rod?

1           MR. BRELAND: I guess the -- I'm not sure, but the  
2 training of supervisors is an issue that was recently changed  
3 in Part 48, and so far I guess basically just getting your  
4 opinion on any sort of requirement for training of  
5 supervisors in this rule.

6           MR. STOCKTON: We train all our supervisors. I  
7 don't know what you -- Do you mean over and above the  
8 regular safety training?

9           MR. BRELAND: Or for instance like consider them  
10 under the definition of miners so that they require training  
11 also.

12          MR. STOCKTON: I can speak for Benchmark.

13          MR. BRELAND: Okay.

14          MR. STOCKTON: We train all ours anyway just like  
15 they are regular out there pulling the wrenches so to speak,  
16 because a lot of them are.

17                 And so if you're asking should everybody else do  
18 that, is that what you're asking?

19          MR. BRELAND: Well, I just wanted to make sure that  
20 the training -- the original Part 48 had I guess a loophole  
21 where supervisors weren't considered miners, and therefore  
22 they weren't necessarily required to have training, and that  
23 was recently addressed in soliciting information concerning  
24 if they are considered miners should they get the same sort  
25 of training, or would you recommend additional training or

1 additional training or additional subjects for those people?

2 MR. STOCKTON: I think they should be trained the  
3 same way.

4 MR. BRELAND: Okay. I don't have any more right  
5 now.

6 MS. ALEJANDRO: Do you have any, Rod?

7 MR. BRELAND: Just a couple.

8 Presently when you do annual refresher at your  
9 operations, are you doing that spread out over the year, or  
10 are you doing that in what block?

11 MR. STOCKTON: We spread it out over the year, it's  
12 continuous training, and we do it in tailgate meetings, and  
13 we do it monthly.

14 MR. BRELAND: Okay. Do you keep records of that by  
15 sign-in sheets, or do you keep some summary of an  
16 individual's total training for the year?

17 MR. STOCKTON: I can tell you what we do as far as  
18 Benchmark Materials. We have a form that they sign when they  
19 come to the safety meetings. That form has two blocks. One  
20 is for tailgate meetings, the other one is for annual  
21 refresher training.

22 Whichever one they go to is the one that's checked  
23 off. That form is turned in, and the safety managers keep  
24 track of that during the year. They put out a quarterly  
25 report telling people which subjects that they need to do for



1 the rest of the year.

2 If a tailgate meeting for example goes an hour,  
3 that's allowed to count toward annual refresher training if  
4 it is an annual refresher training subject.

5 MR. BRELAND: Okay. That sounds like a good way to  
6 track it. I just didn't know, I was curious how you were  
7 doing that.

8 How many operations do you have that are in the  
9 state?

10 MR. STOCKTON: We're in North Carolina, South  
11 Carolina, Georgia, Tennessee, and Alabama. We have 34  
12 locations.

13 MR. BRELAND: 34 locations.

14 And then about the initial training, if you hire a  
15 new inexperienced miner, how do you handle your 24-hour  
16 program?

17 MR. STOCKTON: We do eight hours first, and then  
18 the other sixteen within sixty days.

19 MR. BRELAND: Okay. Thank you. That's all I have

20 MS. ALEJANDRO: Thank you very much, Mr. Stockton.

21 The next speaker on our list is Bobby Rider from  
22 Vulcan and the Georgia Mining Association.

23 MR. RIDER: My name is Bobby Rider, it's R-i-d-e-r,  
24 I'm with Vulcan Materials Company, also a member of the  
25 Georgia Mining Association Safety and Health Committee, as

1 well as the Georgia Crushed Stone Safety and Health  
2 Committee.

3 I appreciate the opportunity in your letting us  
4 come up today and give you our opinions and views on this  
5 particular subject.

6 I think, though, that MSHA needs to look long and  
7 hard at a program that is already in effect as far as  
8 training is concerned, and that's the state grants program  
9 that I know we use in speaking for Vulcan Materials Company  
10 quite a bit, as well as other members of the associations  
11 that I belong to.

12 Pickens Tech and the money that is allocated to  
13 them is used very wisely, it's used to train miners in the  
14 state of Georgia as well as the state of South Carolina which  
15 I am also involved in.

16 I would like to see possibly more money given to  
17 the state grants program. If you can help in any way, fine,  
18 and it would certainly be appreciated by members of the two  
19 associations.

20 Talking now about Part 48, the changes that you're  
21 talking about, I think that one of the problems that I have  
22 with it personally -- and I think I can speak from  
23 experience, I've been with Vulcan for twenty-five years, been  
24 involved in safety dealing especially with OSHA for most of  
25 that time, a little bit back in the MESA days, but ever since

1 MSHA was formed in 1997 I guess, so I've been around a little  
2 bit, I've had to personally do the training myself years ago.

3 Thank goodness our company now has allowed us to  
4 expand our training staff and our safety and health staff,  
5 and we do most of the new-hire training, at least what we  
6 call Day A training is done by us in house.

7 Going back to the days that I used to do it, and  
8 listening to the people that now report to me we're still  
9 having the same problem, or they're having the same problem  
10 that I had, and it was touched on earlier, and that's the  
11 fact that MSHA law says that you must give eight hours of  
12 training initially, or 24 hours to inexperienced miners.

13 To me that's kind of ridiculous. If we can give  
14 good quality training without any kind of time limit on it,  
15 then we ought to be allowed to do that.

16 We don't need necessarily 24 hours, or sixty hours,  
17 or whatever number you come up with to do good adequate  
18 training. I would certainly like to see our business thrown  
19 out, the topics that you asked us to, or that's required by  
20 the law, I guess I have a problem with that also.

21 And the reason I say that is training to me almost  
22 has to be site-specific. We at Vulcan have very large  
23 plants, and we have very small plants, but overall if you  
24 look at them we would call them small plants. We might have  
25 some plants with eighty people, but most of ours run around

1 the twenty to thirty range, somewhere in there.

2 And we know from experience that it takes a  
3 different type training at our smaller operations than it  
4 does our larger operations, and the reason for that is that  
5 in our smaller operations we have to train our new employees  
6 to do multiple tasks, that in our larger operations the  
7 initial training and the initial hiring that we do does not  
8 require that we do multiple training tasks.

9 For example, in a small plant we might hire a  
10 person as a truck driver, but if we have a breakdown then  
11 that employee is going to have to certainly participate in  
12 doing the repair and maintenance, whereas in some of our  
13 larger operations that would not be true. So I would like to  
14 see almost a site-specific type training without really  
15 telling us what we need to train them.

16 That carries over into annual refresher training.  
17 We are required to cover certain areas. It's difficult for  
18 me as -- we're going through annual refresher training as we  
19 speak, Pickens Tech is up at one of our quarries in north  
20 Georgia, and I've been with them for the last couple of days  
21 doing annual refresher training.

22 As I look at the actual analysis and analyze the  
23 actions that we've had in the past year we base our training  
24 program for annual refresher training based on that analysis.

25 We have a lot of hand injuries. This year we're

1 concentrating heavily in annual refresher training in  
2 eliminating those hand injuries. If we're not having any  
3 problems in some other area, then I don't think we need to  
4 waste our employees' time or our time dealing with those  
5 areas where there's not a problem.

6 For example, lock and tag procedures. Very rigid  
7 lock and tag procedures that we have, it's gone over time and  
8 time again during annual -- I mean during weekly safety  
9 meetings, so during the annual refresher training do we  
10 really need to talk about that? I don't really feel that we  
11 should.

12 The other item I want to talk about, and I have  
13 scratched some notes down, deals with contractors. I do  
14 think contractors are a problem. However, I see us getting a  
15 better handle on that problem.

16 They are required to have training. We don't do  
17 the training, we simply in our contract say that they are  
18 going to be required to abide by all the MSHA regulations as  
19 well as our own safety rules, and they are given Pickens Tech  
20 who is the state grants program here in Georgia, we give them  
21 their phone number, they contact them, and they do a lot of  
22 training of contractors. We personally would like to stay  
23 away from that from a liability standpoint.

24 The only area where we get involved in contractors  
25 is really done at a plant level, and that's hazard training

1 that we make with the contractors before they start to work,  
2 and they are invited and do attend our weekly safety meetings  
3 at our operations.

4 Last, but not least, whatever changes are made I  
5 hope that MSHA will be consistent in enforcing those  
6 particular standards, in fact hopefully a lot better than  
7 they are in enforcing the current standards. There seems to  
8 be quite a bit of discretion and difference of opinion from  
9 almost operation to operation, but in my opinion and what I  
10 see is there is such a drastic difference in the way that  
11 inspectors inspect our operations compared to other  
12 operations. I have a problem with that, and I certainly do  
13 not want to see that in part, whatever part comes up.

14 With that I conclude my remarks, and thank you.

15 MS. ALEJANDRO: Mr. Rider, I just have a couple of  
16 questions, and others may as well.

17 You indicated that you believe that we should get  
18 away from the hours requirement for training, that it imposed  
19 restrictions on training that were not necessary. As you  
20 probably know, there are some hours requirements, we can't  
21 get away from them in the Act, specifically it puts a minimum  
22 of 24 hours of new miner training and eight hours of annual  
23 refresher training.

24 But having said that, one of the issues we're  
25 trying to deal with here is what type of training, or how

1 much training should a new miner get before he or she begins  
2 work at the site.

3 Now, I gather from your remarks that you don't  
4 think we ought to put like two hours minimum training before  
5 they start work or, you know, four hours and the balance of  
6 the 24 hours to be delivered within whatever period of time.

7 However, do you think the rule should address  
8 minimum training for miners before they begin work in some  
9 fashion, I mean either by way of subject areas or something  
10 along those lines?

11 MR. RIDER: No, I really don't think it should be.  
12 I think that we're smart enough that we know what needs to be  
13 taught, and how long in that area.

14 And again it's almost task-specific. Somebody  
15 mentioned earlier that most of their new people are haul  
16 truck drivers -- well, you know, so are ours -- and before  
17 they go do any other work we give them training at that  
18 particular time, so I hate to see us try to cover everything  
19 in one session.

20 And let me give you an example of this. Back when  
21 I was doing the training we had to bring these new employees  
22 in, and we're talking about safety around screens. These  
23 people don't know what screens are, they think that's  
24 something that goes over a window, and that's not what we're  
25 talking about.

1           I have found it works much better for us, we bring  
2   them in, give them some initial training going over safety  
3   rules, and what MSHA is, and maybe the statutory rights of  
4   miners, and then bring them back in a week or two after they  
5   have been under close supervision, they sure do have a lot  
6   better questions, they sure do comprehend a lot better what  
7   we're trying to teach them.

8           MS. ALEJANDRO: Uh-huh.

9           MR. RIDER: So to say that we need to do this in 24  
10   hours or not, I don't know, and if we need to change the law  
11   then that certainly needs to be a project, too, of industry  
12   as well as MSHA.

13          MS. ALEJANDRO: But you're saying their exposure to  
14   the work site causes them to maybe get a lot more out of  
15   whatever training they get after they have been exposed to  
16   the work site for some period of time?

17          MR. RIDER: Absolutely, as long as they're with  
18   that competent person as MSHA calls them, yeah.

19          MS. ALEJANDRO: All right. Kevin?

20          MR. BRELAND: Just a couple of things.

21          You have, Vulcan has an awful lot of operations I'm  
22   sure, and this issue of the smaller plant versus the larger  
23   one, it sounds like you spend more time typically for new  
24   employees at the smaller operations because of the multiple  
25   jobs they might do.



1           Are you talking about the task-type training itself  
2 rather than say some other introduction in the work  
3 environment?

4           MR. RIDER: We certainly do comply with what is  
5 required of us right now.

6           I guess what I'm asking is the opportunity to make  
7 those changes that we need to make in those two areas.

8           Certainly at a smaller operation we may talk more  
9 about repair and maintenance, hand safety, and proper lifting  
10 procedures than we would in a larger operation initially in  
11 our training.

12           MR. BRELAND: Well, would you -- then I assume you  
13 have like a training plan that you use for each operation  
14 now. Would you be proposing to have a more individualized  
15 outline that you follow at the mines based on the specific  
16 needs of that mine?

17           MR. RIDER: Yes, sir.

18           MR. BRELAND: And then that would cover a listing  
19 of some kind of what was typically expected for that type of  
20 occupation I assume at each of those locations?

21           MR. RIDER: Yes, sir. I guess what -- The thing I  
22 want to try to get you to understand is don't limit me on  
23 time on how long I've got to talk about something, or not all  
24 -- or a list of subjects that I have to discuss. That's what  
25 I'm after. I know that is in the law right now.

1           MR. BRELAND: Well, I think everybody understands  
2 that flexibility needs to be built into anything new that's  
3 coming about, but if you were saying that you needed that  
4 flexibility because of the mine-specific additional training,  
5 certainly any additional training I don't think would ever be  
6 a problem with MSHA or anybody else, state organizations  
7 either.

8           MR. BRELAND: Just on the contractor issue, you  
9 follow a list of hazard issues for each mine operation that  
10 you would cover with a contractor that comes on site, like  
11 hazard training.

12           MR. RIDER: Yes, sir. We have, and it's given to  
13 each contractor, a contractor handbook that is given to the  
14 contractor and their employees that covers a lot of issues.  
15 A lot of them are our safety rules, and some of them are MSHA  
16 requirements.

17           But site-specific again might be our blasting  
18 procedures at that plant, our emergency evacuation, just the  
19 hazards they can look for. Does that answer your question?

20           MR. BRELAND: Yes, it did. Thank you.

21           That's all I have. Thank you.

22           MR. BURNS: On the annual refresher training, would  
23 you recommend that MSHA put out some sort of data analysis,  
24 or accident and injury analysis on a yearly basis for the  
25 industry to help them choose the subjects that may be

1 relevant for annual refresher training?

2 I mean you do that for your own operations. Would  
3 you see that as a benefit to the industry if that was  
4 something that MSHA did?

5 MR. RIDER: Yes. Kevin, if it's specific enough.  
6 If you just send out an analysis that, you know, 68 percent  
7 of the people, miners were injured doing repair and  
8 maintenance that doesn't tell us anything. Specifically what  
9 they were doing, were they using a hammer, or a tool, or  
10 whatever, now we can see where we are, was it a hand injury,  
11 eye injury, back injury, and get pretty specific with it.

12 The way we do it it really helps us zero in and see  
13 where the problems are, and if you could do that, yes, sir,  
14 that would be helpful to us, to me.

15 MR. BURNS: Okay. I don't have any more questions.  
16 I think everybody else has covered everything I had on my  
17 mind.

18 MS. ALEJANDRO: I think Rosyln has got a couple of  
19 questions.

20 MS. FONTAINE: Actually I just have one question  
21 for you.

22 Would you be willing to submit some data to us  
23 showing the differences in what it costs to train your  
24 employees on an annual basis, the twenty employees versus the  
25 eighty, so we have a feel?

1 MR. RIDER: Sure. That would be easy to do.

2 My only problem is I hate to put a number with cost  
3 when it comes to safety. I don't know how much money right  
4 here sitting today it costs or that we spent on safety  
5 training in 1998. I can certainly get that number.

6 I guess the number I would like to see is how much  
7 money did we save by spending that money, and how much we  
8 spend as our top executives in our company, our CEO and  
9 president have said cost is not an issue when it comes to  
10 safety.

11 We do keep up with those costs, we do need to know  
12 how much we're spending, and we'll be glad to submit that to  
13 you. If you just want to know what does it cost to train  
14 twenty people versus eighty people, yes, I can come up with  
15 that, and I'll furnish that.

16 MS. FONTAINE: Okay. Well, actually we would be  
17 interested in that as well, if you could help us to quantify  
18 the savings as a result of the training. That would help,  
19 too.

20 MS. ALEJANDRO: Mr. Rider, we appreciate your point  
21 as far as, you know, the benefits of training, but as far as  
22 the regulatory process the agency has got to come up with an  
23 estimate of how much it's going to cost the industry to  
24 comply with any of the requirements in the rule, so that's  
25 why we have to ask these questions. But we appreciate your

1 point.

2 That's all. Thank you very much, Mr. Rider.

3 Mr. Hart, are you ready to go?

4 MR. HART: Yes.

5 MS. ALEJANDRO: Okay. Ben Hart from the Florida  
6 Department of Environmental Protection.

7 MR. HART: Thank you. Good morning.

8 I am Ben Hart, Mine Safety and Health Program  
9 Director, Florida Department of Environmental Protection.  
10 That's H-a-r-t.

11 It is a pleasure to be here this morning. I would  
12 like to start off by saying that I've been conducting MSHA  
13 training, Part 48 training through the state program of the  
14 State of Florida for a little over ten years now, and I would  
15 like to especially acknowledge Mr. Rider's comments about the  
16 increase of funding for state grants, and I plan to talk  
17 about this, and a couple of my state grant buddies from other  
18 states are here, and I think that that definitely is needed,  
19 and I will discuss that in a few minutes.

20 But first of all I'm kind of confused, I don't know  
21 if I've got the wrong copy of something, but I've been  
22 conducting this training for ten years, and I'm hearing from  
23 the industry that it's very difficult to do the training, it  
24 imposes a hardship on the companies to do safety and health  
25 training under Part 48 for surface aggregate industries.

1           And I guess I have been living in a dream world or  
2 something because I haven't found it that difficult. I have  
3 found it difficult to keep the training fresh and new, to  
4 talk about the same subjects every year, but it's a dull  
5 thing.

6           You can't put a program together -- we've talked  
7 about training programs this morning -- you can't put a  
8 program together -- you can't put a training program together  
9 today and keep training on that exact same program ten years  
10 from now. It needs to be changed every year.

11           As far as the training plan submitted to MSHA, I  
12 think that can be a static plan that is only changed as needs  
13 arise, or as the circumstances require.

14           The reason I wanted to defer to later, I wanted to  
15 hear some of the comments because I wasn't sure what all this  
16 furor was about. I've had conversations with the stone  
17 association members over the years, and I hear people from  
18 these companies coming up here talking saying we're complying  
19 now. I don't know if that's because MSHA is here and they're  
20 not going to say they're not, I don't think it is. I think  
21 they are complying now, and I think when this rider is lifted  
22 there won't be any problem, business as usual basically with  
23 some minor modifications.

24           But under -- I want to address the questions that  
25 were in the Federal Register, which Sections 1-15 subjects

1 should be taught before assignment of work duties. Right now  
 2 we have three, we have introduction to work environment,  
 3 hazard recognition, health and safety aspects and the task  
 4 force that was assigned, and I would like to recommend from  
 5 that list that was in the Federal Register adding emergency  
 6 procedures to that simply because a person the first day on  
 7 the job and they're assigned to work with an experienced  
 8 miner, or the first day out in the field let's say, there may  
 9 be an emergency horn go off, and they don't know what that  
 10 is, they didn't get that coverage in the introduction to work  
 11 environment. It should have been, but since it was listed as  
 12 a separate point I think that would be good to mention.

13 Should new miner training be given all at once or  
 14 spread out? That's already addressed in new miner in Part  
 15 48.25. You have the right, the mine has the right to request  
 16 split training, it's up to the district manager to approve  
 17 it, but it's my understanding that at least in the Southeast  
 18 which I'm most familiar with we've never had any split  
 19 training request denied.

20 It does give the operator flexibility. That word  
 21 has been used quite a bit, flexibility. I think it gives the  
 22 operator flexibility. They choose the split training, they  
 23 say they're going to give them a minimum of eight hours  
 24 before they go out in the field for their assigned work duty,  
 25 but they can also give the other sixteen hours in day two and

1 day three if they want to, so they've got some flexibility,  
2 or they can give four hours now, and four hours next week,  
3 and four hours next week, as long as they meet the minimum  
4 which Section 1-15 specifies a minimum of 24.

5 I think to change any of the hours to anything less  
6 than 24 is going to require changing the Act, and I think  
7 that's a big task we don't want to tackle, we don't need to  
8 tackle.

9 Should the operator make the decision about  
10 flexibility? Again, it's already there in Part 48-23 under  
11 training plans. It gives them that flexibility for split  
12 training.

13 Let's see. Should supervisors be subject to this  
14 training. I definitely think so, I think that supervisors  
15 are getting killed just like regular miners, nonsupervisory  
16 miners at an alarming rate, and I know in particular in  
17 Florida we had three supervisors get seriously injured a  
18 number of years ago because they weren't familiar with the  
19 tasks they were doing.

20 It was over the Christmas holidays, they were  
21 filling in for workers who had taken Christmas vacation, and  
22 they should have had more training that they didn't have. As  
23 supervisors they were considered they didn't have to have  
24 that training.

25 So should supervisors be included under all Part 48



1 training? Yes, I think definitely.

2 Let's see. Mr. Martin mentioned in his  
3 presentation a need for more training videos, and MSHA should  
4 come up with more training videos, and I agree, but also we  
5 would like to mention that the state grants programs in  
6 several states have developed video programs, slide programs,  
7 handouts, just a number of things that are available through  
8 the Minecap or through the individual states themselves, and  
9 these should be listed in the MSHA catalog at the academy  
10 already under state grants section.

11 There are a lot of things out there already, but I  
12 certainly encourage MSHA as he did to continue to develop  
13 training materials.

14 To go back to say, to concur with Bobby Rider that  
15 there needs to be close coordination with the state grants  
16 program, there needs to be support of the state grants  
17 program from MSHA not only from Section 503 of the Act, but  
18 also more coordination, more conversation, and work more  
19 closely with it.

20 There was an instance several years ago where MSHA  
21 wanted to do a quick educational sweep about something -- I  
22 think it was a rash of fatalities at the end of '96 -- and I  
23 felt the state grant should have been more heavily involved  
24 in that.

25 That's all I do is train, develop training

1 programs. I do not inspect, I don't have that  
2 responsibility, and I don't think most of the state grantees  
3 do, so that's what we're there for, and I think we need to  
4 have more utilization of the state grant program.

5 Having said that, in order to do more training, and  
6 I think when this rider is lifted, or I know when this rider  
7 is lifted in the state of Florida I'm going to get a big  
8 demand for training right away, and I'm not going to be able  
9 to cover it all.

10 There's just one person covering the whole state,  
11 so I'm going to need some help, and the help comes in the  
12 form of money to pay somebody.

13 So I would certainly like to see language in this  
14 proposed rule that increases the state grant funding.

15 Section 503 authorized up to \$10 million, in fact  
16 authorized \$10 million after 1970 for the state grant  
17 program, and to date we have never gotten more than seven --  
18 I think right now we are at about 6.3 million, 6.34, and  
19 that's been static for the last several years.

20 So we do need some more money in order to do this,  
21 but I think it is a doable thing.

22 The issue with the smaller mine versus the larger  
23 mine, that flexibility I think is already in place also in  
24 Part 48 because in the training plan each operation, each  
25 mine with an ID number, or a plant with an ID number has to

1 have a training plan submitted to MSHA.

2 The problem is right now under the rider they  
3 cannot be either approved or disapproved, they can be  
4 accepted or not accepted, but with the smaller mine you can  
5 make your training plan more flexible because in addition the  
6 courses are already outlined under Part 48 and in Section 115  
7 of the Act.

8 Under Part 48 it says such other courses as are  
9 required by the district manager based on the circumstances  
10 at the mine, and I'm not sure about the wording, but required  
11 by the district manager, perhaps that could be stricken and  
12 just say such other courses as required based on, or as  
13 recommended or suggested based on the circumstances and  
14 conditions of the mine. So I think there's room for that  
15 flexibility already.

16 Let's see. I think that pretty well covers  
17 everything I would like to say. Thank you very much.

18 MS. ALEJANDRO: Mr. Hart, I have a couple of  
19 questions.

20 Do you have any sense -- and I have asked this of  
21 others -- in your area, the geographical area that you cover  
22 of what percentage or what number of mine operators are not  
23 currently giving safety training to their employees?

24 MR. HART: No, ma'am, I don't have even a  
25 guesstimate figure, but of the -- and somebody earlier

1 mentioned fatalities, and fatalities is certainly a good  
2 measure of how things are going -- the fatalities we've had  
3 in ten years in Florida, none of the people that have died  
4 have been trained by the state grant program.

5 MS. ALEJANDRO: Okay.

6 MR. HART: They may have been trained by the  
7 company.

8 I do know as somebody mentioned earlier that there  
9 is a problem with small operators, they're worried about  
10 complying with Part 56, and since MSHA cannot enforce Part 48  
11 they don't worry about Part 48.

12 MS. ALEJANDRO: Right.

13 MR. HART: But we are increasingly training greater  
14 numbers of people each year through the state grant program  
15 because of word of mouth, and also because of the possible  
16 removal of the rider.

17 MS. ALEJANDRO: Okay.

18 MR. HART: And we welcome that.

19 MS. ALEJANDRO: Okay. It's sort of related, as far  
20 as the compliance deadline, you know, we are under an  
21 obligation to publish a final rule in September of this year.

22 What's your best recommendation for how long we  
23 ought to give beyond that date for compliance with the  
24 requirements and the rule?

25 MR. HART: I'm glad you asked that. I meant to

1 address that.

2 Mr. Stockton mentioned twenty years initially, and  
3 that number does ring a bell with me. Twenty years is how  
4 long the requirement has been in place; the rider has been  
5 there nineteen years.

6 I think that they should be in compliance now, but  
7 granted we've got to give some of them time to get in order.  
8 I think a couple of months, sixty days ought to be plenty of  
9 time.

10 MS. ALEJANDRO: Okay.

11 MR. HART: Particularly because they should at  
12 least have a training plan in place. A lot of them may not,  
13 but there again their state grant program can help them  
14 implement or write their training plan.

15 MS. ALEJANDRO: Okay. When I ask for your best  
16 guess as far as how long it would take, I'm also looking for  
17 you to tell me how long it's going to take you maybe to  
18 address the needs that are going to be generated by --

19 MR. HART: As far as training needs, it depends.  
20 If we get more resources and can hire the adequate number of  
21 trainers we can probably train them in sixty, maybe ninety  
22 days, but if --

23 And what we're trying to do now is train them  
24 before this takes place, train them just as if the rider  
25 didn't exist --

1 MS. ALEJANDRO: Okay.

2 MR. HART: -- all who will let us do the training,  
3 and the questions have been directed about how much does it  
4 cost to train, and that's another thing that in Florida  
5 anyway since I'm the only trainer we use the MSHA grant funds  
6 to do the training, and do not charge the companies anything.

7 I believe that's a return of their tax dollars, a  
8 good return of their tax dollars.

9 MS. ALEJANDRO: Okay. Rod, do you have any  
10 questions?

11 MR. BRELAND: Yes. Ben, in the state of Florida do  
12 you have any feel for like what percent of your exempt  
13 operations are maybe not following Part 48 now?

14 I know you do a lot of training and you're around  
15 the entire state, and some may do portions of it.

16 MR. HART: Right. I think all of them are trying  
17 to do some kind of training, health and safety talks, and  
18 they have introductory talks, but if you're looking for a  
19 guess it would be probably forty percent maybe, thirty or  
20 forty percent, the small operators.

21 MR. BRELAND: That are not doing any training, any  
22 training related to Part 48 as it exists under the Act?

23 MR. HART: I think that anybody, any mining company  
24 that hires somebody who has had no experience in mining is  
25 certainly going to give them a walk-around tour, going to

1 give them an introduction to the mining environment.

2           They're going to give them hazard recognition,  
3 they're going to tell them about the alligator that likes to  
4 lay out in the sun over there by that pond, watch out for  
5 him, things like that.

6           And they're they're doing some of the Part 48  
7 training, but they're really aware of what they're doing  
8 because they may not be -- I hope they are aware of what Part  
9 48 training requires. That's one of the things we have tried  
10 to do in Florida is to make sure that we do get the rules out  
11 to them, make sure they understand, and make sure we're there  
12 to help them.

13           But, no, I wouldn't say that that percentage is not  
14 doing any Part 48 training as far as documentation, Part 48  
15 training as far as documentation, Part 48 training on 5023  
16 they may not be filling those out.

17           MR. BRELAND: Okay.

18           MR. HART: But I would really hate to give a guess,  
19 because the percentage may be as low as ten percent.

20           MR. BRELAND: Okay.

21           MR. HART: But doing some, but not doing a complete  
22 program, and not doing it under an approval or accepted plan.

23           MR. BRELAND: Yeah, we would expect a lot would be  
24 doing required training that they didn't even know they were  
25 doing --

1 MR. HART: Right.

2 MR. BRELAND: -- because they would do it as the  
3 nature of their work.

4 MR. HART: Right. I believe, Rob, somebody  
5 mentioned common sense training. That's a given. I mean if  
6 you're in the mining business and you're making money at all  
7 you're doing something right, using common sense, and safety  
8 has got to be an integral part of it, safety training.

9 MR. BRELAND: Now, you also I think mentioned  
10 earlier about the eight/sixteen split and -- I think that was  
11 discussed anyway -- do you have a sense for what you would  
12 consider as a minimum amount of time a new employee  
13 inexperienced should have the formalized type training prior  
14 go going in the work environment?

15 MR. HART: Right. Recently I revised my training  
16 plan in Florida at the suggestion of MSHA, some people I  
17 talked to in Arlington, and I had an eight-hour requirement  
18 for newly-employed experienced miner training, and had been  
19 recommending that to all the people that called in and asked  
20 questions about training class, help them to develop training  
21 plans that should be a minimum of eight hours.

22 I have since changed that, and I believe in that  
23 now that the term "as needed" in terms of hours under newly-  
24 employed experienced miner, and I think that could possibly  
25 be applied here to give some flexibility that the people have



1    been asking for is without delineating the exact hour, but  
2    requiring that records be kept of how many hours they went.

3               In a small operation take the introduction to work  
4    environment for example. In a small mom and pop sand and  
5    gravel operation that might take five minutes to see the  
6    whole operation. In a large crushed stone operation it may  
7    take a half a day, so it depends.

8               But I think the language as needed could be there,  
9    and requiring documentation of what was covered during that  
10   course, things which will be outlined in the training plan.

11              MR. BRELAND: That's all I have. Thanks.

12              MR. BURNS: As far as the issue of Spanish  
13   training, how are you currently addressing that for the work  
14   force mainly in southern Florida?

15              MR. HART: Okay. Well, first of all, I have had  
16   several Spanish-speaking, predominantly Hispanic native  
17   people taking the instructor class, the MSHA instructor  
18   class.

19              We have a number of videos that we have done  
20   through the Florida Department of Environmental Protection  
21   and Department of Education prior to that with the program,  
22   and we are currently having those translated into Spanish.  
23   In fact, I'm going next week to finalize the Spanish  
24   translations of four of the videos. We did a new video this  
25   past year, and that also will be translated into Spanish.

1           Of course, anybody who wants to be an instructor --  
2 this is something that was mentioned earlier I would like to  
3 address and I forgot it -- the instructor certification  
4 requirements, there's a move to say a competent person,  
5 whatever that definition may be, can do the training

6           I believe that a person doing MSHA instruction  
7 under Part 48, or whatever part it may be called, should be  
8 properly trained, should be adequate and competent to do it,  
9 and I think that requires some standardized training.

10           Right now we've got some people doing one day of  
11 training for instructors, some doing three, some doing five,  
12 some doing ten. In Florida I do ten. I do not only the  
13 instructor training for MSHA, but also the first aid  
14 instructor and the Part 48 subject matter.

15           I've had a lot of opposition on that issue because  
16 people feel like that their people already know the subject  
17 matter. Well, if they've gone through ten or fifteen or  
18 twenty years of annual refresher training, yes, they should  
19 know what to teach, but a lot of them don't, and when I was  
20 doing a one-week course I kept getting questions from people  
21 "Well, what do I use to teach this?" and particularly in the  
22 Spanish, "How do we train the Spanish people?"

23           And so I have a problem with saying that as long as  
24 you've got a sign, for example for hazard training you've got  
25 a sign posted and it's in Spanish and it's in English that

1 it's adequate training, because you don't know if that person  
2 can read Spanish, or can read English or not, and you don't  
3 know if they can even read Spanish.

4 We have some miners in all states I believe that  
5 probably can't functionally read and write at all, but they  
6 can do a good job as a miner, but they can't read, and if  
7 you're going to train them by posting signs it's not going to  
8 be effective training.

9 If you give them a form to sign that says "I have  
10 read and agree to abide by all these rules and understand the  
11 hazards," you put an "X" there they know where to sign it,  
12 but that doesn't mean they've read it.

13 But your question as far as Spanish, I know the  
14 University of Texas has taken that program in Texas is doing  
15 a lot of stuff in Spanish, Spanish translations, and Florida  
16 is getting into that, and I think we all need to work  
17 together with MSHA on that very issue.

18 MR. BURNS: That was part of my question, is that  
19 something you think that we should focus some more resources  
20 on?

21 MR. HART: Yes.

22 MR. BURNS: Okay.

23 MR. HART: I think you should, and I think you  
24 should work particularly with the states that have that  
25 problem.

1           MR. BURNS: Are you recommending that we add  
2 alligator awareness to the requirements?

3                               [Laughter.]

4           MR. HART: Whatever it takes. That would be based  
5 on circumstances and conditions at the mine. In Florida that  
6 is a problem. Any time you've got a body of water you may  
7 have alligators, probably will.

8           MR. BURNS: Thanks, Ben.

9           MR. HART: Okay.

10          MS. ALEJANDRO: Thank you very much, Mr. Hart.

11          The next speaker on our list is Kenneth Jackman  
12 from China Clay Producers Association.

13          MR. JACKMAN: Good morning. My name is Ken  
14 Jackman, J-a-c-k-m-a-n, and I represent the China Clay  
15 Producers Association here in Georgia.

16          The China Clay Producers Association is an  
17 association of five kaolin companies, it's the five water-  
18 washed kaolin companies here in the United States. It's a  
19 very small association. We have in total about forty-five  
20 hundred employees, and we utilize routinely somewhere between  
21 three and four thousand contractors, depending on the  
22 workload and what's going on in the kaolin business.

23          I am very pleased to report this morning we have a  
24 very excellent safety record, we have had for years. I  
25 expect this year we will complete 1998 with a total case

1 incident rate of about 1.6, and that incident rate is not  
2 based on lost-time accidents, but is based on recordables,  
3 which is an exceptional rate, and probably one of the lowest  
4 rates in the country I would suspect.

5 One of the reasons we have good results is that we  
6 support training; we always have, our executives always have  
7 made safety training a priority in our industry, in the case  
8 of all five companies a number one priority.

9 We support -- I'm here this morning to support the  
10 precepts that are outlined in the Coalition for Effective  
11 Miner Training and the work that's been done there. The  
12 latest draft I've seen is December 9th, and I think this is  
13 basically the points Mr. Machemehl made earlier, the China  
14 Clay Producers Association does support those same points.

15 I would like to talk a little bit about some of the  
16 important, what I consider to be the important pieces within  
17 those points, and the first two are the ones that talk about  
18 effective and pertinent training.

19 In terms of pertinent training, as I look at the  
20 kaolin industry I think that people that are in the best  
21 position to be able to determine what is pertinent training  
22 are the people that are running the kaolin business. I think  
23 we have done that over the years.

24 Have we done it as perfectly as we could possibly  
25 do? Of course not. We have made some mistakes, and every

1 time we make a mistake we try to correct that and change our  
2 training program so that we reflect those mistakes, and  
3 sometimes those mistakes end up being accidents, and we try  
4 to learn from our accidents and not repeat the accidents.

5 The fact of the matter is that nobody knows the  
6 kaolin business better than we do, and nobody knows I don't  
7 believe what it takes to train our miners any better than we  
8 do, and we use a variety of different techniques.

9 Some of our companies train internally, and  
10 strongly believe that internal training is the way to go.  
11 Many of our companies use Pickens Tech that we have talked  
12 about this morning, and it's been very effective for many of  
13 our companies, particularly on refresher training and new  
14 miner training.

15 Regardless of how the training is accomplished, I  
16 think the most important point is that the training has got  
17 to be effective, and it's got to be absolutely pertinent to  
18 the industry that it applies to.

19 I would also like to talk a little bit about the  
20 role I think that MSHA has in terms of enforcing not only  
21 training, but anything. I have long been a believer that we  
22 are dealing with a finite number of resources, whether we're  
23 talking about the resources that exist within our companies,  
24 or the resources that exist within the MSHA organization, and  
25 that finite body of resources really ought to be allocated in

1 the direction of need.

2 We have companies even within our small group of  
3 five companies that -- for example last year I had one of my  
4 five companies had eight hundred and some-odd employees and  
5 had one recordable accident the entire year. Not a lost-time  
6 accident, but a recordable accident the entire year.

7 That company believe should not receive the same  
8 level of scrutiny from MSHA as other companies even within  
9 the kaolin business that maybe had twenty or twenty-five  
10 recordable accidents. There's got to be some discretion  
11 that's exercised, or the resources that MSHA has, and the  
12 resources that we have in our companies is never going to be  
13 adequate.

14 Contractor philosophy. Many of the speakers this  
15 morning have talked about our philosophy or what's required  
16 for contractors, and clearly contractors are becoming a more  
17 and more important part of the mining business, and that is  
18 also the case in the kaolin industry.

19 I mentioned our numbers, forty-two hundred full-  
20 time employees, and three to four thousand contractors, and I  
21 suspect over the next five to ten years you're going to see  
22 that number shift even higher in the direction of  
23 contractors.

24 It's absolutely the philosophy of all our companies  
25 that every contractor that comes on board needs to be

1 properly trained, and needs to be certified, and that every  
2 contractor that comes on board needs to not only live up to  
3 the standards that are imposed by MSHA, but the standards  
4 that are generally speaking even more stringent that are  
5 imposed by our companies.

6           The fact of the matter is that many contractors  
7 work side by side with our employees, and if you walk into  
8 one of our plants sometimes it's virtually impossible to tell  
9 who's a contractor and who's an employee, so clearly the  
10 standards for the employees have to be the same as they are  
11 for the contractors.

12           Record keeping has not been talked about too much  
13 today. I would like to touch on record keeping. The record  
14 keeping that comes out of this process I believe has got to  
15 be effective record keeping, but it's got to be simple, and I  
16 strongly believe in the KISS principle, let's keep it as  
17 simple as possible, let's not again stretch our limited  
18 corporate resources and our limited MSHA resources in looking  
19 at record keeping that's anything more than the very simplest  
20 necessary to get the job done.

21           The last point I would like to make is -- I believe  
22 I'm correct when I say that in 1978 when the training was  
23 exempted from certain industries our Congress in their wisdom  
24 took away some of the money that was in the training budget  
25 at that time. In other words, they pared it back based on



1 the number of miners that were going to be trained.

2 I strongly believe that that money needs to be --  
3 when we make this change in 1999, or I guess it's the year  
4 2000 we'll officially make the change, that money ought to be  
5 restored, and it ought to be restored not in 1978 dollars,  
6 but in 1999 or the year 2000 dollars. It ought to be  
7 ratcheted up to accommodate the changes in the inflation in  
8 that interim period.

9 So that's kind of a quick and dirty summary of the  
10 points I wanted to make this morning. I would be glad to  
11 answer any questions you might have, or amplify on those  
12 points.

13 MS. ALEJANDRO: Mr. Jackman, I've got a couple of  
14 questions, and it concerns the issue of contractors.

15 The first question is one of the issues that has  
16 come up at some of the other meetings is the responsibility  
17 for providing training to contractor employees, and I would  
18 say one of the positions that we've heard a number of times  
19 from some of the speakers is that the contractor should be  
20 responsible for providing the 24 hours of new miner training,  
21 or eight hours of annual refresher training, and that the  
22 mine operator should be responsible then for the site-  
23 specific hazard training.

24 Is that the way that your company handles it? and  
25 if not, do you have some other way of approaching it, or

1 other recommendations you might have for that?

2 MR. JACKMAN: It's not my company, I'm representing  
3 the association, but I think it's the way most of our member  
4 companies within the association handle it, that they expect  
5 the contractors to do the training, to pay for the training,  
6 and to do the training, or to see that it's done for the  
7 required, and then for site-specific training I believe  
8 that's generally handled on site by our companies.

9 MS. ALEJANDRO: Okay. Then as far as categories of  
10 employees, we have heard a lot as we have moved around the  
11 country about contractor employees who may be exposed to the  
12 same hazards as mine employees, I mean they're either  
13 directly engaged in the processes, or close enough that they  
14 need to be treated as miners and get the 24 hours, or the  
15 eight hours, or whatever is appropriate.

16 Do you have any views on other categories of  
17 employees whose ties to hazard at the mine site might be less  
18 close so that maybe they shouldn't be considered miners,  
19 maybe they need to get some lesser type of training than  
20 that? and, if so, do you have any idea where the line should  
21 be drawn for that?

22 MR. JACKMAN: You know, it's the common sense line  
23 I believe. In any one of our companies you've got a whole  
24 range of people that could be considered contractors. You  
25 have the man that comes in, or the woman that comes in to fix

1 your Xerox machine, is that person a contractor?

2           Technically he is, or she is, but certainly the  
3 training that's required there is a lot different than the  
4 contractor that comes in to drive a truck across your mine  
5 property.

6           There's all shades of gray in between those  
7 extremes and, you know, you really have to use good common  
8 sense about what kind of training you use.

9           Even if the person that you're bringing into your  
10 facility, all he does is fill your Coca-Cola machine, if he's  
11 filling the Coca-Cola machine in an area where he may be  
12 exposed to blasting dangers, for example, he has to have some  
13 element of training, you know, emergency evacuation or  
14 whatever the situation might be that would pertain to that  
15 particular hazard.

16           I don't think there's any prescription that you can  
17 write and say that one size fits all, you really have to use  
18 common sense. And I know sometimes we get all stumbled up in  
19 what we have as common sense and what we have to write for  
20 rules and regulations, but I guess it would be my appeal  
21 today as we begin writing these final rules is to let's leave  
22 common sense have a role in this thing so that we don't end  
23 up with things that are just wasting these finite resources  
24 that we all have.

25           MS. ALEJANDRO: Do you have any recommendations for

1    how we might approach writing those lines in this regulation?  
2    Should we decide what type of training should be given based  
3    on the kinds of hazards that an individual is exposed to, or  
4    the length of time that they spend at the mine site, or a  
5    combination?

6               MR. JACKMAN:  I think it has to go back to the  
7    basic concept I have, and that is the people that are in the  
8    best positions to really declare what training is required  
9    are the people that are running the facility, and I think you  
10   just have to give those folks the discretion, you have to  
11   give the companies discretion to do that, because I really  
12   believe --

13              You know, many times in these rooms in these public  
14   hearings and so forth I always kind of scratch my head  
15   because what we end up doing is preaching to the choir a  
16   little bit, you know, and the folks in -- you know, I haven't  
17   heard a person this morning talk about the fact that training  
18   is ridiculous and we don't need it.

19              MS. ALEJANDRO:  Right.

20              MR. JACKMAN:  And that's the difficulty sometimes  
21   in these public hearings, but I really believe that when all  
22   is said and done here that we have to give our companies the  
23   discretion to effectively train their own people, and the  
24   responsibility that goes with that discretion.

25              MS. ALEJANDRO:  Okay.  Thank you.  I don't have any

1 more questions. Kevin or Rod?

2 MR. BRELAND: Just to follow up on that a little  
3 bit, the discussion with the contractors. It seems a little  
4 bit of a contradiction when you talk about the industry, like  
5 the kaolin industry deciding what needs they might have for  
6 training, but then with the contractor you would expect them  
7 to have been trained when they come to work for you, outside  
8 of maybe some specific hazard.

9 If we were looking for a rule that would try to  
10 address some basic needs, that would be hard for us I guess  
11 to come up with something considering all those other  
12 industries to have one that's just specific for contractors  
13 that work in the kaolin industry for example.

14 I'm not sure I'm making myself clear.

15 MR. JACKMAN: No, I'm not suggesting that at all.  
16 I'm suggesting that there is some basic training that we do  
17 in our industry that we do for everyone, contractors,  
18 employees, everyone. And then beyond that there's some  
19 specific training that we do for all our employees, and we  
20 will do for contractors if they come on our payroll. That's  
21 all I was saying with that.

22 MR. BRELAND: That would be in addition to their  
23 expected 24 hours or eight hours annually.

24 MR. JACKMAN: In addition to, that's right.

25 MR. BRELAND: Okay.

1           MR. JACKMAN: For example, every company I believe  
2 in our industry has a different way they do lock, tag, and  
3 try. However, if you peel those differences out and you look  
4 at the fundamentals, the fundamentals are all the same, but  
5 there are some unique things that each of the companies feel  
6 are necessary within their companies on lock, tag, and try  
7 that are unique for their particular situation.

8           MR. BRELAND: Okay. Then on the record keeping, I  
9 think everybody agrees it needs to be simple, however  
10 flexible it could be, but how would you see like when you get  
11 a contractor that comes in would your association expect that  
12 they would provide some documentation they've had it? What  
13 would you ask for in that area?

14          MR. JACKMAN: The thing I've seen work effectively  
15 in the past is if the contractor comes on board for the first  
16 time he has to demonstrate that he's trained his people. If  
17 it's a contractor that's routinely with you day in and day  
18 out, then what he needs to do is when he brings new people in  
19 he has to demonstrate that those new people have been  
20 trained.

21          MR. BRELAND: Okay. And then if you do some  
22 specific training, you provide them back some documentation  
23 of that as well?

24          MR. JACKMAN: Yes.

25          MR. BRELAND: Okay. That's all I have, Mr.

1 Jackman. Thank you.

2 MR. BURNS: As far as the contractors, how do they  
3 demonstrate that their people have been trained? Do you  
4 know?

5 MR. JACKMAN: Well, they bring in certification  
6 basically that they have been trained, which I think in the  
7 case of our industry many times has been this Pickens Tech  
8 that you've heard about this morning.

9 MR. BURNS: Do you run into a situation where they  
10 maybe present the OSHA training cards to demonstrate their  
11 training?

12 MR. JACKMAN: I don't know. I don't think so. We  
13 do have some of our companies that have different businesses,  
14 and some of the businesses are overseen by OSHA, and some of  
15 the businesses are overseen by MSHA, and within those  
16 companies sometimes that gets a little confusing because  
17 there are some small differences between the MSHA regs and  
18 the OSHA regs, but for the most part the -- and of course in  
19 our situation in the kaolin industry we're dealing in a very  
20 small area, we're dealing in a twenty-mile-wide sixty-mile  
21 area, and that's the whole kaolin industry in the United  
22 States basically, and so we have different issues than some  
23 of our other folks that have -- you know, like the crushed  
24 stone people have crushed stone operations across the entire  
25 United States, so it is a little different for us, in some

1 cases a lot simpler for us because of that.

2 But when our contractors come in, they basically  
3 come in with MSHA certification, not OSHA certification.

4 MR. BURNS: That was really the reason I was  
5 asking, because that has been suggested by others at other  
6 meetings that there should be something that recognizes  
7 training that the contractors, or training that individuals  
8 had received safety training under OSHA where it's  
9 applicable.

10 I guess for example if you were bringing somebody  
11 in to pave your parking lot, and they're going to be in there  
12 for a week, would it do them much good to go get the MSHA  
13 training if they already have all the training required by  
14 DOT in the state and, you know, they're the biggest paver in  
15 the whole state. Would that be efficient use of the finite  
16 resources you're talking about?

17 MR. JACKMAN: It would not be, in my view it would  
18 not be. I mean the example you used is another one of those  
19 shades of gray between the fellow that's fixing your Xerox  
20 machine and the guy that's driving your mine truck.

21 Here's a contractor that's out in your parking lot  
22 paving your parking lot, you know, he's not exposed to mining  
23 hazards, he's not exposed to the hazards of your business.  
24 He's exposed to hazards within his particular business, but  
25 not your business. I think that's where the common sense



1 piece of this has to come in.

2 MR. BURNS: Okay. I appreciate it. That's all the  
3 questions I have, unless Roz has any questions.

4 MS. FONTAINE: No.

5 MS. ALEJANDRO: Thank you very much, Mr. Jackman.

6 MR. JACKMAN: Thank you.

7 MS. ALEJANDRO: The next and the last speaker on  
8 our list is Frank Ford, and I'm afraid I cannot read the  
9 organization, so I'm going to rely on you to spell or  
10 pronounce.

11 MR. FORD: My name is Frank Ford, and I'm here  
12 today representing Hughey Stock Steel, Incorporated, and the  
13 spelling of the last name is F-o-r-d.

14 First off, I would like to thank you all for giving  
15 us this opportunity to express our opinions and concerns.

16 I too support training, and to give you an example  
17 of why I think training works, I've been with the company I'm  
18 going into my fourth year. When I first came there they had  
19 just been issued a cancellation from the workers' comp  
20 carrier, and I received a call from one of the principals of  
21 the company asking me to come on board and administrate their  
22 training.

23 I did a lot of different things, of which I can't  
24 attribute one thing to being the magic pill for lack of a  
25 better word, but implementing safety awards, coming in with

1 company benefits as far as health considerations, things like  
2 that.

3 When I went there we had a workers' comp premium of  
4 \$297,000. This workers' comp carrier put them in a  
5 rehabilitation program, and that's when I was hired on.  
6 Since then we have lowered our premiums to \$149,000, we've  
7 cut it in half, and one of the things that I did upon coming  
8 on was I went to Birmingham, Alabama, and I went to a one-  
9 week school and got my MSHA instructor's rating.

10 We do not do Part 48 training right now. Obviously  
11 we're fixing to. I've been seeing this coming, I told the  
12 principals two years ago with the rash of fatalities with  
13 other operators that this was coming down the pike and, sure  
14 enough, here it is. So we will be complying.

15 I would like to give you a little background. We  
16 are a small operator, we employ between 165 currently up to  
17 the summer months 200 employees.

18 Of those employees, the company I work for, Hughey  
19 Stock Steel, Incorporated, is more or less a parent company.  
20 There are three other corporations who kind of fall under  
21 that umbrella, of which one is a trucking company, a general  
22 contractor, and we do have two sand and gravel mines. We  
23 have two sand plants, one in Louisiana and one in  
24 Mississippi.

25 Affected employees are about forty. That would be

1 the employees who are classified as miners.

2 I would like to go on record as saying that I do  
3 support the Coalition for Effective Miner Training, and also  
4 the state grant program. I don't know if Mississippi still  
5 has a state grant program; I'm hoping to the good Lord they  
6 do because I'm gonna need some serious help here. I know  
7 that the year before last they did, but I don't know about  
8 '98 or '99. I will be finding out, though.

9 As far as the compliance time, I would like for it  
10 to be as user friendly as possible. I would like to see it a  
11 year if possible, because we've got a lot of work to do to  
12 play catch-up.

13 We had two accidents last year -- I'm saying last  
14 year, '98 -- and those were third-party accidents in the  
15 contracting area of the company, and they were subrogated a  
16 hundred percent, so as far as, you know, being safe we are a  
17 very safe operator. Our EMOD workers' comp is .99 which says  
18 that we're, as an industry as a whole we're 1 percent  
19 discounted, so I feel like we're doing an excellent job. I  
20 also feel like there's room for improvement; there always is  
21 room for improvement.

22 On the record keeping, there again I would like to  
23 keep that simple if possible.

24 And that's basically all I have to say.

25 MS. ALEJANDRO: Mr. Ford, you say you're not

1 complying with Part 48, but you are giving your employees  
2 training; correct?

3 MR. FORD: Yes, we are.

4 MS. ALEJANDRO: Could you maybe be a little bit  
5 more specific when you say you're not maybe complying with  
6 the letter of Part 48, but do you have a long way to go  
7 before you get there because of the amount of time spent on  
8 training, or the subjects covered?

9 MR. FORD: It's going to be the subjects covered,  
10 basically getting it in outline type form. You know, one of  
11 our concerns is turnover. We have fourteen-year employees,  
12 and we have six-day employees. Certain areas have the higher  
13 turnover, of which our sand plant operations where we process  
14 the sand for sale, it has an extremely high turnover as far  
15 as your baggers, packers, things like that.

16 Does that answer your question?

17 MS. ALEJANDRO: Yeah.

18 MR. FORD: We are doing safety meetings, we do  
19 monthly and lunch-box safety meetings currently, and they are  
20 documented.

21 MS. ALEJANDRO: Okay. And how long do those  
22 usually last?

23 MR. FORD: It depends. On average ten or fifteen  
24 minutes.

25 MS. ALEJANDRO: Okay. And your position would be

1 that the time spent on those safety talks, those informal  
2 safety meetings should be applied to the eight hours of  
3 annual refresher?

4 MR. FORD: I would like for it to.

5 MS. ALEJANDRO: But you do document them?

6 MR. FORD: Yes, we do.

7 MS. ALEJANDRO: Okay. Now, as far as new miner  
8 training, one of the issues that we have to deal with is for  
9 a new miner coming on site and what kind of training does he  
10 or she need to get before they can start work. Currently  
11 Part 48 requires eight hours. Do you have -- I mean you've  
12 got sand and gravel operations, I mean is eight hours  
13 realistic, or do you think it should be a shorter period of  
14 time, or whether certain subject areas ought to be covered  
15 before someone can start work?

16 MR. FORD: Well, I think they should be type-  
17 specific to the operation.

18 MS. ALEJANDRO: Okay. You mean without setting a  
19 minimum?

20 MR. FORD: Right. In other words, let us be  
21 responsible for --

22 MS. ALEJANDRO: Deciding --

23 MR. FORD: -- deciding in what areas. As I guess  
24 Mr. Martin has spoke on, and I believe Mr. Stockton as well,  
25 you know what you need in your mine, you have your statistics

1 as far as what type injuries -- are they hand injuries, are  
2 they back injuries, or where are the injuries, where are they  
3 happening, and then address those problems.

4 MS. ALEJANDRO: Okay. Do you have contractors that  
5 come onto your property?

6 MR. FORD: We have one contractor who hauls our  
7 product from our sand plants, he's a third-party contractor,  
8 and he takes it to an end user.

9 MS. ALEJANDRO: Okay. Do you give that individual  
10 any kind of site-specific hazard training?

11 MR. FORD: Yes, he has hazard training.

12 MS. ALEJANDRO: Okay.

13 MR. FORD: There again, he's got extremely high  
14 turnover, as trucking typically does, because he has no  
15 benefits to offer, unlike ourselves. Our turnover is low in  
16 the trucks, but he has extremely high.

17 And I would also like to go on record as saying I  
18 think that the contractors should have their own, they should  
19 be responsible for their own training.

20 MS. ALEJANDRO: Okay. But as far as the site-  
21 specific hazard training, how do you approach that with the  
22 truck driver? Is it just sort of an informal discussion, or  
23 do you have a piece of paper that you hand out, or do you  
24 handle it with signs on the property, or -- ?

25 MR. FORD: We have signage all over the property

1 and, you know, informal also.

2 MS. ALEJANDRO: Okay. But you think it's  
3 appropriate that you should be responsible for that with  
4 regard to contractors who come on?

5 MR. FORD: The hazards, that's right.

6 MS. ALEJANDRO: Okay. I don't have any more  
7 questions. Rod?

8 MR. BRELAND: Are you the only person certified  
9 presently to train with your company?

10 MR. FORD: I'm the only safety director, as well as  
11 the only certified MSHA instructor, yes, sir.

12 MR. BRELAND: Okay. And you have multiple plants  
13 in different states, too?

14 MR. FORD: Yes, sir. There's four corporations, of  
15 which one is a Louisiana corporation, the other three are  
16 Mississippi, and probably -- I had it broken down into crews,  
17 and roughly ten different crews, and I do training for all of  
18 them.

19 MR. BRELAND: Would those ten crews all be under  
20 MSHA jurisdiction as well?

21 MR. FORD: No, sir, they wouldn't.

22 MR. BRELAND: Okay. So you would see probably a  
23 need to have some additional people within your group trained  
24 to be trainers?

25 MR. FORD: Right.

1           I didn't mention this initially. We have a lot of  
2 mom and pop operators, mine operators in our area. They are  
3 not going to be able to do this. Fortunately we are. We are  
4 one of, if not the largest in our area, and I would say  
5 within a hundred and fifty miles, a two-hundred-mile area.

6           I don't know if they're gonna do -- we've had some  
7 interest, you know, some calls from the other operators  
8 asking if I would do the training.

9           Now, I'm sure I'll be seeing Mr. Hart or Mr. Joe  
10 Futch, I will be going back for refresher training before I  
11 undertake this.

12           But I don't think -- well, matter of fact, I know  
13 I'm not gonna train those other guys. If I'm not gonna be  
14 responsible for them, I'm certainly -- and when I say  
15 responsible, I will be responsible legally, and I'm not gonna  
16 train them if I'm not there to, you know, actually make sure  
17 that they're doing the proper thing, if that makes any sense  
18 to you. Since they don't work for us, I cannot control them.

19           MR. BRELAND: Okay. And then the other thing you  
20 mentioned, you had two accidents that were involving  
21 contractors. Were those the truck contractors you were  
22 talking about?

23           MR. FORD: General contract -- that's on the  
24 general contracting end of the business working on the road  
25 construction.



1 MR. BRELAND: Oh, it wasn't part of MSHA. Okay.

2 MR. FORD: No, it was not. That's what I'm saying,  
3 as far as MSHA we've had no accidents over the year.

4 MR. BRELAND: Okay. That's all I have. Thank you.

5 MR. BURNS: Well, certainly you have dropped your  
6 workers' comp rate down by half, and that's -- I know those  
7 people are pretty careful about their money, so I'm sure it's  
8 based on merit, so obviously the training you have been doing  
9 is pretty effective.

10 MR. FORD: Yes. I will be the first to admit  
11 training is effective, and you save money. The bottom line  
12 is the company saves money, so I would like to go on record  
13 as saying I believe in it wholeheartedly, as well as the  
14 principals of the company. I have saved my salary many times  
15 over.

16 MR. BURNS: I just wanted to I guess address your  
17 comment concerning the Part 48 training. Do you do more than  
18 eight hours annual refresher training if you're counting the  
19 safety talks?

20 MR. FORD: No, sir. It would probably be right at  
21 that.

22 MR. BURNS: It would be right about eight?

23 MR. FORD: And the reason I haven't been doing it  
24 is because I was not mandated to do it. People are not gonna  
25 do what they're not mandated to do. That's -- you know,

1 humans are lazy in general, and we're gonna do it.

2 MR. BURNS: In your discussions with the really  
3 small operators, the mom and pops, can you recommend anything  
4 where you think MSHA should be prepared to assist them?

5 MR. FORD: We have a community college twelve miles  
6 north of town, and I would like to see some type of state-ran  
7 programs similar to the Pickens program set up there for  
8 training, because they're going to need it, and I don't know  
9 where they're gonna get their training from.

10 MR. BURNS: That's all the questions I have. I  
11 compliment you on your success, and I hope you continue on  
12 that path.

13 MR. FORD: Yes, sir. But like I said, it's not  
14 really anything that I have done, but it's just a combination  
15 of a lot of things that have happened.

16 The company was formed in the early sixties, and it  
17 was a mom and pop operation, and it's grown into what it is  
18 today with annual revenues in the 22 to \$25 million range,  
19 and they saw their workers' comp going out of sight. Well,  
20 when you get canceled there's a problem and so, you know,  
21 they enlisted my help, and I came in, and we started doing  
22 certain things, and it's just a culmination of all of it,  
23 primarily somebody there to oversee, and the employees know  
24 that there's gonna be, you know, actions taken and somebody  
25 is going to be held responsible when there's a problem.

1 MS. ALEJANDRO: Thank you very much, Mr. Ford.

2 MR. FORD: Thank you.

3 MS. ALEJANDRO: We have reached the end of the list  
4 of people who have signed up to speak.

5 I would like to ask now is there anyone here who  
6 has not spoken who would like to come up and offer some of  
7 their remarks?

8 Mr. Elliott.

9 MR. ELLIOTT: Thank you.

10 I'm Ed Elliott, E-d E-l-l-i-o-t-t, the safety  
11 manager with the Rogers Group, Incorporated.

12 I would first like to say that if Mr. Ford is going  
13 to volunteer to train other companies, if he would come up  
14 and see me afterwards he could help me out a lot also.

15 I'm not going to -- well, I should say I have  
16 previously put in comments concerning those specific issues  
17 that were in the Federal Register, and I'm not going to  
18 repeat those today, but I would like to make just a few other  
19 general comments.

20 First, we must really walk before we run. If the  
21 new regulations that come about are too prescriptive the are  
22 currently enforcement-exempted industries will once again  
23 rebel against this enforcement. But if we have a regulation  
24 that is performance oriented, flexible, allowing  
25 incorporation of training innovations, then any and all

1 operators will really have no excuse not to do training.

2 I have attended three of these sessions which  
3 represent three different MSHA districts in which Rogers  
4 Group operates. So Rogers Group, we want consistent  
5 enforcement in any regulation throughout the area we operate  
6 in.

7 Presently the safety regulations are not equally  
8 and consistently enforced throughout these areas. Many  
9 operators are not inspected in accordance with the law, and  
10 if the Educational Field Services is not able to work with  
11 all operators once this rule takes effect, it will not have  
12 the impact we really need, and consistency again is what I  
13 want to reinforce.

14 I'm not here representing the Coalition for  
15 Effective Miner Training, but I would like to make some  
16 comments on CEMT based on my involvement with this group.

17 The National Stone Association safety committee, of  
18 which I am a member, recognized a couple of years ago or so  
19 that the enforcement rider would probably be coming off. The  
20 leadership of the committee at that time put together a task  
21 group to develop some suggested modifications to Part 48  
22 which could be presented to MSHA for their consideration.

23 The committee as a whole recognized the importance  
24 of consensus from within our industry, and the NSA staff made  
25 contacts with other associations, and in August of 1998 a

1 coalition at that time of twelve organizations was formed,  
2 and that has grown to seventeen members.

3 I have attended through the NSA the majority of the  
4 CEMT meetings. I would like to read a current list of the  
5 CEMT membership:

6 The American Portland Cement Alliance;  
7 China Clay Producers Association;  
8 Dry Branch Kaolin Company;  
9 Georgia Crushed Stone Association;  
10 Georgia Mining Association;  
11 Indiana Mineral Aggregates Association;  
12 National Aggregates Association;  
13 National Industrial Sand Association;  
14 National Lime Association;  
15 National Stone Association;  
16 North Carolina Aggregates Association;  
17 Arizona Rock Products Association;  
18 Construction Material Associates of California;  
19 Indiana Mineral Producers Association;  
20 Sorptive Minerals Institute;  
21 United Metro Materials, Incorporated; and  
22 The Virginia Aggregates Association.

23 This list represents a large segment of the  
24 affected industry, and the coalition I know is continuing to  
25 look and solicit additional members to develop consensus on

1 these regulations.

2 I would like to also read the mission statement of  
3 the coalition:

4 The Coalition for Effective Miner Training was  
5 formed to work with MSHA in developing a viable training  
6 document for industrial minerals. We recognize that training  
7 and education are critically important in making progress to  
8 improve worker safety. In conjunction with MSHA, we want to  
9 improve safety performance at every mine with site-specific  
10 safety plans, use of modern technological training aids, and  
11 training that will truly meet the safety needs of each miner.

12 And also just to talk, there were two initial  
13 objectives, the first to develop by the consensus process an  
14 industry-specific, effective miner training program as an  
15 alternative to the existing coal-based Part 48 training  
16 regulations.

17 The second was to maintain the rider on the  
18 appropriations bill until an appropriate alternative is  
19 approved.

20 This organization has tried to reach out to many in  
21 industry. Also they have reached out to labor organizations  
22 that we have been able to identify within industry, and have  
23 met with these organizations, and are continuing to meet with  
24 them to develop consensus on this.

25 Rogers Group supports the coalition and its efforts

1 at achieving the objectives and through the mission  
2 statement.

3 If this rule takes into account the circumstances  
4 of our industries, it will place an enormous amount of  
5 responsibility back upon the industry to make it work.

6 The CEMT's work will not end with the publishing of  
7 a final rule. CEMT and each of the mining associations will  
8 need to work at gaining full compliance. This will not be an  
9 easy task, because I have seen from my position as a member  
10 of the NSA safety committee that there are some NSA members  
11 that are skeptical of what MSHA will do if the rider is  
12 removed. Some feel that we should be spending our time  
13 trying to keep the rider in place rather than developing  
14 rules.

15 Even within our associations we will need to sell  
16 the merits of any new regulation, and I know that the NSA  
17 along with these other associations are committed to being  
18 leaders in safety within the mining community, and support  
19 training as an integral part of this.

20 You do not have to produce the perfect training  
21 regulation in this attempt. A problem which is apparent  
22 after nineteen or so years is that no matter how noble the  
23 regulators of 1978 were, their Part 48 result was too  
24 prescriptive and did not take into account the entire mining  
25 community.

1           You are demonstrating the process which should be  
2       used in promulgating standards. The operators must see that  
3       this is a guide which will add value to their operations, and  
4       not unduly restrict them as Part 48 does now.

5           I would like to make just some off-the-cuff  
6       comments. Mr. Hart mentioned about the difficulty with --  
7       people should not really have much difficulty complying with  
8       Part 48, and the Rogers Group will not have a problem if the  
9       rider is taken off and Part 48 is the standard.

10          I have just made some calculations. In all the  
11       meetings, these seven meetings that you've had, if twenty  
12       people representing individual mining companies made comments  
13       at each meeting, this would represent only around one percent  
14       of the total number of mines covered under these proposed  
15       rules.

16          But probably, I would venture to guess 98 to a  
17       hundred percent of the people that attend the meetings do the  
18       training, and probably come very close to meeting Part 48.  
19       So the idea that is I think vitally important is, and my last  
20       formal comment was the first rule that you come out with,  
21       these regulations do not have to be all-encompassing.

22          You have shown, and you are showing that you can  
23       come up with an entirely new rule in less than a year. It is  
24       not an easy thing to do, but I know that you will do it, and  
25       I trust that you will come out with something that is fair



1 and meets the industry's needs.

2 We can do the same thing, if we need to add  
3 something additional to it in the figure. If the first one  
4 doesn't hit everything we need to do, then we can always come  
5 back and go through this process in the future and make  
6 additions to it, because if you put together a rule, whatever  
7 it is, good or bad, it is almost impossible to get that rule  
8 or part of it withdrawn or changed without a tremendous  
9 amount of problem, but it would be much easier I think to add  
10 to it if necessary. And that's what I would hope that will  
11 come about with this.

12 I thank this group very much. I feel like I know  
13 you now, I've been to three of the meetings, but it's a lot  
14 of hard work, and I think you all have done an outstanding  
15 job, and myself and the Rogers Group thank you very much for  
16 your efforts in government service.

17 And that's all I have. Thank you.

18 MS. ALEJANDRO: Thank you very much, Mr. Elliott.  
19 I don't have any questions, but thank you for your remarks.  
20 Does anyone else have anything to add?

21 MR. BRELAND: Thank you, Ed.

22 MS. ALEJANDRO: Thank you very much.

23 Again I'll just ask one more time, does anybody  
24 else have anything they want to add or contribute?

25 [No response.]

1 MS. ALEJANDRO: If not, what I have been doing at  
2 the later meetings is give just sort of a real brief overview  
3 of the issues that have been raised and some of the comments  
4 that we've gotten. You probably heard a lot of the issues  
5 addressed today, but I'll just go through very briefly.

6 As far as contractors, we have had a number of  
7 individuals advocate that mine operators be responsible for  
8 site-specific hazard training for contractor employees,  
9 whereas the contractor should be held responsible for the  
10 comprehensive training which includes the 24 hours of new  
11 miner training and the eight hours of annual refresher  
12 training, and the commentors have supported addressing the  
13 issue of responsibility for the different types of training  
14 in the rule itself.

15 Additionally, as I indicated, we need to  
16 differentiate between types of employees that come on the  
17 mine property. Some of them are exposed very directly to  
18 mining hazards; there are other categories of employees,  
19 delivery people or types of employees like that who probably  
20 it is appropriate to give them some other type of training,  
21 or require some other type of training besides the  
22 comprehensive training required for miners.

23 We have had a lot of commentors who advocate not  
24 requiring eight hours of initial miner training before a  
25 miner could start to work on the property. A number of

1 commentors have indicated that their sites don't really  
2 involve so much that requires eight hours to be covered  
3 before the miner can begin work.

4 On the other hand, we have had some commentors who  
5 do support eight hours of initial training out of the 24  
6 hours, so that's an issue that we will to address.

7 WE have had a number of commentors who advocate  
8 allowing annual refresher training to be given in periods of  
9 time of less than thirty minutes as you have heard today. As  
10 we have heard at a number of the other meetings, these  
11 informal safety talks are very common, and a number of  
12 commentors believe that it is appropriate for us to give  
13 credit and allow that to be applied toward satisfying the  
14 eight hours of annual refresher training.

15 We have had a lot of comments regarding flexibility  
16 with record keeping, allowing operators to centralize their  
17 record keeping, and perhaps include something in the rule  
18 that would require a mine operator to furnish training  
19 records within a specific period of time without actually  
20 requiring that those records be kept at the mine site.

21 As far as compliance deadline, we have had all  
22 across the map. We have had people who have suggested that  
23 we have a twenty-year compliance deadline, that was a  
24 suggestion we had today, but more typically we've gotten a  
25 number of people who have said that a year is appropriate,

1 we've had several people indicate that six months would be  
2 appropriate, and several other commentators who have advocated  
3 shorter periods of time for a compliance deadline.

4 In general we have gotten a lot of comments  
5 advocating flexibility in the rule requirements, and  
6 reduction of any kind of administrative burden.

7 That sort of summarizes the kinds of issues and the  
8 kinds of comments that we have gotten.

9 I would like to also now give you a short summary  
10 of what we think our schedule is going to be in the coming  
11 months.

12 As I indicated in my opening remarks, we are  
13 planning to publish a proposed rule in the Federal Register  
14 some time in the spring of this year -- that's in the next  
15 couple of months.

16 After that proposed rule is published, there will  
17 be a comment period which allows for the submission of  
18 written comments by commentators, and also we will I would  
19 expect have a minimum of two public hearings during that time  
20 period which are going to be similar in format to the public  
21 meetings we have been having now.

22 We may have as many as four public hearings, but  
23 again that's going to be determined by our time schedule, so  
24 we will have to probably wait and figure out what that's  
25 going to look like after another month or two.

1           That comment period typically lasts for several  
2 months. The comment period will close, and then we will sit  
3 down and develop the final rule which is required to be  
4 published in the Federal Register by Congress on or before  
5 September 30th of 1999, and then at that point we will also  
6 have come to some decision as far as long we're going to  
7 allow for compliance, and that will be clearly indicated in  
8 the final rule itself.

9           Again, I would like to encourage you if you have  
10 additional things that you would like to offer to submit them  
11 to us in writing on or before February 1st of 1999. If you  
12 need any information as far as addresses, or phone numbers,  
13 or anything, feel free to come up to us at the conclusion of  
14 this meeting and we will give you anything that you need.

15           If there is nothing further --

16           MR. BURNS: Kathy, I guess Ken would probably want  
17 me to clarify, I think he meant the twenty years as a joke.

18           MS. ALEJANDRO: Oh, I know.

19           MR. BURNS: He's got to work on his delivery.

20                           [Laughter.]

21           MS. ALEJANDRO: Right. Let the record reflect that  
22 the twenty-year compliance deadline was a joke, and I took it  
23 as such. I was just trying a little light humor which maybe  
24 didn't succeed.

25           In any case, I would like to thank you all for

1 coming. Particularly I would like to thank the speakers, and  
2 if there is nothing further I will call this meeting to a  
3 close.

4 Thank you very much.

5 [At 12:00 noon, Thursday, January 7, 1999, the  
6 meeting was concluded.]

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REPORTER'S CERTIFICATE

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DOCKET NO.: N/A  
CASE TITLE: Public Hearing on Regulations for Miner  
Safety and Health Training  
HEARING DATE: January 7, 1999  
LOCATION: College Park, Georgia

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  
U.S. Department of Labor.

Date: January 7, 1999

L.N. Paiten

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