

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PUBLIC HEARING

30 CFR SECTION 75.403

ETS - MAINTENANCE OF INCOMBUSTIBLE CONTENT OF

ROCK DUST IN UNDERGROUND COAL MINES

OCTOBER 28, 2010

BIRMINGHAM, ALABAMA

BEFORE:

Patricia Silvey, Director of the Mine Safety
and Health Administration Office of Standards

Kevin Burns, Educational Policy and
Development

Gregory Fetty, Coal Mine Safety and Health

Mario Distasio, Office of Standards,
Regulations and Variances

Deborah Green, Office of the Solicitor

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

2 MS. SILVEY: Good morning. My name is
3 Patricia W. Silvey and I'm the director of the
4 Office of Standards for the Mine Safety and Health
5 Administration the Department of Labor. I will be
6 the moderator of this public hearing on MSHA's
7 Emergency Temporary Standard which I will refer to
8 as an ETS on the Maintenance of Incombustible
9 Content of Rock Dust in Underground Coal Mines.

10 On behalf of Assistant Secretary Joseph
11 A. Main, the Assistant Secretary of Labor for Mine
12 Safety and Health, I want to welcome all of you to
13 this hearing today. At this point, I'd like to
14 introduce the members of the MSHA panel. To my left
15 is Kevin Burns with Educational Policy and
16 Development; Gregory Fetty who is with Coal Mine
17 Safety and Health. To my right Mario Distasio who
18 is with my office and to his right Deborah Green who
19 is our attorney on the project, and she's with the
20 Office of the Solicitor the Division of Mine Safety.

21 At this point, I would like it if you
22 would stand and join me in a moment of silence for
23 all the miners who have lost their lives in mining
24 accidents so far this year, both coal and metal and
25 non-metal, and I ask that as we remember them, that

1 you think about and lift up their families.

2 (A moment of silence was observed)

3 MS. SILVEY: Thank you. As some of you
4 know, this is the second of four hearings on the
5 Emergency Temporary Standard. The first hearing was
6 Tuesday in St. Louis. That's October 26th. The
7 third hearing will be in Lexington, Kentucky on
8 November 16th and the fourth hearing will be in
9 Charleston, West Virginia on November 18th.

10 The purpose of these hearings, as many
11 of you know who have participated in MSHA's
12 rulemakings over the years, is to receive
13 information from the public that will help us
14 evaluate requirements in the ETS and develop a final
15 rule that protects miners from hazards associated
16 with coal dust explosions. We will also use the
17 data and information gained from these hearings to
18 help us develop a final rule that responds to the
19 needs and concerns of the mining public so that the
20 requirements of the final rule can be implemented in
21 the most effective and appropriate manner.

22 The ETS was issued in accordance with
23 Section 101(b) of the Federal Mine Safety and Health
24 Act of 1977. Under Section 101(b), the ETS is
25 effective until superseded by a mandatory standard

1 and in accordance with the mine act, the mandatory
2 standard must be issued no later than nine months
3 after publication of the ETS. The ETS also serves
4 as the proposed rule as most of you know and
5 commences the regular rulemaking process.

6 Mine operators apply rock dust in
7 underground bituminous coal mines to reduce the
8 explosion potential of coal dust and other dust
9 generated during mining operations. Effective rock
10 dust application is essential to protect miners from
11 the potential of a coal dust explosion or if one
12 occurs, to reduce its severity.

13 MSHA established a standard based on the
14 Federal Coal Mine Safety and Health Act of 1969 that
15 required mine operators to maintain at least 80
16 percent incombustible content of the combined coal
17 dust, rock dust and other dust in return airways.
18 In all other areas of the mine, the combined dust
19 needed to contain at least 65 percent incombustible
20 content.

21 MSHA determined that revising the
22 standard for maintenance of incombustible content of
23 rock dust is necessary to immediately protect miners
24 from hazards of coal dust explosions. This
25 determination is based on MSHA's accident

1 investigation reports of mine explosions in intake
2 air courses that involved coal dust, and those were
3 embodied in a report by Dubaniewicz 2009, the
4 National Institute for Occupational Safety and
5 Health or NIOSH's report of investigations 9679 by
6 Cashdollar and others 2010, and the title of it is
7 Recommendations for a New Rock Dusting Standard to
8 Prevent Coal Dust Explosions in Intake Airways and
9 MSHA's own experience and data.

10 MSHA has estimated the economic impact
11 of the ETS and has included a discussion of the
12 costs and benefits in the preamble.

13 As stated earlier, we will use the
14 information provided by you to help us decide how to
15 develop a final rule. The preamble to the ETS
16 discusses the requirements of the ETS and also
17 includes several requests for comment and
18 information. As you address the requirements of the
19 ETS and any specific requests for comment that we
20 have made, either in comments to us today or those
21 sent to us in Arlington, please be as specific as
22 possible with respect to the impact on miner safety
23 and health, specific mining conditions and
24 feasibility of implementation. That will be very
25 important.

1 At this point, I want to reiterate the
2 specific request for comments and information. MSHA
3 solicits comments from the mining community
4 regarding the increase in incombustible content of
5 dust in air courses where methane is present. The
6 ETS requires an additional 0.4 percent total
7 incombustible content or TIC for each 0.1 percent of
8 methane where methane is present in any ventilating
9 current. Please include the rationale and
10 supporting documentation for any suggested
11 alternative compliance methods.

12 MSHA requests comments on all the
13 estimates of costs and benefits, including net
14 benefits presented in this ETS. Specifically, MSHA
15 requests comments on the agency's benefit estimates
16 as well as supporting data. MSHA solicits
17 information from the mining community that would
18 enable a more specific analysis of costs which could
19 include the costs of additional rock dust, increased
20 labor needed to apply the rock dust and any
21 additional equipment that would be necessary such
22 pod dusters, trickle dusters, finger dusters and
23 scoop batteries. For equipment, please include the
24 type, the number of pieces, costs and expected
25 service life. Please explain whether mining methods

1 would affect the costs such as longwall compared to
2 nonlongwall mining.

3 To date, the agency has received one
4 comment on the ETS. You can view comments on the
5 agency's website at www.msha.gov under the section
6 entitled Rules and Regulations.

7 The post-hearing comment period for the
8 proposal closes on December 20th 2010 and MSHA must
9 receive your comments by midnight Eastern Standard
10 Time on that date. You may submit comments
11 following this hearing by any of the methods
12 identified in the ETS.

13 The hearing as many of you know will be
14 conducted in an informal manner. Cross-examination
15 and formal rules of evidence will not apply. The
16 panel may ask questions of the speakers. The
17 speakers may ask questions of the panel.

18 MSHA will make a transcript of the
19 hearing available on the agency's website within one
20 week of each hearing. If you wish to present
21 written statements or information today, please
22 clearly identify your material and give a copy to
23 the court reporter. We also ask that those in
24 attendance sign the attendance sheet in the back of
25 the room. We also have additional copies of the ETS

1 available should anyone need a copy.

2 Please begin by clearly stating your
3 name and organization and spell your name for the
4 court reporter so that we will have an accurate
5 record.

6 And now we will begin today's hearing,
7 and our first speaker will be Tom Wilson
8 representing the United Mine Workers of America.

9 MR. WILSON: Good morning. My name is
10 Thomas Wilson, UMWA International representative. I
11 want to welcome the panel to Alabama and I want to
12 start by first describing Alabama coal mining
13 through my eyes.

14 I believe Alabama mines represent the
15 deepest vertical shaft mines on the North American
16 continent, the gassiest coal mines on the North
17 American continent. I believe them to be the
18 dustiest mines. The grindability of our coal,
19 especially when we're talking about the Blue Creek,
20 Black Creek and Mary Lee seams, you can actually
21 take some coal off the coal rib and just work it in
22 your hands for about five minutes and when you open
23 your hand, you'll have a handful of dust, coal
24 dust. It's just an extremely soft coal.

25

1 I believe the Alabama mines have the
2 greatest ventilation quantities probably in this
3 nation. I believe throughout my career, which is 30
4 plus years now, Alabama mines have had over -- more
5 ignitions than the rest of the nation combined. We
6 have massive floor heaving going on from the
7 pressures associated with the depths that we're
8 mining at and we also have a common occurrence of
9 coal pillar yielding. So you may have a coal pillar
10 that's properly rock dusted one day and it yields
11 busting off that coal face leaving you with a raw
12 coal pillar and pulverized coal on the footwall or
13 mine floor. So with all these factors, this subject
14 is very important to the Alabama coal miners.

15 We support and applaud the emergency
16 standard and would request that it rolls over and
17 becomes a permanent standard which is, I believe,
18 the purpose of these hearings.

19 Late last week I was talking about this
20 emergency standard with a local miner and his words
21 to me was the devil is in the detail, Tom Wilson.
22 He said the devil is in the details. The more I
23 thought about that, the more I realized there's a
24 lot of truth in what he was saying.

25

1 One of the things I want to spend time
2 this morning doing is talking about some of those
3 details. My purpose in testifying today is to gain
4 all that we can for the miners' safety and to do
5 that, there are some important details that I'd ask
6 this panel to go back and pay attention to and
7 address in that final rule.

8 I want to start by saying that I agree
9 that the current rule represented a grave danger to
10 the nation's miners in that it did not take into
11 consideration the many changes in mining technology,
12 equipment and methods of mining since the 1920s.

13 As I reviewed the Federal Register, all
14 through the Federal Register, there are references
15 similar to the fact that rock dust must be
16 effectively applied. That word "effectively," you
17 see it time and time again throughout the Register,
18 and that's one of the first areas I want to talk
19 about.

20 I want to talk about some areas where we
21 don't see that effectively applied and we often end
22 up with less than what the intent of the law is.
23 The first example that comes to my mind would be a
24 longwall tailgate where a longwall shearer has cut
25 across that thousand-plus face generating all that

1 coal dust and it busts out at the tailgate leaving
2 that accumulation at the immediate tailgate entry
3 which we've never cleaned up. You know, that
4 accumulation stays. And I think it's very important
5 for this standard to have the effect, the desired
6 effect that we're after that operators across the
7 land address those immediate tailgate entries.

8 Another area would be our longwall
9 bleeder entries. Over the years, MSHA has approved
10 or allowed operators to design bleeder entries that
11 maybe a whole bank of longwall panels will connect
12 to that one bleeder entry. So a bleeder entry gets
13 quite long, gets quite remote in distance. And
14 what's very common in Alabama bleeders backing up to
15 what I was talking about the pillars yielding is
16 those pillars back in those areas will yield and
17 you'll have raw coal ribs with fresh sloughage, coal
18 accumulation and no mechanism to get it dusted.
19 These same bleeder entries contain -- often contain
20 high levels of methane.

21 One thing I don't have possession of,
22 but MSHA has access to it is the numerous miners'
23 testimony that was taken in the James Cheney
24 fatality. James Cheney is a miner that died
25 November 23rd 2009 at Jim Walters Number 7 Mine. He

1 was back in a wrap-around bleeder and died from --
2 the coroner's report was heat. Many miners
3 testified in that fatality investigation, both open
4 testimony and also confidential, but those miners
5 testified that this was an area where they have
6 commonly seen five percent of methane and above when
7 working back in there.

8 That's also an area where we've seen
9 excessive floor heaving. We've seen the yielding of
10 the coal pillars. So it's an area that was -- when
11 we went in for investigation was very black in
12 color, coal ribs and coal sloughage and
13 accumulation, not rock dusted.

14 So as we go forward, this is a very
15 important area that we ask be addressed, that these
16 areas be maintained, that the design of the systems
17 include the planning to maintain these areas safe.
18 Because like I just mentioned, they're an area that
19 carry high volumes of methane. The testimony --
20 MSHA has got the testimony. The miners came forth
21 and gave it, and I just ask that MSHA address those
22 as they go forward.

23 One of the questions in the program said
24 80 percent TIC in return airways is still sufficient
25 and appropriate, and I accept NIOSH's finding that

1 that's sufficient and appropriate, but it's very
2 important that we address rib sloughage, bleeder
3 entries, tailgate entries, and it backs up to that
4 language that it must be effectively applied.

5 One thing I was not clear on, obviously
6 being in the gassiest mines in the nation, I'm in
7 favor of increasing that rock dust level as the
8 methane goes up, but I'm not clear in my mind and
9 I'd like for the panel to address how that can
10 effectively work for the miners and not be an
11 after-the-fact scenario. The way I read the
12 standard, you first have to have the methane before
13 you can have the increase in the rock dust. Is that
14 correct?

15 MS. SILVEY: That's correct. Well, the
16 way it is to be applied is that for every 0.1
17 percent of methane. So a tenth of a percent of
18 methane, there has to be an increase of .4 percent
19 TIC. So -- I always have to do the calculation
20 myself, but for an example, if there were an
21 additional one percent of methane, then there would
22 have to be an additional four percent of the total
23 incombustible content.

24 MR. WILSON: Okay. One percent return
25 would be 84 percent --

1 MS. SILVEY: Eighty-four percent.

2 MR. WILSON: -- rock dust what we're
3 looking at.

4 MS. SILVEY: That's right, what you're
5 looking at.

6 MR. WILSON: Does that apply for
7 bleeders also?

8 MS. SILVEY: It's all areas, right.

9 MR. WILSON: So that's going to be based
10 on an inspector's methane check that day compared to
11 a rock duster.

12 MR. FETTY: It's going to be a
13 conforming change, Tom. It's going to be the same
14 way we're doing it right now. The only difference
15 is we're changing the regulation. Where 65 percent
16 is required in intakes right now, we're making 80
17 everywhere. But just like now if we were -- well, I
18 can't say now because the ETS is in effect, but
19 previously if we would have found like say
20 two-tenths in an intake, then we would have to take
21 into consideration the methane found at the time the
22 inspector cut the sample, so we're going to conform
23 to our existing policy.

24 MS. SILVEY: But really, what it means
25 is for everybody here -- I'll answer that, and I

1 think we probably have some operators in the
2 audience. What it means is that if there's this .1
3 percent present or greater than .1 percent present,
4 in a perfect world -- we know the world is not
5 perfect, but in a perfect world, operators would
6 know of the presence of methane before MSHA. You
7 said the inspector. You know what I mean? So if
8 there's methane present, then that 80 percent has to
9 be increased by that value in the ETS.

10 So as I see it, theoretically the
11 operators would do that when they're doing the rock
12 dusting whether the inspector came there or not. I
13 know what you're saying probably from the standpoint
14 of what would the inspector look at, but I'm saying
15 if the operator comes in that morning and knows that
16 in this particular work in place, entry or whatever
17 there's .1 percent or greater of methane present,
18 then that additional total incombustible content has
19 to be applied for the rock dust.

20 MR. WILSON: Gregory, not to beat a dead
21 horse, but my concern is back to the -- you know,
22 you made the comment it's like we're doing it now
23 and my concern is like that bleeder entry where all
24 the ribs had sloughed off, busted off, had all that
25 accumulation, at one point that bleeder was checked

1 and found to be in compliance, but as that longwall
2 mined out, it was a wrap-around bleeder, that
3 compliance changed.

4 MR. FETTY: Right, because it was no
5 longer an intake or return air course. I
6 understand.

7 MR. WILSON: And we started running high
8 volumes of methane through it and we had black coal
9 ribs and coal sloughage on the floor. I want to
10 just make sure that for the miners to get the safety
11 that's needed, we need to -- whether through policy
12 or through the regulation, we need to address that.

13 MS. SILVEY: We did -- and I hope that
14 everybody has seen them. We did issue a Program
15 Information Bulletin as well as a Procedure
16 Instruction Letter. The Procedure Instruction
17 Letter is issued? And that's giving new direction
18 and information to the mining community as well as
19 to our own inspectors about paying attention to some
20 of the things that you're talking about and looking
21 at and putting increased emphasis on the rock dust
22 and areas where we want the inspectors to look at
23 and where we want the mine operators as well to look
24 at.

25 MR. WILSON: I want to address that MSHA

1 had solicited comments about the application of this
2 for small mines, and over a 30-plus-year career
3 which I've worked in different sizes of mines during
4 that 30 years and I've also inspected small mines,
5 medium mines and large mines. During those 30
6 years, the failure to rock dust effectively was
7 seen. The size of the mine wasn't the -- You could
8 see failure to effectively rock dust in any size of
9 coal mines, so I'm rising in support of this being
10 applied across the board. Small mines, large mines,
11 all mines need this standard.

12 I'm also concerned -- and this comes
13 back to the MSHA policy. I believe MSHA's current
14 policy is that you survey to the section loading
15 point. And again, I want to talk about Alabama mine
16 designs. That loading point could be 500 to a
17 thousand feet from your deepest penetration, so
18 quite a distance. And one thing that -- In recent
19 weeks under the emergency standard, you can visually
20 see the improvements in our Alabama coal mines, but
21 the area where we have the majority of our
22 ignitions, which is at our face areas, is still one
23 of our weaker points from that loading point inby,
24 and we need that area rock dusted as well.

25

1 I'll share with the panel -- This is a
2 recent inspection. This was a recent inspection
3 done just in the last couple of weeks, but based on
4 visual observation, the entire section needs rock
5 dust applied to the roof, rib and footwall all
6 entries, all crosscuts.

7 So we're still finding sections inby the
8 loading point where the intent was to rock dust that
9 section in bulk on the weekend. And that's good to
10 do it on the weekend, but an ignition or an
11 explosion could occur prior to and good intentions
12 don't always pan out. So we definitely need on a
13 continuous basis that rock dust applied inby the
14 loading point. And I'll leave a copy of that
15 inspection report with the panel.

16 That brings -- Does the policy extend
17 inby the loading point? Will it work for the miners
18 inby the loading point?

19 MS. SILVEY: It requires all areas to be
20 rock dusted, and I want to -- then you can add
21 anything to it. I talked about these policy memos,
22 Program Information Bulletin P10-18. I don't know
23 if some of you -- I hope all of you have seen it
24 issued on September 21st 2010 as well as -- and that
25 was for the mining public, Program Information

1 Bulletin and Procedure Instruction Letter 110-5-16
2 issued on October 14th 2010. And I want to just
3 talk just a minute from the Program Information
4 Bulletin, and it talks about the areas that MSHA
5 wanted the mining community to focus on; the areas
6 downwind of belt transfer, the returns of active
7 sections, the tailgates of longwalls and the bleeder
8 entries. And these places often require continuous
9 rock dusting with bulk dusters, trickle dusters or a
10 high-pressure rock dusting machine to maintain the
11 required incombustible content levels and suppress
12 float coal dust accumulation. And then it goes on
13 to talk about what the mine operators should do.

14 The Procedure Instruction Letter, as
15 most of you know, those instructions are
16 instructions for our inspectors generally, and in
17 these instructions -- and we call that a PIL and we
18 tell our inspectors what to do during regular
19 inspection, to take spot -- excuse me, selective
20 spot sampling. And as Greg said, it says that they
21 should continue to sample the incombustible content
22 as required by MSHA's existing policy and
23 procedures, including sampling to within 50 feet of
24 the tail piece. And then it goes on to talk about
25 how the inspectors should take the selective spot

1 sampling and it talks about places, especially
2 longwall tailgate entries and areas -- excuse me.
3 Especially along areas containing seals. Inspectors
4 should begin sampling near the active faces and in
5 areas containing ignition sources such as conveyor
6 belt drives and conveyor belt entries as these pose
7 the greatest potential for methane and coal dust
8 explosions. Do you want to add anything?

9 MR. FETTY: No. The only thing I was
10 going to -- I was just going to address your
11 comment, Tom, as far as sampling up to the tail
12 piece. That's addressed in the General Inspection
13 Procedures Handbook. That's what we're required to
14 do to complete an E01 in its entirety, but the
15 inspector always has the right to conduct selective
16 spot sampling wherever he thinks rock dust may be
17 inadequate because the existing 75.402 already
18 required rock dust to be applied within 40 feet of
19 the face. So that's kind of our position on that.

20 MS. SILVEY: But I would ask everybody
21 if you have not seen this Procedure Instruction
22 Letter and Program Information Bulletin, please get
23 it and look at it because it should be posted on
24 MSHA's website.

25 MS. GREEN: It is posted.

1 MS. SILVEY: Thank you.

2 MS. GREEN: They both are.

3 MR. WILSON: My final comment -- and
4 this also ties into rock dusting inby the section
5 loading point. Linda Rasovich Parsons provided you
6 with an excerpt out of the UMWA's Accident
7 Investigation Report into the Jim Walter Resources
8 Number 5 coal mine disaster. And on Page 70 of that
9 report the middle page, there's a paragraph that
10 reads, "When the investigation team was able to
11 examine the mine after the explosions, digging into
12 the path material on the mine floor, the dust in the
13 last open long crosscut in the Number 4 section
14 appeared black with little evidence of rock dust.
15 Heavy coking was found in the same area as well as
16 in the heading leading to the face of Number 3
17 entry."

18 I was with Joe Main the day he dug into
19 that footwall looking for bands of rock dust, and as
20 the report indicated, there wasn't any. We just
21 need to make sure that inby that loading point --
22 That's where we have the ignitions at. That's where
23 things can most readily get out of control in a very
24 fast order. That's where our miners need -- we need
25 to make sure they get that 80 percent rock dust.

1 With that, I appreciate your time. I'll be glad to
2 answer any questions.

3 MS. SILVEY: Well, we appreciate your
4 comments and your testimony and we do have the
5 comments in our record in Arlington, so we will pay
6 close attention to those. And I don't think we have
7 any questions. Thank you.

8 MR. WILSON: Thank you.

9 MS. SILVEY: Is there anybody else who
10 wishes to comment or testify? Yes, sir. Come on
11 up.

12 MR. LINN: My name is Noble, N-O-B-L-E,
13 Linn, L-I-N-N. I work for Jim Walter Resources
14 Number 4 Mine and I'm a safety committeeman for UMWA
15 Local 2245 District 20. I've been a coal miner
16 since the 26th of April 1977. UMWA Local 2245 is
17 grateful that MSHA has finally realized the
18 importance and the need for additional rock dust in
19 underground areas of bituminous coal mines.

20 According to the ETS, the compliance
21 date for newly-mined areas is October the 7th 2010
22 if there is no mention of new enforcement policies.
23 Historically quarterly does survey stop outby the
24 feeder or tail piece. Spot dust surveys inby the
25 loading point are infrequent at best. The quarterly

1 dust survey should go up to and include the last
2 open crosscut and spot dust surveys inby the feeder
3 should be done on a regular and frequent basis.
4 Most ignitions occur inby the feeder in the face
5 area where coal is mined, yet MSHA in the past has
6 been reluctant to cross this boundary and enforce
7 the old laws. How will they enforce the new law
8 without going inby the feeder or tail piece?

9 Under the Coal Act of 1969, it states,
10 "Where methane is present in any ventilating
11 current, the percent of incombustible content of
12 such combined dust shall be increased 1.0 and 0.4
13 percent for each 0.1 percent of methane where 65 and
14 80 percent respectfully of incombustibles are
15 required."

16 In over 30 years, I've never seen a
17 citation with that on it. It's never been done to
18 my knowledge. I've never seen an inspector write a
19 citation for violation of the 65 percent
20 incombustible content because of the presence of
21 methane in an intake entry inby the feeder. The new
22 ETS of 80 percent in newly-mined areas will not
23 happen without MSHA's involvement inby the feeder.
24 Traditionally, MSHA inspectors have judged whether
25 any place inby the feeder had adequate rock dust was

1 by visual observation and personal opinion. Even
2 though MSHA inspectors try to remain unbiased, they
3 can be influenced by their own past, whether it be
4 as an hourly employee or as a foreman for the
5 company. The simple act of pulling out the dust pan
6 and paint brush and doing an actual spot survey with
7 a check for methane would be much more accurate and
8 could be used in determining a degree of negligence
9 for violations inby the feeder area if a violation
10 were so found.

11 MSHA's rock dusting standard in 30 CFR
12 75.402 requires that all underground areas of a coal
13 mine be rock dusted to within 40 feet of all working
14 faces and that all crosscuts that are less than 40
15 feet from a working face be rock dusted, but MSHA
16 has got to take the final step and step inby the
17 feeder and enforce the new law. It hasn't been
18 enforced in years and it's not being enforced now.
19 Without enforcement between the feeder and the face,
20 we have gained nothing. Thank you.

21 MS. SILVEY: Thank you. Does anybody
22 else wish to speak? Yes, sir.

23 MR. JOLLY: My name is Gary Jolly,
24 G-A-R-Y, J-O-L-L-Y. I'm a United Mine Worker
25 representative for Local 1948. I'm a little bit

1 unprepared for this. I only found out about this
2 meeting two days ago. I've been kind of busy. I'm
3 also a State Mine Board member for the State of
4 Alabama. We've been in the middle of our test, so
5 I'm not prepared, so I'm just going to speak from
6 the heart.

7 I'm a fire boss at Shoal Creek Mine
8 Drummond Company. I've been with them 35 years and
9 one of my -- well, I've got two areas of concern,
10 and one of them is our returns because I pre-shift
11 them a lot on our weekly exams.

12 Shoal Creek is an underlaid seam of
13 coal, so we have areas on hilltops and places that
14 the dust accumulates in our returns more than some
15 areas. Some of these areas are really hard to rock
16 dust, so I am concerned about our returns. I've
17 been in eight ignitions and two explosions at the
18 Shoal Creek Mines, so I can attest to how important
19 rock dust is. All our guys that I represent are in
20 favor of these new standards. I wish I'd had time
21 to prepare more, but like I said, I'm just going to
22 speak from the heart.

23 Our return areas, we have had ignitions
24 in one of our -- which is sealed off now, but one of
25 our return areas had a pump cable several years ago

1 ignite and of course, we had the explosion in our
2 return. Several hundred feet everything just --
3 burned cables, anything. So the returns at Shoal
4 Creek where these longwalls are mined is dusty
5 areas. You've got longwall dumping in these
6 returns. You've got the miner sections dumping in
7 these returns. It's a real crucial area in these
8 returns. And as Brother Tom Wilson spoke about, our
9 bleeder areas, our bleeder areas are hard to get
10 to. Some of them take as much as five and a half,
11 six hours just to pre-shift them to make your weekly
12 exam. So that is another concern that I have is
13 just returns.

14 But another area of concern is our
15 intakes. We have multiple intakes. Most areas of
16 the mines are -- in our intakes, we have one
17 roadway. Some areas, because of the underlaid seam,
18 we have a secondary roadway so traffic won't meet.
19 These areas are not being rock dusted. Accumulation
20 of coal dust and gob in these areas are existing,
21 but we only rock dust the main areas. My concern is
22 that these areas are all common, so these areas need
23 to be rock dusted. Sixty-five to 80 percent, 15
24 percent is not a really large increase as far as I'm
25 concerned to maintain. And like I said before, all

1 our guys are in favor of more rock dust because
2 Shoal Creek is one of the hottest mines in this
3 area, deep mines. Everybody knows about the water
4 conditions, which our water conditions are -- we are
5 mining away from our water conditions, so that means
6 more dust. So I would really like to see MSHA step
7 up their efforts on these areas of concern. And I
8 apologize for not being more ready for this meeting,
9 but I really appreciate your time in letting me
10 speak to you. Thank you.

11 MS. SILVEY: Thank you very much. Does
12 anybody else wish to testify?

13 MR. CAGLE: Good morning. Welcome y'all
14 to town. My name is Dwight Cagle, D-W-I-G-H-T,
15 C-A-G-L-E, from Local 2397 of UMWA, safety committee
16 at Jim Walter Number 7 Mines.

17 I'd like to touch on a few things that
18 I've been involved in and I'd like to thank
19 everybody that was involved in putting together this
20 Emergency Temporary Standard for Maintenance of the
21 Incombustible Contents of the Rock Dust in
22 Underground Coal Mines.

23 I'd just like to touch on a few things
24 on the sections of our mine that have been cited in
25 the past at Jim Walter Number 7 and in the past

1 year. 75.400, the month of February we had nine
2 citations. In March we had two, April ten, July
3 two, August six, September four, October 13 and one
4 75.403 out of compliance on combustible on the
5 sampling that was taken September the 10th. As we
6 see, we're up, they cite, then they drop down and
7 then we're back up again. We can all see why we
8 need the standards to put out more dust to prevent
9 any further tragedies such as Upper Big Branch of
10 Jim Walter Number 5, which we're in the same seam as
11 5, one of the gassiest mines in the world and due to
12 the high velocity of air, it spreads this float coal
13 dust throughout the mines.

14 Like I said, I've been in the bleeders
15 Mr. Wilson was talking about. I helped investigate
16 the Cheney death, so I know what was in there. And
17 right now we're in a longwall move, the same event
18 that happened at Number 5. It was in a longwall
19 move. So in order to keep the dust down, it needs
20 to be 80 percent. And this coal is some of the
21 softest dustiest coal. Our coal just pulverizes,
22 goes into dust, just sloughs off the ribs, float
23 dust, and the velocity of air can carry it a long
24 way down the entry, especially tailgate entry. When
25 you've got 100,000 blowing down it, it carries a

1 long way and you can't get back to it, so they need
2 to be putting out the dust before.

3 He talked about the cost of rock dust
4 and equipment to put it out. That is the cheapest
5 form of prevention of an explosion. Save the mine
6 and the people. That is the cheapest. They could
7 spend millions on miners, longwalls, ram cars.
8 Dust, that is the cheapest way to prevent all this.

9 Ignitions, we was having so many
10 ignitions on one of our sections it was around the
11 clock. MSHA was scared to release it because they'd
12 have to turn around and go back due to the zone,
13 water, sprays. That's why you need the dust in the
14 face, need it in by the tail piece. We need the
15 dust. We need to put it out.

16 In closing, 80 percent, I can't believe
17 anybody who cares about the safety of the
18 underground coal miners in this country would
19 comment against 80 percent. I cannot believe that
20 if they're concerned about the safety of the mines
21 and the miners. Thank you.

22 MS. SILVEY: Thank you. Anybody else?
23 Yes, sir.

24 MR. ENGLAND: My name is Fred England,
25 F-R-E-D, E-N-G-L-A-N-D. I'm a safety committeeman

1 UMWA Local 1948 Shoal Creek Mine Drummond Company.

2 I'd like to echo some of the same
3 comments that have already been made. One is on
4 bleeder entries. I can't speak for all mines or
5 other companies, but what I've witnessed myself, as
6 these bleeder entries are developed, there's poor
7 maintenance I guess what you call it. But anyway,
8 they drive these bleeder entries up and they're
9 usually -- in the real world, it's hustle, hustle,
10 hurry up, get through so we can get our longwall
11 running. And the final pushes and everything,
12 there's inadequate cleaning and maintenance as far
13 as pushing up excess coal, sloughage and a minimum
14 amount of rock dust applied before these longwalls
15 start mining. And once you -- or once they do that,
16 it's hard to get back into the bleeder entries to
17 apply more dust without some kind of -- I know they
18 make rock dust systems that you could run them
19 through these bleeder entries and pump rock dust in
20 there from the track or main line or some place
21 that's easy to gain access to with a tank duster or
22 whatever. You may want to look at some of those
23 systems and recommend them for operators to use.
24 That would help a lot as far as maintaining the dust
25 in our bleeder entries.

1 The same thing as what we call can line
2 entries or tailgate entries. Once the mining
3 operation starts, there's not anything you can do
4 about the pressure. That's part of mining,
5 especially when you're pulling pillars or longwall.
6 The pressure causes your ribs to slough off and
7 break and that exposes raw coal.

8 You also have -- I'm not sure what
9 everybody's standards are, but I'd say at least
10 100,000 CFM of air going down the longwall face
11 during mining, and the purpose of that is to render
12 harmless any gases and dust. It carries that dust.
13 I know we're covered up with water sprays and all
14 that, but there's still dust that is dumping into
15 that tailgate entry, and it's the same way at the
16 bleeder. Once it's developed and rock dusted and
17 they start to longwall, there's really not any way
18 to get in there to apply anymore dust without adding
19 additional pod dusters or some kind of a rock dust
20 system, and that will be -- you're sending dust,
21 float dust and methane into that area. It's
22 designed that way. That's the way it works. But as
23 they're mining, your dust, as far as the
24 incombustibility of it, it's going to be going
25 downhill and if you don't apply more to go with it,

1 you're going to be bad out of compliance.

2 On our intake entries, the mine I work
3 at, it's unique from most of the other ones. Most
4 other mines you have track, a track entry and a belt
5 entry and things are a little different, but at
6 Shoal Creek, we don't have any track. All of our
7 equipment is mobile diesel equipment. This
8 equipment, the way the engines are designed to cool,
9 they blow hot air through the radiator and it drives
10 stuff out big time.

11 The roadways, just general traffic on
12 our roadways generates a tremendous amount of dust,
13 float dust. You can rock dust our intake entries
14 and one shift of crews changing shifts hauling
15 materials in and out of the mines, just regular
16 ordinary everyday goings on, and I would be willing
17 to say that you wouldn't be able to tell it had been
18 rock dusted. It generates that much dust and it's
19 suspended and collects on the ribs and you will have
20 float dust on rock dusted surfaces. If you took a
21 sample of them, it's going to be hard to come up
22 with the 65 percent, much less 80, so -- But I'm not
23 saying that we don't need the 80. I'm all for it,
24 but there's also -- in our intake entry, they have
25 gobbed worlds of just old dust and coal where they

1 cleaned up ribs. There's trash, garbage, old belt.
2 It's hard to describe without just actually seeing
3 what I'm talking about.

4 But the roadways that you're traveling
5 to get in and out, they keep it open. If you try to
6 turn in a crosscut somewhere to let other traffic
7 pass, you've got to ride for three or four crosscuts
8 either way to find an open hole because just about
9 every hole there is gobbled out with something. That
10 tubing, fiberglass tubing, there's enough of that
11 stuff there to reach across the state of Alabama
12 probably.

13 All of that stuff, if you had an
14 ignition or an explosion and the dust from all of
15 that gob gets suspended in the air, it's going to
16 blow Shoal Creek off the face of the map. And it is
17 very poorly rock dusted. It's just bad.

18 The off entries, Brother Gary was
19 talking about some places we have a secondary
20 roadway. Those entries are intake entries and even
21 though there's two of them, they both ought to be
22 rock dusted to the 80 percent, crosscuts and all.
23 Not just the main heading entries, but any
24 crosscuts, breaks or whatever you want to call it
25 that connect the two entries. The whole thing needs

1 to be up to that 80 percent standard.

2 And I myself, as far as all the gob and
3 trash, any kind of combustible material, coal or
4 trash ought to be non-existent. Now, I know you've
5 got some places where they may have to designate a
6 hole for belt, rollers, things of this nature, oil
7 stations. I'm not talking about that. This here is
8 just old mud and coal and stuff that they've cleaned
9 up from some place and just pile it in a crosscut
10 and leave it. In my opinion, all that needs to be
11 gone.

12 As far as the rock dust standards, I
13 want to echo the same thing everybody else has
14 said. I'm in favor of it. The old-timers that
15 trained me 30 something years ago told me son, the
16 only ways to rock dust is to leave it in a bag and
17 don't put it out. So far in 30 something years,
18 that's got me by. We put out what rock dust we can
19 get ahold of, and you can't get too much. Thank
20 you.

21 MS. SILVEY: Thank you.

22 MR. FETTY: I have a question real
23 quick. Do you all have trickle dusters on your
24 longwall tailgates? Do you continuously dust your
25 tailgates as the shearer retreats?

1 MR. ENGLAND: There's a trickle duster
2 system that's kept in the -- it's hung on the
3 monorail system out there and it does put dust
4 mainly in the gob in behind the shields, and it may
5 be -- it may be supposed to dust down at the
6 tailgate, too. I really -- I'm not familiar enough
7 with the longwall. I make the bleeder entries and
8 the can line entries and all. I try to stay away
9 from that longwall all I can.

10 MR. FETTY: Okay. Thank you.

11 MR. ENGLAND: The sections, our miner
12 sections, we have -- we don't use curtain or belt or
13 anything like that to ventilate our faces with.
14 They have the exhaust fan systems and use fiberglass
15 tubing ductwork, and behind those exhaust fans in
16 the returns we have a trickle duster on our miner
17 sections that is supposed to dump out 50 feet behind
18 those fans. That helps, but even on the miner
19 sections, that ductwork that's supposed to be
20 ventilating the face, actually, all it is is a
21 scrubber. If they're cutting rock, it's sucking all
22 that dust out of the air and it's dumping it in that
23 return. They do -- They have rock dusters on the
24 roof bolting machines. When they get through
25 pinning, supporting the roof, they rock dust with

1 it. I don't know if that thing there would hold
2 enough dust to be able to apply 80 percent coal to
3 dust on it, but may have to increase the size of
4 them dusters on the roof bolters.

5 But anyway, like I said you can't get
6 too much rock dust. If something happens, it's
7 better to have too much than not enough. I don't
8 know if I answered your question.

9 MR. FETTY: Yes, sir, you did. Thank
10 you.

11 MR. ENGLAND: I give it a good old
12 country boy try.

13 MS. SILVEY: Thank you. Next person?
14 Anybody else would like to testify?

15 MR. COTTINGHAM: My name is Antonio
16 Cottingham, A-N-T-O-N-I-O, C-O-T-T-I-N-G-H-A-M. I
17 work for Oak Grove Coal Mine, UMWA Local 2133. We
18 have a seven-and-a-half-hour bleeder wall. We don't
19 get a lot of dust in there. All the guys are for
20 the 80 percent rule. Here's the thing. MSHA got to
21 enforce those roads to put 80 percent in those
22 returns. Thank you.

23 MS. SILVEY: Thank you. Would anybody
24 else like to testify? Yes, sir.

25 MR. WHITTAM: Good morning. My name is

1 Haydn, H-A-Y-D-N. Last name is Whittam,
2 W-H-I-T-T-A-M. I represent the BASF Chemical
3 Company. I'm going to come at this from a slightly
4 different perspective, but I want to echo
5 everybody's thoughts here today that the rock dust
6 rule as I understand it is a welcomed change to the
7 industry.

8 Over the past ten years or so, I've been
9 involved in the coal industry. I've been
10 underground many many times. I'm not prepared to
11 actually speak today, but I wanted to bring up a
12 couple of points.

13 Regarding inspection, I recently
14 attended a large coal company's safety meeting at
15 their request, and they reviewed in the room with
16 all of their assistant superintendents the results
17 of violations that they had received related to
18 dust, dust-related violations. And as they went
19 down the list of their mines -- and there's quite a
20 few mines in this family of a very large coal
21 company, a very large producer of underground coal.
22 Not here in the state of Alabama by the way.

23 But some mines had zero violations over
24 the same period where other mines had 13 to 15
25 violations in that same time period. So I asked how

1 is it that some mines are so good at controlling all
2 of the issues surrounding rock dusting and being in
3 compliance and some mines seem to be so challenged
4 in maintaining compliance? And the answer was all
5 of the mines are challenged to maintain compliance,
6 but the enforcement and inspection is different in
7 the mines.

8 So it's clear that even before this
9 standard that the issue of compliance in rock
10 dusting is a challenge to the mines, and they
11 recognize that. Their employees are calling out for
12 better standards and better performance.

13 I listened to Fred England's testimony a
14 while ago and as appropriate, I will say that the
15 BASF Company has spent in recent years a great deal
16 of time and energy in trying to make this issue
17 perform better. We like to say at BASF that we
18 don't -- we don't make rock dusting, but we have
19 found a way to make rock dusting better with a
20 patented process. It's a brand new process. And
21 I'm not here to make a sales pitch, but I would like
22 to invite MSHA and the mining community in the room
23 to investigate and evaluate this process with us.

24 Our testing and our initial trials have
25 been very positive, and what we have done has been

1 able to change the way rock dust is applied through
2 a chemical process. There's an additive involved,
3 and we linked up with a large manufacturer of
4 equipment here in Alabama that has been very
5 effective in producing a systemic approach. BASF's
6 technology is in the chemical process that takes
7 place. And this is by the way very easily adapted
8 to existing slurry dusters. All types of dusting
9 mechanisms that are in place can be upgraded,
10 modified at a very low cost to apply far greater
11 levels and thicknesses of liftable float dust in a
12 way that we think, based on this rule change
13 especially, can be very important.

14 So we invite MSHA -- and we've also
15 begun some preliminary work with NIOSH to introduce
16 the solution. We hope that other companies are
17 joining this fight to improve the technology in rock
18 dusting. It's an important process.

19 That's about it. I want to thank you.

20 MS. SILVEY: At some point about one
21 minute into your testimony, I sort of deduced where
22 you were coming from. But I would like to ask you,
23 you said it is a system -- it allows, I guess, a
24 systems approach to the application of rock dust, so
25 do you have any literature on how you apply this? I

1 mean, so you can visually see what you're talking
2 about?

3 MR. WHITTAM: Absolutely. Yeah. We'll
4 be happy to provide you with --

5 MS. SILVEY: If you could do that.

6 MR. WHITTAM: -- a complete -- I mean,
7 this is still an unfolding innovation.

8 MS. SILVEY: Okay. So it's not --

9 MR. WHITTAM: Well, it is market ready.

10 MS. SILVEY: Is it commercially
11 available?

12 MR. WHITTAM: It's commercially
13 available.

14 MS. SILVEY: If you have any literature
15 on it, we would appreciate that, if you would send
16 that to us before the record closes, you know, one
17 of the four methods I talked about earlier. And if
18 you need -- Obviously, I think you know that --
19 you're familiar with the Federal Register. We would
20 appreciate that.

21 MR. WHITTAM: Ms. Silvey, I'll be happy
22 to do that and what I'll do is arrange to e-mail
23 pertinent information to the panel and then anyone
24 in the audience can contact me during the break and
25 make sure I get that information out to everybody.

1 Thank you.

2 MS. SILVEY: Does anybody else have any
3 questions?

4 MR. WHITTAM: You'll have questions from
5 that point. And please, we welcome you to get in
6 further contact with us.

7 MS. SILVEY: All right. Thank you.
8 Does anybody else wish to testify? Yes, sir. Come
9 on.

10 MR. WELDON: Good morning. My name is
11 Joe Weldon, J-O-E, W-E-L-D-O-N. I'm chairman of the
12 safety committee Local 1948 Shoal Creek Mine
13 Drummond Company.

14 I want to start by saying I do support
15 the 80 percent rock dusting and also, I support more
16 rock dusting inby the loading point. Because of our
17 situation in our mines, we don't have track haulages
18 that Fred and others have alluded to. Our roadways
19 are substantially dusty, and that intake air travels
20 to the face. By that intake air traveling from the
21 roadways to the face, you already have accumulations
22 going inby the loading point. So I am in favor of
23 more dust and standards being looked at inby the
24 loading point.

25

1 Also, too, our mine is unique and some
2 of the other mines have started using some of these
3 systems that I'm fixing to talk to as well. Air
4 induction points. You have point feeds and you have
5 air induction points. Are y'all familiar with
6 those?

7 MR. FETTY: I am. I'm sure Kevin is.

8 MR. WELDON: Point feeds is
9 ventilating. Air induction point is introducing
10 more air to a ventilated area. That's the way I
11 understand it. But we have air induction points on
12 our intake air systems on the main roadways on your
13 main intakes. And like I say, in light of us having
14 rubber-tired haulage, those areas where the
15 induction points are or the point feeds are, when
16 the air splits and goes on the belt, now you have
17 even dustier belt lines plus you have your intake
18 air going in the face dusty. So those areas we
19 really have to watch and make sure that they
20 introduce even more rock dust into those areas where
21 your air induction points are or your point feeds
22 are. So those areas are critical in light of our
23 situation with rubber-tired haulage.

24 So I would ask that you would look also
25 at the air induction points and the point feeds in

1 taking into consideration the amount of dust that
2 needs to be applied in these areas as well as our
3 bleeders because initially -- and I want to get to
4 the bleeders, too. Initially when you rock dust the
5 bleeders, that's usually it. And I'm just echoing
6 what Fred and others have alluded to, but that they
7 would take into consideration the air induction
8 points and your point feed systems and inby the
9 loading points. And with that, if y'all have any
10 questions, I'll be glad to answer them if I can.

11 MS. SILVEY: No. Thank you.

12 MR. WELDON: Thank you very much.

13 MS. SILVEY: Does anybody else wish to
14 testify?

15 MR. TURNER: Good morning. Thank you
16 for coming to Alabama and Roll Tide. My name is
17 Larry Turner, L-A-R-R-Y, T-U-R-N-E-R. I'm the
18 safety rep Local Union 2245 employed at Jim Walter
19 Number 4.

20 I want to thank you for even considering
21 more rock dust in our coal mines, not only in my
22 mines, but in the nation. As we see as part of your
23 Federal Register report here, nothing has been done
24 since the '20s. I don't know if there's anyone in
25 here that was born in the '20s. I think it's a long

1 time coming and most people would -- I have a hard
2 time arguing that fact that since 1920 nothing has
3 been done to help and support our efforts in the
4 coal mines to reduce the amount of combustible
5 material that's produced. And as your report
6 says -- and I won't read it, but I found an excerpt
7 in there talking about how that MSHA along with
8 NIOSH has come up with knowing that our mining
9 efforts now, we mine more coal than we've ever mined
10 with fewer people than we used to mine it with and
11 it's pulverized in much smaller entities as this
12 proof gives.

13 I find it interesting that -- I
14 believe -- in my personal experience, I believe that
15 it is difficult to even get our standards up to 65
16 percent as some of the standards are being -- or
17 some of the inspection ways have been done in our
18 mines, in our particular mines. Explosion after
19 explosion in our history of coal mining has probably
20 shown that we're not doing a very good job at
21 reducing the amount of combustible material in our
22 coal mines.

23 I do stand in favor and represent
24 several hundred men at our mines of making that 80
25 percent instead of 65. My question to you as a

1 panel and to the country is do you have a way to
2 make sure that this 80 percent is conformed to?
3 I've been a part of many dust samplings, band
4 samplings and those sorts of things. I've not ever
5 been -- In my 20 plus years of mining, I've not ever
6 been part of a sampling or band sampling inby the
7 feeder, inby the loading point. It's usually a
8 visual. It's usually someone's opinion, and someone
9 that's been in mining for a long time, myself or
10 others, can have a pretty good opinion of that.

11 But I understand from NIOSH that there
12 is a real-time way of now testing combustible
13 material. It may not be perfected as of yet. Some
14 people agree that it is effective and it is a
15 hundred percent effective. Some may not, and I
16 don't think it's been introduced as a tool yet for
17 MSHA to use. But I would like to see
18 something -- You know, we take band samples and
19 several weeks go by, maybe even more than a month go
20 by before we know that that area is out of
21 compliance. That doesn't help me today to know that
22 a month ago the area we just mined past was not 65
23 percent or now 80 percent.

24 So I know that technology is not
25 complete and maybe not -- I understand it is

1 complete, but maybe it's not complete as far as MSHA
2 is concerned. But my feeling is I need to know now
3 today in mining how to protect my miners at my
4 mines, not a month from now was it sufficient or in
5 my eyes -- you know, I've fire bossed a lot in our
6 mines and my opinion is that it's gray in color and
7 it's those sorts of things and it wouldn't pass, but
8 that's only my opinion. I don't have a way to test
9 that at the time nor do your inspectors have a way
10 to test that.

11 So as a lot of people maybe more
12 eloquently have put it, the question is inby the
13 loading point in my opinion. Now, the propagation
14 can start there and go outby, and I understand
15 that. I understand that we want to snuff that out
16 before it propagates. I was privileged to be in
17 Upper Big Branch Mines and be part of the United
18 Mine Workers' inspection there, and I see firsthand
19 the devastation of a long area that has been
20 exploded and had propagated and too at Number 5
21 mines as well, Jim Walter.

22 So my concern -- Without beating a dead
23 horse, my concern is how are you going to in
24 real-time enforce this 80 percent rule when in my
25 opinion, just a lonely coal miner trying to do the

1 best that he can do for the miners that he
2 represents, enforce this 80 percent when in my
3 opinion we're not doing a real good job of enforcing
4 the 65 percent?

5 I applaud this. I applaud this paper
6 that NIOSH wrote together with lots of other
7 entities and NIOSH coming to the forefront and MSHA
8 coming to the forefront. But my question is we need
9 real-time implementations, we need ways to either
10 photograph it, test it in real-time and to know that
11 this area is either in compliance or not in
12 compliance today, within minutes or within an hour
13 or so, not within weeks or months.

14 In closing, I would like to express just
15 something maybe personal. I'm glad to see Richard
16 Gates, our district manager, here and others, other
17 representatives. I'm kind of saddened by the lack
18 of interest from Jim Walters upper management not
19 being present. Either they know that this is going
20 to be implemented and never changed and they're
21 ready to get on the bandwagon and comply or they're
22 not very interested in this part of it. That's just
23 a personal comment that I would like to obviously
24 become part of the record. So we're ready to band
25 together with you as United Mine Workers for this 80

1 percent rule, but I need to know and need to know
2 that we have tools and a way to enforce this 80
3 percent rule, not just on what could happen months
4 from now when the longwall has passed that area and
5 it's already caved in and we can't go back there and
6 rock dust that again. And we need help in the face
7 where most ignitions and most ignition sources are
8 to make sure that those areas as well are rock
9 dusted with this type percentage.

10 Thank you very much.

11 MS. SILVEY: Thank you. I just have --
12 I don't have any questions, but I have a few
13 comments, a comment on your testimony. First of
14 all, we appreciate it. Second of all, the device to
15 which you refer about providing real-time
16 information -- and for the benefit of everybody in
17 here, and I'm sure everybody doesn't even need my
18 benefit. They probably already know it -- is the
19 coal dust explosibility meter, or we refer to it as
20 CDEM. I think, now, that it is -- as I said, CDEM,
21 I do not believe it is commercially available. I
22 think NIOSH is still doing some type of testing with
23 it as well as we are working with NIOSH. I do think
24 that, as you said, when it's perfected and
25 commercially available, the goal is for it to give

1 real-time measurements.

2 On the issue of real-time measurements
3 for rock dust sampling, we, MSHA, assistant
4 secretary Main, Joe Main has put in place a process
5 now, a procedure whereby there will be more
6 expedited processing of the samples, of the rock
7 dust samples today so that the results -- as you
8 said, if something is rock dusted today, as you go
9 forward two weeks from now, you know, and you pass
10 that and everything, how would that affect you
11 today? So the process that we've put in place is to
12 give more expedited sampling results. That's one
13 thing.

14 The second thing I would like to
15 reiterate -- and you heard me say it earlier. The
16 two -- the Program Information Bulletin and the
17 Procedure Instruction Letter for our own inspectors
18 which highlight the areas that have to be looked at
19 by the operators; i.e., that is, the areas to look
20 at in terms of where rock dust applications as well
21 as when our inspectors go to do their inspections,
22 the areas that they need to look at and the sampling
23 that they need to do.

24 So those things. And I would draw your
25 attention to -- As I said, both the PIB and the PIL

1 are on MSHA's website and I draw your attention to
2 looking at both of them and looking at some of the
3 areas we highlighted which are some of the areas
4 that you brought to our attention here today,
5 tailgate entries, bleeder entries and a few others,
6 tailgate entries, bleeder entries, active faces and
7 seals. So those things I would ask you to look at.

8 Does anybody else want to add anything
9 to what I said? Okay. Thank you.

10 MR. TURNER: Thank you.

11 MS. SILVEY: Maybe this is a good place
12 to take a break. We'll take a 10-minute break and
13 reconvene in ten minutes.

14 (A recess was taken)

15 MS. SILVEY: At this point, we will
16 reconvene the Mine Safety and Health
17 Administration's public hearing on the Emergency
18 Temporary Standard Maintenance of Incombustible
19 Content of Rock Dust in Underground Coal Mines. And
20 now we will take our next speaker, whoever wishes to
21 testify next. Yes, sir.

22 MR. WILKERSON: Good morning. My name
23 is Shan Wilkerson, S-H-A-N, W-I-L-K-E-R-S-O-N. I've
24 got a couple of comments I'd like to make today.
25 The first one is I applaud y'all for coming down

1 here and taking our comments and taking them back
2 with you. We hope we do a good job.

3 The other comment I've got, our Local up
4 there, 1926, we stand in favor of this and hope all
5 mines big and small will comply with this, and I
6 think all the mines should, not just the big ones,
7 but all of them.

8 And with that, I'd like to say that also
9 I bring the voice of my entire Local down here in
10 saying we stand in favor of this. Thank you.

11 MS. SILVEY: Thank you. Does anybody
12 else wish to testify? Yes, sir.

13 MR. WHITLOW: My name is Phillip
14 Whitlow, P-H-I-L-L-I-P, W-H-I-T-L-O-W. I work at
15 North River Number 1 Mine, Chevron Mining, Local
16 1926 safety committee. Since this has come out, our
17 company has been very proactive in getting with the
18 program, but we do have some problems still with the
19 dust. Our mine is a track mine and we have common
20 entries and the off track entries is somewhat
21 neglected. That's our areas we really need to look
22 on, especially around our belts and our haulage
23 ways, but I'd like to say that every one of our
24 Local is for this and is backing this. We
25 appreciate y'all pushing for this, and that's all

1 I've got to say. Thank you.

2 MS. SILVEY: Thank you. Anybody else?

3 Does anybody else wish to testify? If there's
4 nobody else who wishes to testify, at this time, I
5 will -- We are going to be here just for -- So that
6 everybody knows, we're going to be here until at
7 least 1:00, but if there's nobody else who wishes to
8 testify at this time, I am going to at least
9 tentatively conclude the hearing.

10 Before I conclude, I would like to say
11 on behalf of MSHA, on behalf of Assistant Secretary
12 Joe Main that we appreciate everybody who joined us
13 today at this hearing. We appreciate those of you
14 who spoke and provided your comments and testimony
15 to us and we appreciate those of you who attended
16 the hearing who may not have spoken, but who
17 attended because that shows us that you have an
18 interest in the hearing.

19 I want to reiterate a couple of things.
20 I would like to draw your attention again to the
21 Program Information Bulletin on rock dust on this
22 ETS, the Procedure Instruction Letter. Both are on
23 our website and I ask you to look at them. I would
24 also like to remind you that we have two hearings
25 remaining in Lexington, Kentucky on November 16th

1 and on November 18th in Charleston, West Virginia
2 and that the post-hearing comment period closes on
3 December 20th. So if you have additional comments
4 that you would like to -- information that you would
5 like to submit to us, please submit them by any one
6 of the methods listed in the Federal Register notice
7 in any one of the methods to any one of the
8 addresses listed in the Federal Register notice,
9 submit them to us by December the 20th.

10 And with that, if nobody else has any
11 testimony, again, we appreciate your being here
12 today and on behalf of the panel, I would like to
13 conclude the hearing. Thank you.

14 (END OF PROCEEDINGS)

15
16
17
18
19
20
21
22
23
24
25

1 C E R T I F I C A T E

2

3 STATE OF ALABAMA)

4 JEFFERSON COUNTY)

5

6 I hereby certify that the above and
7 foregoing proceedings were taken down by me in
8 stenotype and were reduced to computer print under
9 my supervision, and that the foregoing represents a
10 true and correct transcript of the foregoing
11 proceedings that were had on the above date.

12

13 I further certify that I am neither of
14 counsel nor of kin to the parties to the action, nor
15 am I in anywise interested in the result of said
16 cause.

17

18

19

Nancy S. Holland, Commissioner

20

RPR, CSR, ACCR #185

21

22

23

24

25