

TRANSCRIPT OF PROCEEDINGS

BEFORE THE

DEPARTMENT OF LABOR

MINE SAFETY AND HEALTH ADMINISTRATION

MEETING FOR PUBLIC COMMENT)

30 CFR PART 46, TRAINING AND RETRAINING OF MINERS ENGAGED
IN SHELL DREDGING OR EMPLOYED AT SAND, GRAVEL, SURFACE
STONE, SURFACE CLAY, COLLOIDAL PHOSPHATE, OR SURFACE
LIMESTONE MINES

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 PHOSPHATE, OR SURFACE)
 LIMESTONE MINES)

Pine Room
 Hilton Northbrook
 2855 North Milwaukee Avenue
 Northbrook, Illinois

Monday,
 December 7, 1998

The above-entitled matter came on for hearing,
 pursuant to notice, at 8:00 a.m.

PANEL MEMBERS:

KATHY ALEJANDRO, Chair
 Metal and Nonmetal Mine Safety and Health
 Arlington, Virginia
 KEVIN BURNS
 Metal and Nonmetal Mine Safety and Health
 Arlington, Virginia
 ROSLYN FONTAINE
 Office of Standards Regulations and
 Variances
 ROD BRELAND
 Western Operations Manager
 Educational Field Services
 RON FORD
 Office of Standards Regulations and
 Variances
 ROBERT ALDRICH
 USDOL Office of the Solicitor

I N D E X

<u>SPEAKER</u>	<u>PAGE</u>
Chairperson Alejandro	3
John C. Henriksen Illinois Association of Aggregate Producers	8
Randy Logsdon Vulcan Materials Company	23
Raymond R. Peterson Video Information Systems Training Associates, Inc.	49
William Pautler Kincaid Stone Company	63
Ed Elliott Rogers Group, Inc.	68
Daniel P. Foltyniewicz Risk Management Network	83
Mark William Withey Evenson Explosives, LLC	88
Robert Stalder U.S. Silica	101
Raymond Peterson	106
Mark William Withey	111
John C. Henriksen	113
Scott Maxey Badger Mining Corporation	121
Ed Elliott	134
Mark W. Withey	135
Randy Logsdon	138
John Howard Illinois Eastern Community Colleges	140
Pat Campbell Department of Natural Resources Office of Mines and Minerals	156

P R O C E E D I N G S

MS. ALEJANDRO: Good morning. My name is Kathy Alejandro. I am with Metal and Nonmetal Mine Safety and Health, Mine Safety and Health Administration, and I'd like to welcome you here today for our first of seven public meetings on the Part 46 rule-making.

On behalf of the Mine Safety and Health Administration, I would like to welcome you. These meetings are intended to give individuals and organizations, including miners and their representatives and mine operators, both large and small, an opportunity to present their views on the types of requirements that will result in the most effective miner safety and health training. These regulations would apply at those nonmetal surface mines where MSHA currently cannot enforce existing training requirements.

I'd like to take this opportunity to introduce the members of the MSHA panel who are with me this morning.

From this end, on over this direction, we have Rod Breland, who is Western Operations Manager for Educational Field Services; Kevin Burns to my immediate right, who is also with the Mine Safety and Health Administration, Metal and Nonmetal Mine Safety and Health; Ron Ford and Roslyn Fontaine are with the Office of Standards, Regulations, and Variances; and Robert Aldrich,

1 on the end, is with the Office of the Solicitor.

2 Since 1979, MSHA has been guided by a rider to
3 its appropriations. The restriction currently states that
4 "none of the funds appropriated shall be obligated or
5 expended to carry out Section 115 of the Federal Mine Safety
6 and Health Act of 1977 or to carry out that portion of
7 Section 104(g)(1) of such Act relating to the enforcement of
8 any training requirements, with respect to shell dredging,
9 or with respect to any sand, gravel, surface stone, surface
10 clay, colloidal phosphate, or surface limestone mine."

11 In the Omnibus Budget passed by Congress on
12 October 21, 1998, MSHA was directed to "work with the
13 affected industries, mine operators, workers, labor
14 organizations,¹ and other affected and interested parties to
15 promulgate final training regulations for the affected
16 industries by September 30, 1999. It is understood that
17 these regulations are to be based on a draft submitted to
18 MSHA by the Coalition for Effective Miner Training no later
19 than February 1, 1999."

20 MSHA expects to publish a proposed regulation in
21 the Federal Register sometime in early spring of 1999.

22 The regulations that we will be developing must
23 include minimum requirements in Section 115 of the Mine Act.
24 I'd like to summarize those requirements briefly.

25 It provides that every mine operator shall have a

1 health and safety training program that is approved by the
2 Secretary of Labor and that complies with certain
3 requirements. It specifies that surface miners are to
4 receive no less than 24 hours of new miner training, no less
5 than 8 hours of refresher training annually, and task
6 training for new work assignments.

7 Section 115 also requires that the training cover
8 specific subject areas. It provides that training is to be
9 conducted during normal work hours at normal pay. It
10 requires that miners be reimbursed for additional costs they
11 incur incidental to training and provides that mine
12 operators must maintain miners' training certificates and
13 furnish such records to the miners.

14 In addition to these minimum requirements, we are
15 looking for suggestions and comments as to how best to
16 achieve effective miner safety and health training,
17 consistent with the Mine Act, including any additional
18 requirements that should be included in the proposed rule,
19 and I would emphasize why. I mean, we are looking for
20 suggestions, but we are also looking for rationales for why
21 certain requirements should or should not be included.

22 We have scheduled public meetings at six other
23 locations in the coming weeks, including Denver; Albany, New
24 York; Portland, Oregon; Ontario, California; Dallas; and
25 Atlanta. And this is to give as many individuals and

1 organizations as possible an opportunity to present their
2 views.

3 We intend to conduct this meeting in an informal
4 manner, and as you can see, a court reporter is making a
5 verbatim transcript of the proceedings. As I've already
6 told you, if you wish to sign up to speak, there is a sign-
7 up sheet right here, which I think everyone who's here right
8 now has probably already signed up, and I've asked you to
9 sign the list of attendees in the back of the room.

10 You may also, if you choose, submit written
11 statements and information, either during the course of this
12 hearing or after the hearing, which we will consider while
13 the proposed rule is being developed.

14 Although we don't have any specific deadline for
15 when written comments should be submitted, I would strongly
16 encourage you to submit anything in writing that you wish to
17 submit no later than February 1 of 1999, and this will
18 ensure that it will get the full consideration that it
19 deserves.

20 Although we are most interested in what you all
21 have to say to us, if you do have any questions as the
22 meeting proceeds, we will attempt as best we can to address
23 those questions.

24 We're specifically interested in comments
25 addressing certain areas, although we strongly encourage you

1 to comment on any issue that's related to miner safety and
2 health training at the currently exempt mines. The issues
3 that we're interested in were outlined in the November 3
4 Federal Register notice that announced this schedule of
5 public meetings, but I will summarize those questions, those
6 issues for you here, so you understand what context we're
7 talking about.

8 One of the issues that we're interested in:
9 Should we define certain terms in the regulation, including
10 terms such as "new miner" and "experienced miner"?

11 What subjects, if any, should be taught before a
12 new miner is assigned work, even if the work is done under
13 close supervision?

14 Should training for inexperienced miners be given
15 all at once, or over a period of time, such as several weeks
16 or months?

17 Should supervisors be subject to the same
18 training requirements as miners?

19 Should task training be required whenever a miner
20 receives a work assignment that involves new and unfamiliar
21 tasks?

22 Should specific subject areas be covered during
23 annual refresher training? if so, what subject areas should
24 be included?

25 Can the eight hours of annual refresher training

1 required by the Mine Act be completed in segments of
2 training lasting less than 30 minutes?

3 Should the records of training be kept by the
4 mine operator at the mine site, or can they be kept at other
5 locations?

6 Should there be minimum qualifications for
7 persons who conduct miner training? If so, what
8 qualifications are appropriate?

9 I would now like to introduce the first speaker
10 this morning. I would ask that all speakers, who as they sit
11 down to make their presentation, state and spell their names
12 for the court reporter before beginning their presentation.

13 And I would like to thank you very much for
14 attending, and I look forward to a productive meeting. The
15 first name that I have on the list is John Henriksen of the
16 Illinois Association of Aggregate Producers. Mr. Henriksen?

17 MR. HENRIKSEN: Yes. Thank you. I gave the
18 court reporter my card, so she can get my name spelled
19 correctly.

20 MS. ALEJANDRO: Okay. Thank you.

21 MR. HENRIKSEN: You're welcome.

22 Good morning. My name is John Henriksen. I
23 serve as the Executive Director of the Illinois Association
24 of Aggregate Producers. The IAAP is the trade association
25 representing Illinois's non-coal mining industry. The IAAP

1 represents the companies mining 95 percent of this state's
2 construction aggregates, 100 percent of this state's silica
3 sand, and 100 percent of the stone this state mines to
4 manufacture cement.

5 Our over 105 member companies range in size from
6 mom-and-pop operations that mine less than 50,000 tons a
7 year, all the way to companies that produce well over 10
8 million tons of our products a year. Our members currently
9 operate in 80 out of 102 Illinois counties, and we are a
10 mainstay of this state's economy.

11 I appreciate the opportunity to come regarding
12 the mine safety training rules being proposed for our
13 industry, to replace Part 48.

14 Our association and our industry is committed to
15 worker safety. Many of our member companies have their own
16 in-house safety personnel who conduct periodic safety
17 training. Other members ensure that their personnel attend
18 safety seminars put on by the Illinois Aggregate Producers
19 Risk Management Association or put on through our State's
20 grant program.

21 Our association has a Safety Committee that
22 encourages a proactive safety culture and works to keep our
23 members up to speed on safety issues. Our bottom line and
24 our industry bottom line is this: Effective safety training
25 is critical to our industry.

1 But let me stress what I just said. Effective
2 safety training is critical to our industry. To be truly
3 effective, the safety training rules that MSHA will put in
4 place for our industry must be designed with two key
5 objectives in mind.

6 First, these rules should minimize nonessential
7 administrative requirements that may be counterproductive or
8 detract from the essential functions of safety and health
9 training.

10 Second, these rules should permit as much
11 flexibility as possible to allow operators to provide safety
12 and health training that will be effective in helping to
13 prevent injury and illness to miners at their operations.
14 In a nutshell, MSHA's new rules should minimize paperwork
15 and maximize flexibility for our operators.

16 Now, you asked for our rationale, why our rules
17 should be different than Part 48, and I understand that.
18 And in order to understand why our rules must minimize
19 paperwork and maximize flexibility, MSHA must keep in mind
20 the key differences between the coal and non-coal mining
21 industries. As an example, let me contrast the coal and
22 non-coal mining industries in this state.

23 In Illinois, we currently have 15 active surface
24 coal mines in operation and four active underground coal
25 mines, a total of 19 active mines. I mean actively mining

1 coal. These coal mines employ, according, to your
2 statistics, approximately 4,366 employees. That's surface,
3 prep, and underground miners in this state.

4 Now, I want you to contrast these numbers to our
5 state's non-coal mining industry. In Illinois, we currently
6 have 419 active surface aggregate mines -- stone, sand,
7 gravel, silica sand, clay -- 419 active surface aggregate
8 mines, and also six active underground aggregate mines.
9 According to MSHA statistics, the Illinois non-coal mining
10 industry employs approximately 3,519 employees. That's your
11 statistics.

12 So you need to consider what these statistics
13 mean. We have 20 sand, gravel, and stone mines in Illinois
14 for every one coal mine roughly. Yet there are more coal
15 miners than aggregate miners in our state right now.

16 Given these statistics, it stands to reason that
17 MSHA's Part 48 mine safety training rules, regulations
18 designed primarily for underground coal mines with large
19 work forces, are not appropriate for us.

20 The majority of our companies have small work
21 forces. The majority of our companies hire one miner at a
22 time. The majority of our companies do not have central
23 office staffs, dedicated to compiling and filing government
24 paperwork. Finally, underground coal mines and surface
25 aggregate mines don't have the same safety challenges.

1 Again, given the structure of our industry, MSHA's new rules
2 must minimize paperwork and maximize flexibility, to be
3 truly effective.

4 And that's what we're here for today. That's
5 what I'm talking about, and that's what I know that you're
6 working on. You want rules that are effective for us, that
7 work for us and protect our workers. And to do so, it can't
8 be a mirror image of Part 48; it can't track the mistakes of
9 the past.

10 The Coalition for Effective Mine Training, the
11 CEMT, has put together a draft set of rules as an
12 alternative to MSHA's Part 48. These rules comply with
13 Section 115 of the Mine Safety and Health Act, and these
14 rules will minimize paperwork and maximize flexibility.

15 Our association supports the CEMT proposal and
16 submits that the following concepts developed by this group
17 should be included in MSHA's new rules.

18 MSHA's new rules should provide for the automatic
19 approval of training plans that comply with the subjects and
20 hours required by the Mine Act. Thus, if an operator's plan
21 contains what Section 115 requires, that plan is in
22 compliance. Automatic approval would eliminate the
23 paperwork and time required by having MSHA centrally
24 approving our plans.

25 Secondly, the new rules keep the primary

1 responsibility for training contractor employees on the
2 contractor. The contractor, not the mine operator, is in
3 the best position to train his or her employees in the
4 health and safety aspects of their particular tasks.

5 MSHA's new rules should also make it clear that
6 miners need comprehensive training. Contractor employees
7 need only be provided hazard training by the mine operator.
8 It doesn't make sense to require comprehensive miner
9 training for people who need construction safety training.

10 The new rules also must provide flexibility in
11 deciding who is qualified to train. Our industry must have
12 the option of using employer-approved competent persons to
13 train our work force. Somebody who has task know-how and
14 knowledge about how to do the task safely is as effective as
15 an MSHA-certified instructor. Certification alone does not
16 equal competence.

17 The new rules that you all will be developing
18 with the input from our industry should promote flexibility
19 in the delivery of training. The rules should allow the
20 operator to choose classroom training, structured on-the-job
21 training, the use of modern technology, or a combination of
22 all three. the mine operator should choose the training
23 mode that is best suited for his or her operation and work
24 force.

25 The new rules should be flexible enough to allow

1 us to spread out the 24 hours of inexperienced miner
2 training requirement over 60 days. Spreading out such
3 training not only is a flexible approach to this legal
4 requirement, but it does improve and encourages retention of
5 material.

6 There's nothing magical about having that
7 training stacked together. You have it broken up and given
8 to the new miner over that 60-day period. I believe and we
9 believe it will encourage the retention of the important
10 things you're trying to impart.

11 The new rules should increase the operator's
12 flexibility in the selection of refresher topics. Annual
13 refresher training should address the most significant risks
14 that a group of employees are likely to encounter and
15 refresh employees on safety and health standards that are
16 critical but rarely used. The operator must be able to
17 choose the refresher topics that are of most benefit to his
18 or her company, site, and work group.

19 The new rules should allow our operators to count
20 attendance at safety meetings against the 8-hour refresher
21 training requirement. In addition, these rules should also
22 eliminate the requirement that each session last 30 minute.s
23 There's nothing magical about 30 minutes. This change would
24 allow for effective training via short tailgate talks. That
25 can be an effective way of imparting important information

1 to people.

2 And, finally, the new rules should allow the
3 operator to choose whether to keep training records at the
4 mine site or at another, more central, location. I would
5 point out -- I know most of the members of the audience, and
6 there are people here from all over Illinois.

7 Some of the folks here have one operation that
8 they own or are responsible for. Some of the people in this
9 room are responsible for training, safety training, in 25
10 locations. It doesn't make sense to have only one way to
11 store and keep records.

12 If it's convenient for the operator to keep the
13 records at his or her scale house because they have one
14 operation, that's fine. If they have three, four, five
15 pits, with a central office, it makes sense to let them keep
16 the safety records at a central location. With modern
17 technology, it's quite easy to transfer data from one point
18 to the other. So the operators should be able to choose the
19 record storage option that best suits his or her operation.

20 All of these CEMT concepts comply with the letter
21 and spirit of Section 115 of the Act while addressing some
22 of the patent weaknesses of Part 48 in relation to our
23 industry. Moreover, such rules would be effective for our
24 industry, because again they minimize paperwork and maximize
25 flexibility. And that's really what our goal is: to come

1 up with rules that promote safety.

2 Let me conclude my presentation by touching on
3 the need for a strong state grants program. MSHA needs to
4 carefully review the level of funding allocated to state
5 grants programs during the next fiscal year.

6 Given that MSHA's rules are to go into effect on
7 January 1, 2000, it is incumbent upon your agency to ensure
8 that adequate funding is in place to handle the upsurge in
9 required safety training. Absent an increase in such
10 funding, our industry may not have sufficient assets
11 available to adequately train our work force.

12 Bear in mind the State of Illinois put in place a
13 blasting program. There was a one-year, for lack of a
14 better word, wrap-up. There was a one-year time where these
15 rules were in place, where we could train all our people,
16 where we could get our people certified, and get our
17 programs on line. Then the next year, after that one-year
18 phase-in period, the rules became effective and were
19 enforceable against our operators.

20 As I understand what is intended of this rule
21 package, they'll be effective or they'll be final, rather,
22 in September of 1999 and enforceable January 1, year 2000.
23 That's a pretty short period of time to get everybody in
24 compliance.

25 Given that fact, it will be very important for

1 MSHA to adequately support their state grants program, to
2 make sure the state people can jump in and help us get our
3 people up to 100 percent compliance.

4 We have an historic opportunity to put together a
5 mine safety training program for our industry that works, a
6 chance to correct past mistakes. I urge you all to
7 carefully consider our comments when you craft your program.

8 And, again, thank you for the opportunity to be
9 bale to discuss this group. Thank you.

10 MS. ALEJANDRO: I actually just have a couple of
11 questions.

12 MR. HENRIKSEN: Yes.

13 MS. ALEJANDRO: I don't want to put you on the
14 spot, and if, you know, you want to submit something in
15 writing or address it at some later time, that's fine.

16 You indicated that you believe the contractor
17 employees should be provided hazard training only, and they
18 don't need comprehensive training.

19 MR. HENRIKSEN: Not in the same regard as a
20 person who is working at one of our operations. Correct.

21 MS. ALEJANDRO: And I guess what you're
22 essentially saying is the assumption is that a contractor
23 employee would not be directly involved in the extraction
24 of --

25 MR. HENRIKSEN: Correct.

1 MS. ALEJANDRO: Okay. I'm probably less familiar
2 with the nonmetal industry than I am with the coal industry.
3 I mean, in coal, there's an increasing use of contractor
4 employees in the production process. Is that typical of
5 your operations?

6 MR. HENRIKSEN: No. That term of art is
7 usually -- for metal/nonmetal is for folks who come on,
8 contract haulers, people that might be involved in erecting
9 machinery.

10 MS. ALEJANDRO: Okay. So they don't get
11 involved, typically, in the extraction process.

12 MR. HENRIKSEN: Usually not. Again, I would --
13 there -- we'll have some other safety professionals speaking
14 that you might want to direct those particular questions to.
15 But as a whole, we're not the same as -- again, we're not
16 like the coal mining industry, that may employ contract,
17 like contract mining people. We have some contract drilling
18 people, but, again, that's another thing as well.

19 MS. ALEJANDRO: Okay. And then I just have one
20 other comment and, again, a question, which you don't need
21 to answer now if you choose not to. But at the end of your
22 comments, you were talking about the anticipated short
23 compliance deadline after these rules, these final rules are
24 published.

25 We are under a deadline of publishing these rules

1 by September 30, 1999, and that raises a question, once they
2 are published, how much time does the industry and everyone
3 associated with the industry need to get up to speed, to
4 comply with the rules that are put into place.

5 And I would say we are looking for some input
6 from you all now or, you know, as this thing wends on, as
7 far as what period of time would be appropriate for
8 compliance.

9 MR. HENRIKSEN: I think a minimum of a year,
10 because --

11 MS. ALEJANDRO: After the date of publication?

12 MR. HENRIKSEN: Yes, because I look at our
13 association role is to work with our industry in this state
14 and work with our sister associations, to try to make sure
15 our people are up to speed, to help our folks.

16 Again, it's a very disparate industry.

17 MS. ALEJANDRO: Right.

18 MR. HENRIKSEN: We have people in this room who
19 work for companies that are leaders in this continent on
20 safety training, and you have people here also from small
21 mines that also have excellent safety programs. I'm sure
22 they'll speak today.

23 But we have -- there are some very small
24 operations in this state, people with three, four people. I
25 visit operations that have two people working. And it's

1 going to take a long time to get these folks up to speed.

2 And what is counterproductive is January 1, 2000,
3 rolls around and have these guys be banged for not having a
4 safety plan in place. That's not productive, because all
5 that does is they get a violation with this, but it doesn't
6 encourage safety.

7 I think at least a year. I think it would be
8 good for MSHA -- MSHA now has a safety component that's
9 different than the enforcement component. In fact, that
10 person who operates out of Kentucky in this region is on our
11 safety committee. I'd like to be able to --

12 MS. ALEJANDRO: Are you talking about the
13 training?

14 MR. HENRIKSEN: Yes.

15 MS. ALEJANDRO: Jesse Cole [phonetic]?

16 MR. HENRIKSEN: Well, there's Leland from
17 Kentucky is on -- Leland Payne is on our safety committee.
18 We'd like to be able to work with these people and partner
19 on some safety training that will work, some plans that will
20 work on some processes that work.

21 We'd like to be on the same page with you all, so
22 when these rules become effective, we can -- you know, our
23 people can truly say they've had a chance to come into
24 compliance; they've had a chance to figure out what their
25 training program should be.

1 So I don't think a year is inappropriate at all,
2 and I consider -- I see us do training, and I see hopefully
3 partnering with you all, through your regional training
4 people, not your enforcement people, but your training
5 people, to get our folks up to speed on what needs to be
6 done, because our industry is not --

7 We are a very disparate industry, very disparate
8 industry. Again, you have operations like Vulcan, and you
9 have operations that literally have two, three people,
10 working a little dredge somewhere, and they may or may not
11 have been -- they, I'm sure, have been visited by MSHA,
12 because that's your obligation to do so, but they don't have
13 a clue a lot of this is coming, and we want to make sure
14 that they get up to speed as well, so that they are
15 protected.

16 MS. ALEJANDRO: Okay. Does anybody else have any
17 questions? Ron has a question.

18 MR. FORD: Could you talk about a little bit the
19 kind of training that's given right now by your members.

20 MR. HENRIKSEN: I would like to defer to
21 individual members. We have some of our folks who are going
22 to be speaking. Again, I run our association, and I'm an
23 attorney. And my strong suit is not safety training. I
24 just have --

25 I understand the general aspects of it, the

1 weaknesses of Part 48 and what needs to be put in these
2 rules, but we have some extremely qualified safety people
3 who will be speaking today, that can talk about what they do
4 and give you some ideas about what these new rules should
5 contain.

6 So I would, if I may, defer to their
7 presentation.

8 MS. ALEJANDRO: Anyone else?

9 (No response.)

10 MS. ALEJANDRO: All right. Thank you very much,
11 Mr. Henriksen.

12 MR. HENRIKSEN: You're welcome. Thank you.

13 MS. ALEJANDRO: The next speaker on the list is
14 Raymond Peterson from Video Information Systems Training
15 Associates, Incorporated.

16 (No response.)

17 MS. ALEJANDRO: All right. Mr. Peterson isn't
18 here yet.

19 Randy Logsdon, Midwest Division, Vulcan
20 Materials.

21 MR. LOGSDON: Good morning.

22 MS. ALEJANDRO: Good morning. If you haven't
23 given the court reporter a card, I'd ask you to spell your
24 name for the record.

25 MR. LOGSDON: I can do that, and I have a written

1 copy of my comments for her.

2 MS. ALEJANDRO: Okay. Yes. If you've got a copy
3 to give to us and to the court reporter, that would be
4 great.

5 MR. LOGSDON: My name is Randy Logsdon,
6 L-O-G-S-D-O-N. I'm manager for safety and health for Vulcan
7 Materials Company in the Midwest Division. I'm here
8 primarily on behalf of Vulcan Materials Company. The
9 Indiana Mineral Aggregates Association has asked me to speak
10 for their members who represent 92 percent of the reported
11 aggregate mining man hours in Indiana.

12 I'd first like to qualify myself by describing my
13 experience and background. I hold a B.S. in education and
14 an M.S. in occupational safety, both from Illinois State
15 University. I have 15 years of experience in underground
16 coal mining with three companies from 1975 through 1989.

17 I've been certified as an instructor under Part
18 48 by MSHA since 1979. After nearly two years on staff with
19 the National Safety Council, I re-entered the mining
20 industry in my current position in late 1991.

21 I'm responsible for overseeing the safety and
22 health programs and processes, including safety and health
23 training, for 25 active MSHA sites, including limestone
24 quarries, sand and gravel operations, two lime plants in
25 Illinois, Indiana and Wisconsin, and for several facilities

1 regulated under OSHA and DOT.

2 This is a diverse group of operations, ranging
3 from production of less than a half-million tons to over 7
4 million tons a year. We operate in both urban and rural
5 settings. We boast an ethnic mix of employees and operate
6 in both nonunion and union-represented sites.

7 MSHA, industry and labor have a unique
8 opportunity to take some giant strides in rule-making over
9 the next few months. Even under the mandates imposed by
10 Section 115 of the Mine Safety and Health Act of 1977, new
11 rules can be drafted that are flexible, effective,
12 enforceable and based on sound research.

13 I urge you to avoid styling this new regulation
14 after Part 48. The certification of instructions and
15 certification of written training plans does not guarantee
16 quality instruction or comprehension. Arbitrary training
17 times do not guarantee learning. Neither assures us that
18 what we teach will be applied.

19 We can best be assured that our training is
20 effective by evaluating our training based n performance-
21 based standards. Even the MSHA instructor training course
22 that I took back in 1979 advocated performance-based
23 evaluation of training. That course, we spent a lot of time
24 writing objectives and talking about evaluation.

25 It's important for these new regulations to be

1 founded on good research that will help direct us to use
2 effective training and evaluation techniques. It is
3 unfortunate that Congress has imposed a strict deadline on
4 this effort. We need to exercise caution in our haste to
5 produce a regulation by the end of this fiscal year, to
6 ensure that the quality of the finished product will achieve
7 our objective: effective training.

8 You raised some interesting questions in your
9 opening statement, and I'd like to address those next.

10 Regarding the definition of terms, it's not as
11 important to define the target of safety training as it is
12 to define the level of competency necessary to prevent
13 accidental injury or occupational illness. Even new and
14 inexperienced miners come to us with an understanding of
15 safety and occupational health concepts, as well as
16 appropriate risk controls.

17 The mining industry is not the only source of
18 safety and health training. Many of the unions provide very
19 good safety and health training for their members. Almost
20 everyone has some qualifying skill or knowledge.

21 Prospective employees don't fit into just two categories.

22 We should define within a training program or
23 process the performance standards that reflect acceptable
24 competency, assess the competency level of new employees,
25 and train to bring those employees' level of competency up

1 to or beyond that level.

2 Regarding the issue of conducting training in one
3 sitting or over an extended period, this is a decision that
4 should be made based on the training needs for the employees
5 at a given operation or a group of operations. The option
6 of conducting training in short segments, followed by hands-
7 on experience, may be the most effective in many workplaces,
8 perhaps not in other workplaces. But offer the flexibility
9 to conduct the most effective training we can.

10 Regarding supervisor training, one of the primary
11 functions of a supervisor is accident prevention. I can't
12 imagine a supervisor who is not intimately aware of the
13 safety and health risks inhere in the work area for which
14 he's responsible. A new or transferred supervisor
15 immediately familiarizes himself or herself with the
16 conditions that are peculiar to his new responsibility.

17 Regarding the training for new work assignment,
18 employees do need to be aware of the hazards and risks
19 expected with the jobs or asks they are asked to perform.
20 They also need to be familiar with the systems, tools,
21 equipment, and procedures required to control those risks.
22 Let us evaluate the employees' competency before forcing any
23 redundant training.

24 Some skills are transferrable, and an employee's
25 knowledge does not magically disappear after 12 months.

1 Depending on the nature of the ask, an employee may need
2 only a brief instruction and/or the opportunity to
3 demonstrate his competency.

4 Regarding annual refresher topics, annual
5 refresher training should address the most significant risks
6 that a group of employees are likely to encounter, based on
7 a risk assessment, and should refresh the employees on
8 safety and health issues that are critical but are rarely
9 needed.

10 The most important topics will vary by
11 organization, site, and by work group. Frequent contacts,
12 safety meetings or tailgate meetings, may be the most
13 effective method to accomplish this refresher training.

14 Now, suppose a pretest were administered at the
15 beginning of a refresher session and then the selection of
16 the session topic was based on the information revealed by
17 that test, those questions that were answered incorrectly on
18 a pretest. This could be very effective, but it's real
19 difficult to document that in a training plan that requires
20 specific time frames and topics, instructors and
21 instructional materials be identified in advance.

22 Regarding training segments of less than 30
23 minutes: Almost any safety training has the potential of
24 being valuable. I've witnessed some very effective, what I
25 call, off-the-wall training styles. Consider a 60-second

1 television commercial that's designed both to educate and to
2 motivate, sometimes very effectively.

3 Now, I don't advocate converting a training
4 system into a public service announcement format, but small
5 group discussions, one-on-one contacts, can be very
6 effective as a part of a master refresher training plan,
7 especially if they're reinforced frequently.

8 Regarding the maintenance of records: Within
9 some organizations, the option of maintaining training
10 records at a central location makes sense. With the
11 availability of the high-speed fax and e-mail capabilities,
12 copies of records can be transmitted quickly to each site or
13 even accessed directly via networked computer system.

14 In the spirit of flexibility, it makes sense to
15 provide the option to maintain a central training record
16 system.

17 Regarding the qualification of trainers, I'd like
18 to repeat a statement I made earlier. Certification does
19 not guarantee quality instruction. I prefer the term
20 "competent." "Competent" describes what we want: knowledge
21 and experience that qualify him or her to train. I borrowed
22 some of that language from the definitions at the beginning
23 of Part 56.

24 A trainer should be able to produce a resume that
25 describes his competency. Some interactive training systems

1 may be quite effective with only a facilitator. Some very
2 effective trainers can be supplied by safety equipment
3 vendors, probably not certified but very good.

4 The key is not who is doing the training, but if
5 the employee learns and uses that knowledge. Certification
6 may provide only a false sense of competence. You may argue
7 that by certifying trainers, MSHA can exercise control and
8 monitor the quality of instruction. I respectfully suggest
9 that MSHA doesn't have the necessary manpower to accomplish
10 that level of control.

11 I would suggest that MSHA apply a part of its
12 training resources to the publication of a regular
13 newsletter designed to convey effective training and
14 evaluation techniques, not necessarily content but those
15 techniques, to the industry; help maintain that level of
16 competence with instructors.

17 Now, we're also concerned about some other
18 training issues. As you formulate the final rules, please
19 make every possible effort to minimize administrative
20 requirements. Let us concentrate on the actual training.
21 We don't oppose documenting training. In fact, we find that
22 documenting is valuable.

23 Permit the use of documents that are meaningful
24 to us, to our systems and to our employees. The Act
25 requires approved training programs, but it does not detail

1 the approval process. If the mine's training plan, program
2 or process meets or exceeds reasonable standards, consider
3 it approved.

4 MSHA inspectors can review the plan, program, or
5 process during regular inspections and confirm that it is
6 compliant. A group of sites within a company or region
7 should be permitted to train under a single comprehensive
8 training plan, program, or process.

9 Apply to Congress for increased state grants
10 funding. This new regulation is likely to increase the
11 demand for state grants instruction , even where good
12 training is already in place. Encourage the state grants
13 institutions to provide more on-site small group training
14 sessions, safety meetings and special training.

15 Bring the training to the workplace where it can
16 be applied immediately. In 1997, Vulcan was able to use the
17 state grants personnel to conduct special training in
18 construction safety prior to beginning work on four major
19 plant construction projects. We experienced no serious
20 incidents at any of the four construction sites. State
21 grants institutions are a valuable resource.

22 Many of the MSHA-regulated operations are also
23 associated with an OSHA-regulated facilities -- recycling,
24 rail yard, trucking, readymix, asphalt, and so forth -- and
25 share employees. Some employees are also shared across

1 several mining operations under the same general management,
2 but different ID numbers.

3 New training rules should consider an employee
4 trained at one operation within a system as trained at the
5 other operations, too. The rules should also recognize
6 outside training courses as valuable safety learning
7 experiences. Why should a certified EMT be required to take
8 first aid? Also consider reciprocity with certain OSHA and
9 other regulatory agency approved training.

10 It is important to recognize that safety and
11 health training is only a part, although a very important
12 part of a comprehensive accident prevention program or
13 process. Such a process provides vital risk and compliance
14 information to mine management. The purpose for collecting
15 such information is to identify deficiencies and to design
16 appropriate interventions, problem-solving.

17 Education, training, communication, either as a
18 remedial effort or as a part of a process change, is a
19 natural part of this process. Vulcan managers and
20 supervisors participate in this process on a daily basis,
21 observing, learning, modifying, and training, sometimes
22 formally and sometimes informally.

23 Rigid regulation is not necessary for activity
24 that will be done independently. We understand that rules
25 often are written to exercise control over a few

1 uncooperative operators. The rest of the industry must then
2 live with that burden. Can accommodations or incentives be
3 included in these rules for operators who demonstrate
4 excellence in effective training?

5 The Act mandates certain safety and health topics
6 that we are obligated to include in our curriculum for
7 training. Offer a liberal interpretation of the content on
8 these topics. Allow the remainder of the orientation and
9 refresher training topics included in the training program
10 or process to be site- or group-specific, based on the
11 assessment of risk.

12 Because many of our operations are very small, we
13 rely on independent contractor services for a host of
14 nonproduction needs. Jobs involving construction,
15 demolition, vehicle maintenance, electrical distribution
16 involve hazards that are identical to hazards at any OSHA
17 site.

18 A primary reason for hiring an independent
19 contractor is because we don't have the expertise or
20 possibly the equipment to do the job safely ourselves.
21 Operators should not be compelled to provide training for
22 competent independent contractors beyond what is necessary
23 to address mining hazards to which they are expected to be
24 exposed.

25 Certainly if crushing, blasting and other mine-

1 specific jobs are contracted, it's important for the
2 contractor's employees to have comprehensive mine safety and
3 health training, refresher and task training as required by
4 the Act. However, if under contract, it must be the
5 responsibility of the independent contractor, not the mine
6 operator, to provide that training. That's why they're
7 independent and they're contractors.

8 The aggregates industry is closely associated
9 with the construction industry as a supplier. In northern
10 climates, in particular, such construction work is seasonal,
11 and at many of our operations, we have seasonal layoffs.
12 Refresher training is often scheduled in the spring, when
13 employees return to active employment. In some cases,
14 employees are brought back to work in stages over a period
15 of several weeks.

16 Depending on the weather, primarily, the last
17 employees may return in the thirteenth month following the
18 last refresher class. It seems to make sense to provide an
19 exception in the new rules that would allow refresher
20 training completion to be delayed for seasonal lay-off,
21 provided that upon returning to work, each employee would be
22 re-oriented to the workplace.

23 I might add -- it's not in my written comments,
24 but if we are doing annual refresher training in segments, a
25 good portion of that training could be complete before the

1 individual is even laid off.

2 As I said earlier, industry and labor have a
3 unique opportunity to take some giant strides in rule-making
4 over the next few months. We have the opportunity to create
5 rules that are practical, flexible, enforceable, and
6 effective. If done well, this approach could be a model
7 segments of the mining industry and general industry as
8 well.

9 I'd like to close with one rhetorical question,
10 something just to think about. Is MSHA's aim to produce
11 rules that will be easy to enforce or to keep tabs on the
12 industry? Or is the aim to create an environment that will
13 lead to truly effective safety and health training in this
14 industry?

15 Thank you.

16 MS. ALEJANDRO: Mr. Logsdon, I just have one
17 question. At the beginning of your remarks, you indicated
18 that definitions were not important as far as, you know,
19 newly employed, inexperienced, or newly employed,
20 experienced, but that it's necessary, I guess, to assess the
21 skills, experience, and education of the miner, to determine
22 where he or she is and then determine where he or she needs
23 to be in order to work safely at whatever mine site we're
24 talking about.

25 I guess I've got sort of two questions here. How

1 should an operator go about doing that, making that
2 assessment? And for our purposes, how should a concept like
3 that be reflected in a rule on training?

4 MR. LOGSDON: Well, I think we're kind of stuck
5 with the terms, because of the language in the Act.

6 MS. ALEJANDRO: Okay.

7 MR. LOGSDON: So it would be necessary to kind of
8 maneuver around those, as it were.

9 MS. ALEJANDRO: Actually, come to think of it, I
10 don't know how specific or rigid the Mine Act is with regard
11 to --

12 MR. LOGSDON: I know it uses the term "new
13 miner."

14 MS. ALEJANDRO: New miner, right.

15 MR. LOGSDON: And perhaps at some level of
16 competency, we consider someone as an inexperienced or as a
17 new miner.

18 MS. ALEJANDRO: Right.

19 MR. LOGSDON: And if an individual can
20 demonstrate another level of competence, then they're
21 considered --

22 MS. ALEJANDRO: Something other than a new miner.

23 MR. LOGSDON: -- experienced. Yes.

24 MS. ALEJANDRO: Okay.

25 MR. LOGSDON: Which means that a person coming in

1 may have some of those experiences and, for lack of a better
2 term, may proficiency out of some of these requirements.

3 MS. ALEJANDRO: Right.

4 MR. LOGSDON: And then you concentrate on those
5 areas that need improvement.

6 MS. ALEJANDRO: Yes. I guess where I'm coming
7 from is if, in fact -- I mean, we've obviously got to
8 determine who's going to be a new miner and what factors do
9 we look at to decide that someone is not a new miner and
10 actually is in another category, so that the minimum
11 requirements of 115 wouldn't necessary come into play.

12 I mean, is it a combination of years of
13 experience or months of experience, classroom training, or
14 on-the-job training or -- you know, I don't want to put you
15 on the spot and expect you to answer this. But it's just
16 something maybe to think about.

17 MR. LOGSDON: If we determine what those risks
18 are and what the knowledge or information that a prospective
19 employee has to have in order to be able to operate safely,
20 then let's train toward that.

21 You know, another example is we have two lime
22 plants that, you know, the employees never get involved in
23 blasting; they're not around high walls. It's -- in
24 reality, it's more of an OSHA setting than it is a MSHA
25 setting. Yet we're still kind of stuck with these same

1 topics.

2 On the other hand, if we have someone who
3 transfers from a job at a lime plant to a quarry and he's
4 been through the training, he's considered experienced
5 because he's been through all this training, but he doesn't
6 have that experience. So we need to look at what those
7 experiences are, what those competencies are, and train
8 around them.

9 MS. ALEJANDRO: Okay. Thank you.

10 Does anybody else have any questions? Ron?

11 MR. FORD: So, I guess, like are you suggesting
12 like if a miner receives training at one plant and then he
13 switches employment to another plant, that he doesn't have
14 to go to that -- go through that training again, just that
15 he has received a training during a certain time period,
16 that it doesn't matter at which mine?

17 MR. LOGSDON: Well, at each operation, obviously,
18 you have slightly different risks, different hazards, and
19 those need to be covered, either formally or informally.
20 And I think, you know, traditionally Part 48 has covered
21 that on that topic.

22 But, for instance, if we have an electrician who
23 covers five or six operations, you know, is he going to have
24 to attend annual refresher for each one of those individual
25 sites that has a separate ID number? And what do we do

1 where you have portable plants, where you have three
2 different ID numbers coming together at the same site?

3 And there is a lot of -- even within our company,
4 you know, a lot of moving people around within a region,
5 sharing employees.

6 MR. FORD: You talked a little bit about the
7 training, I guess, at your company which is Midwest Vulcan.

8 MR. LOGSDON: Midwest Division of Vulcan
9 Materials.

10 MR. FORD: Okay. Are they -- help me out here.
11 Are they -- would they be considered a large type --

12 MR. LOGSDON: I think so. Yes. Vulcan Materials
13 Company is the largest producer of aggregates in the United
14 States.

15 MR. FORD: Okay.

16 MR. LOGSDON: Midwest Division -- I'm not sure
17 what our production in the Midwest Division is, but our
18 McCook Quarry produces 7 million tons a year, and I think
19 last year it was number seven nationally.

20 MR. FORD: Okay. So what's the employment at
21 your sites?

22 MR. LOGSDON: At our mining sites, our smallest
23 operation probably has five or six employees. McCook, our
24 largest, at one time we had around 130. We've done some
25 automation. I think we're less than 100 employees there

1 now.

2 MR. FORD: So you have sites that are both small
3 and large.

4 MR. LOGSDON: Yes.

5 MR. FORD: Could you talk about -- one thing I
6 think you didn't talk about much was what sort of
7 recordkeeping for the training that you give currently now
8 do you have.

9 MR. LOGSDON: We have -- I'm not sure how far
10 this dates back, but we have an alternate Form 5023 that we
11 use for our orientation, annual refresher training. Our
12 task training is kept on a separate record. It's a company
13 record.

14 Our safety meetings -- we have a system of
15 monthly safety meetings that are supposed to be at least 30
16 minutes long, as well as weekly and within other periods,
17 depending on the need, tailgate-type meetings, that are
18 supposed to be 10 to 15 minutes long. Sometimes they last
19 longer. Those are kept on separate form as well, the safety
20 meeting report form, the individuals' names, signatures,
21 topics that were discussed, the time frame, that type of
22 information. It's all kept on file.

23 MR. FORD: So basically it's a sheet saying what
24 was covered and who received the training and who gave the
25 training.

1 MR. LOGSDON: Yes. Questions that came up,
2 discussions, things like that, that are entered on there.

3 MS. ALEJANDRO: Is that tailored to things that
4 may be happening at the operation, or is it, you know,
5 something that's dictated from some central location, as far
6 as when those occur and what the topic happens to be.

7 MR. LOGSDON: Generally it's determined on site,
8 by the plant superintendent, supervisors, with some input
9 from my office, too. Obviously we get fatal-grams, fatal
10 accident reports, things like that. We'll send a memo out
11 to the superintendents, This needs to be covered at your
12 next safety meeting.

13 MS. ALEJANDRO: Okay. But it's stuff that comes
14 from MSHA in the form of fatal-grams, but are --

15 MR. LOGSDON: From MSHA and from our own
16 experience.

17 MS. ALEJANDRO: Okay.

18 MR. FORD: Okay. And, again, this sheet is
19 signed by each of the miners that received the training?

20 MR. LOGSDON: Yes.

21 MR. FORD: And this, what we're talking about
22 here, is applicable to whether or not you have a site that
23 has 130 employees or a site that has just five or six.

24 MR. LOGSDON: Yes.

25 MR. FORD: Thank you.

1 MR. BURNS: Randy, you asked about the new
2 miners' training. Part of the definition just says, New
3 miners having no surface mining experience shall receive no
4 less than 24 hours of training if they are to work on the
5 surface. And then it lays out the seven things of training.

6 Now, I guess what you were talking about is every
7 new miner's not the same. I mean, some -- I mean, you could
8 have a new miner coming from the construction area, who's
9 worked on bulldozers, who may have driven -- may have
10 operated every piece of equipment you have.

11 MR. LOGSDON: Loader operators, graders; a crane
12 person is a good example, too.

13 MR. BURNS: And then they might have some of
14 these things that are listed: first aid, electrical hazard
15 training, emergency procedures. So you're talking about
16 some way to separate that person out from this 24-hour
17 requirement versus somebody right out of high school that
18 doesn't know anything, except that he's afraid of
19 electricity.

20 MR. LOGSDON: Absolutely, yes. And assess each
21 individual. I mean, this can be done at a job interview to
22 a certain extent. Even, you know, as the training begins,
23 start to feel out what the individual miner's experiences
24 and knowledge is.

25 I can recall one person that we hired as a

1 welder, and after a couple of weeks at work, he didn't
2 really know welding at all.

3 MR. BURNS: He was a salesman, I guess. He sold
4 somebody that he could weld.

5 MR. LOGSDON: Good guess. Yes.

6 MR. BURNS: Okay. So basically you're really --
7 what you're proposing is that the rule has to be flexible
8 enough to be able to make those cuts.

9 MR. LOGSDON: That's what we're looking for.
10 Yes.

11 MR. BURNS: And the goal is performance-based.

12 MR. LOGSDON: That's where it is.

13 MR. BURNS: So that each individual ends up as
14 safe as possible for that individual. You can't guarantee
15 that everybody's going to have the same knowledge and
16 experience.

17 MR. LOGSDON: People learn at different rates.
18 People retain differently. I can remember stuff from way
19 back in 1975 when I took an orientation session at the first
20 coal mine I worked at. I don't remember all of it, but what
21 I remember might be a little bit different than what someone
22 else remembered. So we need to assess with each individual
23 what their knowledge and skills are and correct the
24 deficiencies that we find.

25 MR. BURNS: And the other question I had was on

1 shared employees. I would imagine -- you didn't say it, but
2 I imagine you would be doing this anyway. Would you --
3 certainly someone that goes from one mine to another, that
4 someone different or even more or less exactly the same,
5 you're still going to be doing some sort of hazard training.

6 MR. LOGSDON: Oh, absolutely.

7 MR. BURNS: Just to let them know what they're
8 getting into that's different, just the underlying --

9 MS. ALEJANDRO: Comprehensive training.

10 MR. BURNS: -- comprehensive type training that
11 should be required.

12 MR. LOGSDON: Yes. You know, the individual
13 comes in. In the wintertime, if we're doing a construction
14 project, we'll borrow people from one mine to come in and
15 assist. As a group, they'll come in, and they'll talk to
16 the superintendent, have a -- maybe an extended safety
17 meeting.

18 You know, this is the rules we have here. These
19 are some of the things that we have to watch out for.
20 Here's who you report to. If there's an emergency, you
21 contact this person; you know, some very site-specific
22 training.

23 On the other hand, you have an electrician who
24 maybe is -- makes a circuit every week to five or six
25 different places. The update training, for lack of a better

1 term, maybe doesn't have to be quite so comprehensive. Just
2 check in with the superintendent when you get in; he tells
3 you, Look, there's going to be a blast today at three
4 o'clock. Now he knows now to be in the pit during -- from
5 about 2:30 on, that type of thing.

6 MR. BURNS: I just wanted to clarify one other
7 issue. On the refresher training procedure workers --

8 MR. LOGSDON: Yes, sir.

9 MR. BURNS: I mean, I completely understand what
10 you're talking about, but the Act is very specific on this.
11 It says, "All miners shall receive no less than eight hours
12 of refresher training, no less frequently than once each 12
13 months." So it really doesn't allow much flexibility.

14 At least, I'm throwing that out there, if you can
15 think of any way to interpret that differently. Sometimes,
16 you know, statutes say "annually" or something, where
17 there's a little bit more flexibility. But I'm not sure we
18 have much wiggle room in that area, to be quite honest.

19 MR. LOGSDON: I will have to admit, I don't have
20 solution for that.

21 MR. BURNS: I mean, I understand --

22 MR. LOGSDON: But it's worth consideration,
23 please.

24 MR. BURNS: I think that's it.

25 MS. ALEJANDRO: Actually a gentleman has raised

1 his hand in the back. Have you signed up to speak, sir?

2 MR. HOWARD: No.

3 MS. ALEJANDRO: Actually, I mean, I don't want to
4 take you out of order, but do you have just a comment on --

5 MR. HOWARD: Just a comment on --

6 MS. ALEJANDRO: Could you just identify yourself.

7 MR. HOWARD: Yes. John Howard. I'm a trainer,
8 work at Illinois Eastern Community Colleges, in the state
9 grants program.

10 I know one way to eliminate the 12-month time
11 frame limitation and the problems it creates. We deal with
12 this all the time in the coal business. Somebody's supposed
13 to be retraining in December, and they're off on an injury
14 and you have the Christmas holidays and New Year's, and they
15 can't go back to work because they missed their refresher
16 date, and so we end up sending an instructor out on a
17 midnight shift to train one person.

18 It's really pretty counterproductive in a lot of
19 ways. One way that we used to be able to do this, until it
20 was kabashed somewhere, was we had a training plan. Many
21 coal operators have this, and it's said that the plan
22 permitted that in December of each year, the final hour of
23 refresher training would be completed, so people trained in
24 November or October, the training was marked incomplete, and
25 in December of that year, a one-hour session was held, doing

1 a wrap-up or end-of-the-year safety performance or specific
2 needs. If somebody had a heart attack, they might need a
3 CPA refresher.

4 And in December, then, they would mark the
5 training was completed in December, even though it may have
6 been -- eight hours may have been done in October or July,
7 but not completed. They actually did nine hours, and it was
8 marked in December. Everybody was in the same training
9 cycle that way.

10 You could train with some flexibility, with
11 seasonal lay-offs, which we don't experience in coal, but
12 other little quirks that might develop could all be
13 accommodated with completion of training in December of that
14 year. That would leave 12 months from December to go ahead
15 and complete.

16 And it was not used to circumvent the law. Most
17 people tried to stay within the January, February, the
18 month-to-month training cycle, but had that flexibility at
19 the end of the month to mark it as finally completed, and
20 everybody's on the same cycle. Again, it's really a very
21 good idea, but obviously we couldn't do that, so that was
22 kabashed. I'm not sure why; it worked very well.

23 MS. ALEJANDRO: You said it was kabashed.

24 MR. HOWARD: Yes. Suddenly we couldn't do it
25 anymore. MSHA refused to approve the plans that had that

1 provision in it.

2 MS. ALEJANDRO: I see. But they had been
3 allowing it for --

4 MR. HOWARD: Had been allowing it.

5 MS. ALEJANDRO: -- several --

6 MR. HOWARD: Several coal companies did it.

7 MS. ALEJANDRO: Mr. -- Ron?

8 MR. FORD: Yes. I've just got one follow-up
9 question.

10 MS. ALEJANDRO: Thank you, sir.

11 MR. FORD: Just a couple. Again, these training
12 sheets that after training is received people sign, where
13 are they kept then? Are they kept at each site, or are they
14 kept at some central location?

15 MR. LOGSDON: Currently we keep a copy on site,
16 and we keep one at our division offices. Are you speaking
17 of the safety meeting record now, or the --

18 MR. FORD: Well, I don't know exactly what type
19 of training, but you suggested that when training is given,
20 that a sheet is produced afterwards --

21 MR. LOGSDON: Yes.

22 MR. FORD: -- that talks about the training, who
23 performed the training, and it's signed also by all the
24 miners that have been trained.

25 MR. LOGSDON: Yes.

1 MR. FORD: Okay. That's the sheet I'm talking
2 about.

3 MR. LOGSDON: Those are kept on site, and a copy
4 is kept --

5 MR. FORD: One --

6 MR. LOGSDON: -- at the division office.

7 MR. FORD: One last question: Is that done for
8 every type of training that's given? Or another way to ask
9 this question: Is there any types of training that you give
10 by which you don't keep any sort of record or signature
11 list, like you're talking about? And if so, what is that?

12 MR. LOGSDON: Perhaps some maintenance training,
13 perhaps someone from one of the manufacturers, Caterpillar
14 or one of those. We'll do a special maintenance training.
15 Some of the crusher manufacturers do some training.

16 That's outside of my area, and I really can't
17 address how records are kept of those, but I want to say
18 that there's some record of who attended those and what the
19 dates were. We're pretty careful about how we expend funds
20 for that type thing.

21 But, you know, any safety and health training, we
22 keep a record of. If we have the Crane Institute of America
23 comes in and does a crane operator training, they provide a
24 certificate and list all of the employees that attended that
25 and were either certified or passed their test at the end of

1 the course. And that's kept on file, probably more at the
2 main office than it would be at each of the site locations.

3 MR. FORD: Okay. Thank you.

4 MS. ALEJANDRO: Thank you, Mr. Logsdon.

5 MR. LOGSDON: Thank you.

6 MS. ALEJANDRO: I'd like to ask now: Is Mr.
7 Raymond Peterson here? Mr. Peterson is from Video
8 Information Systems Training Association, Incorporated. If
9 you could come up and spell your name for the court
10 reporter, if you haven't given her a card.

11 MR. PETERSON: No, I have not. The name is
12 P-E-T-E-R-S-O-N, first name Raymond.

13 I'm Raymond Peterson, and I represent VISTA, or
14 Video Information Systems Training Associates, and we are a
15 developer and distributor of training programs, focusing
16 primarily on use of mobile construction equipment and as
17 used in excavating in the mining industry.

18 We have some concerns about training in general
19 that I would like to address to the members of MSHA today,
20 and beginning with my concern with the development of the
21 new rules, as far as flexibility is concerned to meet local
22 needs.

23 There is a considerable amount of difference, as
24 I'm sure you're aware, between seasonal and year-round
25 situations, and also the type of things such as limestone

1 that I believe Randy was just addressing, where they're
2 doing blasting as opposed to bank-run type aggregates. And
3 to have some flexibility to be able to meet those situations
4 is extremely important.

5 The other thing that we run into -- and we deal
6 with mines of all types and all sizes all over the country
7 and actually outside the country as well -- is the disparity
8 in the size of the operations and the need for some
9 flexibility there.

10 The small mine -- and there are several of them
11 around, the mom-and-pop type operations; it may be a little
12 aggregate operation that have three seasonal employees, as
13 opposed to the Vulcans of the world, that have several
14 thousand employees scattered around the country -- have a
15 great deal of difficulty in conforming to a single standard.

16 The smaller mines lack of the expertise in-house.
17 You just were addressed by a gentleman named Randy Logsdon
18 who has a field of specialty within a region. The small
19 mine that is run with four employees doesn't have that
20 luxury.

21 So, consequently, they have a great deal of
22 difficulty in, number one, understanding some of the rules;
23 number two, finding resources to be able to fulfill their
24 training needs; and, number three, finding the time and
25 having the internal expertise to be able to conduct the

1 training that is required of them.

2 Simply knowing the job does not necessarily make
3 a person a trainer or give them the capability to be able to
4 transfer that knowledge that they have gained to other
5 people. So you run into a vast disparity in the quality of
6 training that is done, as well as the ability to meet some
7 of the requirements that are on them.

8 So I believe that in any new training, there
9 needs to be some flexibility to accommodate not only the
10 mine owners, the size of the mines, but also some of the
11 technology and training advances that come along.

12 And the technology extends to the equipment that
13 is available at these mines, as well as the technology for
14 training. A case in point is high interest at the present
15 time in CD-ROM type training. The vast majority of the
16 small mines do not have the CD-ROM capability at the present
17 time. The smaller operations, some of them, may not even
18 have a computer yet. And yet they're held to the same
19 standard as any other mines.

20 So it's difficult for them to be able to
21 accommodate or meet the needs that are being placed, the
22 burden of training, that is being placed on them. They need
23 to be able to have some kind of an outside resource or some
24 other resource where they can get these things, and I
25 believe it is incumbent on MSHA to be able to provide the

1 information that is available for some of these resources.

2 You have to understand that I'm a provider of
3 these resources, so I speak with a bias. I certainly don't
4 expect that we're the only provider of this type of thing,
5 and to have some kind of a resource list available through
6 printed material or some mailer or something would help
7 these people a lot.

8 I think there also needs to be, in the
9 development of any new rules, some concerns for some
10 standards. There's standards being developed in the
11 construction industry at the present time for operators of
12 mobile construction equipment. There are standards being
13 developed for instructors that will eventually wind up as an
14 ANSI standard that hopefully will become an ISO standard.
15 As you know, those things take a long time, but it's in
16 process.

17 We have a member of our company that sits in one
18 of the committees that is developing the standard for
19 instructors. I think that needs to be a consideration.

20 There has to be an acceptance of some different
21 training methods, such as CD-ROM, CVT, videos, simulator-
22 type training, things of that nature, and even hands-on type
23 training with what I have to refer to as a qualified
24 instructor.

25 I'm going to revert to a remark that I had made

1 earlier where I said not everybody is a qualified
2 instructor, and that's where it becomes difficult.

3 Frequently in the mines that we have worked in --
4 and we've worked in large coal mines, the open-pit type
5 operations in the far west, as well as the small aggregate
6 operations throughout the country -- we find that a typical
7 mistake is that they will take what they consider to be
8 their best operator and put their new people on a piece of
9 equipment with them, and say, Here, show them how to safely
10 run this.

11 There is no standard for that to be done. The
12 fact that this person may be a good operator does not
13 necessarily make them a good instructor, and there doesn't
14 seem to be any written format for them to follow in most
15 situations. So it becomes a very difficult situation to
16 evaluate the effectiveness of the training, simply because
17 nothing has been established as far as the standards.

18 I also believe that there needs to be an
19 evaluation of any training materials by qualified
20 instructional design people. Instructional design is a
21 highly specialized field, because you are attempting to
22 influence human behavior, and the way materials are
23 developed will have, can have, an impact on that.

24 Whether it be positive or negative is highly
25 dependent on the individuals that are creating and providing

1 the materials. There has to be concern for the subject
2 matter, for the content, the effectiveness of the training,
3 and for the testing. The testing is really one of the major
4 concerns when it comes to development of training materials.

5 The only way that you can tell if a person has
6 absorbed and understood and can respond to what they have
7 been trained on is through some type of testing procedure.
8 The test may be a physical test, where they have to do
9 something, follow some particular procedure. It may be a
10 written test. A lot of people clutch when it comes to a
11 written test, so that's not a real evaluator, but there
12 nonetheless has to be some form of testing.

13 There has to be some records kept of that
14 testing, as to how effective it was, and there really needs
15 to be some type of a centralized record system. You have a
16 system within the company at the present time that has been
17 used effectively with the construction industry, where we
18 have people go through courses, and we then maintain a
19 computer record of those courses.

20 We have had a number of situations where people
21 have called in for copies of their own personal records,
22 because they may be applying for a job at a different
23 employer and want to be able to take that with them.

24 They have also been used effectively in defending
25 themselves mostly in OSHA litigation situations, to have

1 those records available from a central source, and it's
2 become more popular as a result of the use of this type of
3 thing.

4 I think that needs to be considered in the
5 development of mining, because of some of the testimony that
6 you may have already heard here, that miners do not always
7 work for the same employer, and they may move from one
8 location to another, and they need to be able to take that
9 training data that reflects their background with them.

10 That concludes my remarks. I'm available for
11 questions.

12 MS. ALEJANDRO: Mr. Peterson, you indicated that
13 you believe that any training materials that are used need
14 to be evaluated.

15 Are you speaking primarily to MSHA in its
16 capacity as being the facilitator of compliance with this
17 role, particularly helping small operations? Or are you
18 saying that you believe a rule that MSHA promulgates should
19 include something or some kind of evaluation to ensure that
20 the materials are going to be adequate and effective?

21 MR. PETERSON: When it comes to training that is
22 mandated by MSHA, whether it's a particular topic, then I
23 believe that it is incumbent on MSHA to evaluate the
24 training materials that are developed to be able to do that
25 type of training.

1 MS. ALEJANDRO: Okay. And also you indicated
2 that some kind of testing or, I guess, assurance needs to be
3 had, that the person who's been trained has actually learned
4 something and retained something. Again, are you suggesting
5 that the rules should provide for some kind of follow-up
6 testing to make that determination? Or is that just in the
7 way of, you know, just a recommendation?

8 MR. PETERSON: I believe it would be beneficial
9 if it were used in the right way. One of the problems that
10 we encounter with some of the testing is the fact that if a
11 person takes a test and let's say they get a score of 75 or
12 80 on the test; there are certain things that they have
13 missed.

14 Now you have a printed record of that. When it
15 comes to a litigation situation, if an accident has
16 occurred, that information conceivably could be used against
17 them, that the employer was aware of the fact that this
18 person did not comprehend the information that was presented
19 to them in this specific category, and consequently, it was
20 incumbent on the employer, then, to go back and make sure
21 that they were trained.

22 So it's a double-edged sword. You do need the
23 record that the person has been trained and that they
24 understood certainly a portion of that material. But if
25 that is used against them, you're going to find employers

1 that will be reluctant to use it at all.

2 MS. ALEJANDRO: Okay.

3 MR. FORD: Mr. Peterson, does your company go to
4 a mine or site and provide a full training program? Or do
5 you provide just specific types of training?

6 MR. PETERSON: We provide specific types of
7 training.

8 MR. FORD: So what's your experience out there?
9 Do people come to you, especially with the small mines; do
10 they come to you and say, We don't -- we want you to set up
11 a training program for us, because we don't have one? Or do
12 they have one already in place, and you just have to tune it
13 up a little bit? What have you found?

14 MR. PETERSON: You rarely have one in place for
15 the smaller mines, and I'm going to limit the smaller mines
16 in this remark to mines employing ten or less people. They
17 rarely have any kind of a system in place and are looking to
18 an outside resource like ourselves to be able to come in and
19 help them out.

20 MR. FORD: In that type of situation, where you
21 have to set up a program for a mine that doesn't have one,
22 especially a smaller mine, can you give us a range of what
23 the price might be to do that?

24 MR. PETERSON: It'll run, depending on the number
25 of employees, anywhere from 500 to \$1,000.

1 MR. FORD: Thank you.

2 MS. ALEJANDRO: I think -- thank you, Mr.
3 Peterson.

4 We're going to have a short break now -- I'm
5 sorry, Rod.

6 MR. BRELAND: I'm sorry. I just had one
7 question.

8 MR. PETERSON: Sure.

9 MR. BRELAND: You brought up about the
10 instructors, on the best equipment operator's not
11 necessarily the best instructor. I was a little curious how
12 you would think or propose that a competent instructor be
13 defined.

14 MR. PETERSON: Those are some of the regulations
15 that we're working on right now with the ASSE, the American
16 Society of Safety Engineers, the committee that we're seated
17 on. And there is a definition being written that will be
18 used as an ANSI definition for qualified instructor, and
19 much of it has to do with personal experience, but a lot of
20 it has to do with their ability to effectively transfer
21 information, deal with questions, recognize shortcomings on
22 the part of the person being trained, and recommend methods
23 to overcome that.

24 MR. BRELAND: Okay. Thank you.

25 MS. ALEJANDRO: You said that's going to

1 eventually be an ANSI standard. Is there a draft of that
2 standard, or has it not yet gotten to that point?

3 MR. PETERSON: I think at the next meeting, which
4 is scheduled in the spring, they will have the draft
5 completed.

6 MS. ALEJANDRO: Okay. But there's nothing that's
7 been published.

8 MR. PETERSON: No.

9 MS. ALEJANDRO: It's still in the committee,
10 being worked on?

11 MR. PETERSON: Yes.

12 MS. ALEJANDRO: Okay.

13 MR. PETERSON: The committee had met in September
14 last time, and the new draft, proposed draft, which is now
15 out for comment by the committee members, just arrived last
16 week.

17 MS. ALEJANDRO: And ISO is not any -- I mean, is
18 less far along than ANSI.

19 MR. PETERSON: It's my understanding that ISO
20 does not have a standard in this regard yet, and they're
21 looking to ANSI --

22 MS. ALEJANDRO: As a point of departure?

23 MR. PETERSON: Right.

24 MS. ALEJANDRO: Okay. To develop something for
25 ISO at some point in the future.

1 MR. PETERSON: So we're looking a few years down
2 the road before we've got an ISO standard, I'm afraid.

3 MS. ALEJANDRO: Okay. All right. Thank you very
4 much.

5 And I would say 15 minutes. I've got about 26
6 after 9:00, so maybe come back about 20 till 10:00. And,
7 again, if you would like to speak and have not signed up,
8 I'll put the speakers list in the back, and I also ask that
9 anyone who has not signed up on the attendance list, also
10 sign up. It's also in the back.

11 (Whereupon, a short recess was taken.)

12 MS. ALEJANDRO: Actually, we're going to ask if
13 Mr. Peterson could speak back up to the speaker's chair, and
14 the reason is Ron Ford, who works in the Office of Standards
15 for MSHA, is trying to gather information for the cost that
16 various provisions of the rule may add up to, and the reason
17 is that, as many of you probably already know, when MSHA
18 does propose and issue final rules, along with the rule, in
19 the preamble is a statement of the estimated costs of
20 compliance with the rule, and Ron has a few additional
21 questions that he would like to ask Mr. Peterson on that
22 topic.

23 MR. FORD: Thanks, Mr. Peterson.

24 You quoted a 500 to \$1,000 price to set up an
25 entire program for a small-type site. That's ten or less

1 people. First of all, can you tell me what "entire training
2 program" means. What does the person get for that, the
3 miner operator?

4 MR. PETERSON: For something like that, they
5 would get basically one day of training, and the training
6 would cover the basic requirements as stated by MSHA at the
7 present time, and it would be an instructor or possibly two
8 instructors, putting on eight-hour training course. It
9 would include instruction, some handout materials, some
10 exercises and also some testing and evaluation.

11 MR. FORD: Okay. So the aspects of how to set a
12 training program and how to keep records, the mine operator
13 would do that on his own.

14 MR. PETERSON: Right.

15 MR. FORD: Could you give me the idea of the
16 price range -- it doesn't have to be for your particular
17 company, but for entities that do what you do -- to go to
18 like a mid-size site and what you would determine a mid-size
19 site, and also what you would -- a price range for a large
20 site. How many employees would you consider?

21 MR. PETERSON: Okay. We generally would put mine
22 operations with anywhere from 10 to 25 employees in the mid-
23 size range. Because of the efficiencies that exist in
24 mining at the present time, there's -- mining is done
25 without an awful lot of employees.

1 When you get into the larger employers, we
2 haven't had the opportunity to work with them, because they
3 are primarily self-sufficient. The Vulcans of the world,
4 the Martin Mariettas, the people like that are -- have their
5 own internal operations, and we have not been asked in to do
6 some of that training for them.

7 We supply training materials that they will use,
8 but we do not do the training for them, so I can't directly
9 address that. However, for the mid-size mines, costs would
10 vary with the amount of training that they wanted to do and
11 the number of employees that they wanted to put through at
12 any given time, but I will give you a range; that's all it
13 is. It will run anywhere from, oh, generally a low of
14 around \$3,000 to a high of 7- or 8,000.

15 MR. FORD: Okay. And the training we're talking
16 about here is you're coming in and giving basic training to
17 people that don't have any training at all, more or less.

18 MR. PETERSON: Generally.

19 MR. FORD: Okay. What about -- do you come back
20 also and give like refresher-type training?

21 MR. PETERSON: Yes. We also do evaluations of
22 equipment operators, and then we will do training of the
23 equipment operators themselves. And you run in to a wide
24 range. In evaluation --

25 For example, we just did an evaluation for four

1 operators on a operation in Wisconsin, and it took -- it was
2 a one-day operation, and there were three people, three
3 instructors from VISTA involved, and it cost them \$1,500.
4 So about \$750 per instructor, per day, is a rule of thumb.

5 MR. FORD: Okay. And these were at four
6 different sites?

7 MR. PETERSON: No. These were all at the same
8 site.

9 MR. FORD: Same site?

10 MR. PETERSON: They had four operators they
11 wanted to have -- they were applying for jobs as equipment
12 operators in this application, and they wanted to know if
13 they had the talents and capabilities to be able to fulfill
14 that function.

15 MR. FORD: Okay. Thank you.

16 MS. ALEJANDRO: Thank you very much.

17 The next speaker on the list is William Pautler,
18 from Kincaid Stone Company.

19 MR. PAUTLER: My name is William Pautler, spelled
20 P, as in Paul, A-U-T, as in Tom, L-E-R.

21 My brother and I are owners of a small quarry in
22 extreme southern Illinois, called Kincaid Stone Company. We
23 also are majority owners of a mid-size operation in a
24 western state.

25 First, I want to thank you, the panel, and I'd

1 like to thank Carol Jones, Mr. McAteer, and Congress for
2 permitting this dialogue to take place.

3 I'm here as a small miner or small quarry
4 operator, as you choose. My background is this. This year,
5 Kincaid Stone Company won the NSA Sterling Award for Safety
6 with an incident rate of 0.00. As of this morning at 6:30,
7 we had completed 17 years, 11 months, and 6 days without a
8 lost-time accident.

9 I'm going to change the pace a bit. For one
10 thing, I want to tell you, if you look at the speakers sheet
11 and expect to sit here 30 minutes, you're going to be
12 greatly disappointed. I want to talk to you about how the
13 smaller quarries feel. I'll be specific how we feel, but I
14 think it is generally the same feelings that other quarries
15 have.

16 With that safety record, I want you to know that
17 we are completely, fully interested in safety and have
18 accomplished that interest. We believe that a structured
19 training program in emergency procedures, first aid, hearing
20 and sight protection, has commonality with all places of
21 business, and that those things can be taught on a very
22 structured basis.

23 We have been very privileged at our operation to
24 have an instructor from Logan College who was involved with
25 his father and brother in a small gravel pit in Wisconsin

1 before he finished his college and had become an instructor,
2 and he does a marvelous job of cutting through the chaff,
3 and he knows where the problems are. And the men are
4 impressed by this.

5 I believe in the area of hazard training, task
6 training, that these need to be site-specific. I do not
7 believe that there are enough words to write regulations to
8 enforce all of the various conditions that exist on the
9 differing sites. No two of us here in this room today have
10 a site that is exactly like the other person's.

11 The other thing I would like to address is that
12 we would like to keep paperwork to the minimum. We believe
13 that the supervisors are the first line of safety. If the
14 supervisor is going to spend most of his time doing
15 paperwork or recording what has happened, he's not going to
16 have extra time to take a look at the operation and see if
17 it's safe.

18 I would tell you that few accidents happen in the
19 office. I believe and our company believes that the first-
20 line supervisors are the people who need to go around and be
21 observant of what is going on and to correct or improve the
22 safety aspects that they see.

23 The other thing I believe is that all safety
24 starts at the top and works down. If we the people who own
25 the operations or are managers of the operations are truly

1 interested in safety, and as we go about our business in the
2 quarry and we review what is happening and we stop Joe over
3 there, and say, Joe, you know, I think that maybe you're
4 driving a little too fast on the haul road, or I didn't hear
5 you blow the horn this morning when you started to back up,
6 I believe that that gets more attention by the individual
7 operator out there, than sitting and watching a movie that
8 he considers bored.

9 I would also say that my people, which I feel is
10 a very good crew, some of which would take great offense
11 after this time at our place, being forced to write a
12 written test. They feel that they know their business.
13 Now, if we can present a proactive type of program with
14 them, where we involve them in dialogue about how this can
15 be done better or not, it's very, very effective.

16 But I know that they are somewhat hesitant. I
17 know this last week -- tomorrow, I am going to travel to the
18 Cincinnati area to attend your underground safety program.
19 I'm only going for one reason. I don't intend to be
20 underground very much, but I know that if I go, my people
21 will think and consider that I'm interested in that safety.

22 And I certainly have things that I would rather
23 do tomorrow, but I don't believe that I can afford to do
24 that. I think I have to go and give the opinion that this
25 is an important function for me.

1 I know that one of the people -- I asked who
2 would like to join us, and actually we're taking our whole
3 company, excluding of the old loader operator, and there was
4 one man that declined. And I know why he declined, because
5 he has trouble with the reading and the language. Now,
6 that's it.

7 And we're not by ourselves, people. There are
8 other people out here. It was referred to earlier. So I'm
9 saying, from our viewpoint, let's try to -- I think that the
10 record here that I bring to the table is a good record, and
11 let's try to design this thing so that we get some really
12 meaningful things.

13 I can tell you I personally, when I'm in the
14 field and see something that is -- that shouldn't be, like I
15 see somebody start to grind without any glasses, I just
16 plain old raise Billy-be-damned with him, and I think this
17 is necessary.

18 I mean, you can't legislate it, any more than we
19 could legislate prohibition, but you can get people
20 proactive on it, and they can operate safely. And that's
21 all I have to say.

22 Thank you for the opportunity.

23 MS. ALEJANDRO: Thank you very much, Mr. Pautler.

24 The next speaker on the list is Ed Elliott from
25 Rogers Group.

1 MR. ELLIOTT: Good morning. I'll first give you
2 a little bit about my background. I am a safety manager
3 with Rogers Group, Incorporated, and we are headquartered in
4 Nashville, Tennessee.

5 I have 20 years of mining experience personally,
6 and five years of that has been in surface coal mining; two
7 years of those five was dedicated primarily to safety in the
8 surface coal mining, and then the remaining 15 years has
9 been in the surface stone business. We do have some
10 underground operations also, but I've been with the Rogers
11 Group the majority of that time.

12 And, first, if I could, I would like to just read
13 a few brief remarks. First, thank you for the opportunity
14 to give input into this process. First let me say that
15 Rogers Group, Incorporated, is committed to providing a safe
16 workplace for all employees, and we welcome the chance to
17 work with MSHA to that end.

18 The intent of the Mine Act is to promote a safe
19 workplace and give guidance to industry in how to accomplish
20 this. The Rogers Group places a high value on education and
21 training, including that which impacts safety and health
22 directly.

23 The Act which was passed by Congress provides
24 guidelines for industry to follow in making the workplace as
25 safe as possible. The Act, although obviously written with

1 underground coal mining as its primary focus, gave guidance
2 to the government regulators in their promulgation of rules
3 to cover all of mining, and even today, that remains.

4 As regulatory guidance was established through
5 the rule-making process for industry, the training
6 regulations were the state of the art in what would be
7 required in the underground coal mining industry. There had
8 been very little in the way of educational principles
9 employed by the mine industry in safety training and
10 education.

11 These regulations today are in need of serious
12 review in that they no longer take into account the
13 revolution in training and education techniques which have
14 occurred in the last 20 years. I will not go into detail
15 concerning this revolution at this meeting, but at this
16 point, I'd like to directly address some of the questions
17 that you indicated in your request.

18 First, about should certain terms dealing with
19 "new miner" and "experienced miner" be defined, and I think
20 it is important to have a definition.

21 And I would say with respect to a new miner, just
22 simply put, you're talking about someone who does not have
23 mining experience and has not had appropriate training to
24 that job which he's about to take. Experienced miner would
25 be that person who has experience in mining or who has the

1 training, has taken the training.

2 The second: Which of these subjects should be
3 taught, speaking of those subjects listed in the Mine Act,
4 should be taught before a new miner's assigned work? And I
5 would suggest there are several of those. One, instruction
6 in the rights of a miner; the second, use of self-rescue
7 devices or respiratory devices where those are appropriate;
8 hazard recognition; and emergency procedures. The other
9 subjects I could believe would work best if covered during
10 the work experience.

11 Now, I might mention first aid. This is
12 something that, I think, of the requirements in the Act,
13 this probably was more directed toward underground mining.
14 Years in the past, there have been circumstances where an
15 employee might be even miles from the opening, where they
16 could get assistance, and it was very important that they
17 have people that were adequately trained, have tremendous
18 amounts of materials underground.

19 And many of us here have lived through the time
20 period where the idea was just to, you know, do what you
21 could, throw them in the back of the station wagon and haul
22 them in, you know, and let the hospital take care of them.
23 But that has changed pretty dramatically. And I think at
24 almost every operation that we have, there is emergency help
25 just minutes away, people that are highly trained.

1 And we talk about first aid training, in that I
2 encourage the employees to do no further harm. I don't know
3 if something happened to me right here, if I fell and
4 injured my leg in this room, I would want to make sure that,
5 unless someone here had a lot of experience taking care of
6 me, I would want to make sure that they did no further harm,
7 until someone highly trained could get there to handle the
8 situation.

9 Should training for inexperienced miners be given
10 all at once or spread out over a period of time? I think
11 definitely it needs to be spread out over a period of time.
12 The problem with many new employees today, at least in our
13 company -- you're overwhelmed with a tremendous number of
14 things when you first come to work. You're trying to find
15 out -- to sign up for your taxes, to sign up for your
16 benefits, to look at the different policies and procedures.

17 And through educational principles, which I
18 didn't mention earlier on -- I do have a bachelor of science
19 in education from -- I guess, here in the state it would be
20 appropriate to mention -- Eastern Illinois University, that
21 I'm quite proud of.

22 But in those -- some of those principles, you
23 recognize there is a time period for a new employee to
24 change behaviors, to learn a lot of new ideas, so the time
25 period that that training should cover should be somewhat, I

1 think, restricted to a period of time less than a year that
2 they would have all the required training.

3 Should supervisors be subject to the same
4 training requirements as miners? Yes. I think that's
5 clear. They are exposed to many of or all of the same
6 hazards that any miner would.

7 Task training: Should training be required
8 whenever a miner receives a work assignment that involves
9 new and unfamiliar tasks? Answer simply to that is yes.
10 That's just common sense, that anyone going to a new task
11 should learn some of the fundamentals of that task, which
12 would include safety.

13 Annual refresher training: Should specific
14 subject areas be covered? Yes, they should. And those
15 subjects should be -- they should pertain the fundamentals
16 that are listed in the Act, with interpretations based on
17 whatever is applicable to that work environment and not
18 something that is set out in a regulation that would be
19 inconsistent with what might be at that operation.

20 Can eight hours of refresher training be
21 completed in segments of training lasting less than 30
22 minutes? I think certainly so. As has been mentioned a
23 couple of times in here, there are opportunities where
24 training can be just as short a time as 30 seconds to a
25 minute.

1 If an experienced employee were to see an
2 inexperienced employee doing something improperly, stop that
3 inexperienced employee and explain to them the proper way to
4 do that. That could be the most important training that
5 they receive.

6 And also about the testing: I want to mention,
7 in our company, we have a policy that requires, after any
8 training, an assessment. And I thin the word "assessment"
9 is important in that the assessment can take many forms. It
10 could take the form of a written test; it could take the
11 form of an observation of an employee doing a task. It
12 could be something as simple as asking an oral question; it
13 could be any number of things. But to assess the
14 understanding of the training is the most important thing.

15 Should records of training be kept by the mine
16 operator at the mine site? This isn't really a problem for
17 us. We require that at each of our operations. But I do
18 think technologically we're reaching the point today that
19 the information that can be retained at a central location
20 could be easily duplicated and forwarded to any site, fax
21 machines.

22 I think e-mail is one of the greatest things
23 that's ever come around, but unfortunately, I think, sooner
24 or later, the telephone company or somebody's going to get
25 into that, because they're not making enough money off of

1 it, so that may change in the future.

2 But it's just a lot easier to get that
3 information, so just making sure that we have documentation,
4 I think, is the important thing.

5 Qualification of instructors: Should there be a
6 minimum qualification for people who conduct this training?
7 I think that we need to be careful when we talk about
8 standards for instructors, and I mean no disrespect to many
9 of the agencies out there that are professional
10 organizations, such as the ASSE. I've been a member of
11 that. There are a number of other excellent organizations.

12 But when you start applying some minimum
13 qualifications, I think it's as important that we should
14 focus on the subject matter, not who does the training.
15 Now, it's important that there -- whatever technique that
16 that person is using should be effective in achieving the
17 objectives of the training.

18 If I want to teach someone the proper way to put
19 on their seat belt, I may be able to do a great job, may put
20 on a video, may put on a song and dance; I may have a
21 degree -- you know, degrees that would fill up a page of
22 paper, but the real key element is making sure that whatever
23 technique is used, whatever that instructor, methods they're
24 using, is effective.

25 And I think that's what the focus on those

1 minimum requirements should be, not on having someone to
2 say, They must have a two-year degree in training, or
3 something along those very specific guidelines.

4 That covers the elements that you mentioned in
5 the -- in your handout earlier, but I want to mention about
6 the state grants program. The state grants program in some
7 states is outstanding.

8 I have to say that we have had quite a bit of
9 experience in Indiana in the state grants program, and I
10 think they put, in the areas that I work in, in the states
11 that I specifically work in, which is Alabama, Tennessee,
12 Arkansas, Kentucky, and parts of Virginia, that Indiana has
13 one of the best programs that I've ever seen.

14 And I have to say Kentucky has one of the worst I
15 have ever seen with respect to helping in the aggregates
16 industry. They provide little or no training to the
17 metal/nonmetal mining industry. And that's an important
18 aspect that you discussed earlier, about how long should it
19 be before this takes effect.

20 If there is a strong state grants program that is
21 given a charge to go out and work with the metal/nonmetal
22 mining industry, that will have a great impact on how
23 quickly it can occur. Certainly the industry has been able
24 to mobilize a number of times in the past to address issues,
25 and they'll continue to do that, whatever the timetable.

1 But I think that's -- that would be an important part of it.

2 Something you mentioned earlier about
3 subcontractors at stone mines, metal/nonmetal mines -- in
4 this industry, there are almost -- at least in our
5 operations, there are no subcontractors that do extraction.
6 I know in the coal business, as a matter of fact, the Rogers
7 Group has worked with other coal companies who would be
8 owners, and we have worked as a subcontractor in the
9 extraction process in coal, so I understand the significant
10 difference.

11 But in the metal/nonmetal mining industry, it is
12 more the person that is going to come in and maybe work on
13 your office trailer, or they're going to come in and change
14 a tire, or they're going to come in and repair a piece of
15 equipment. They're not actually doing the crushing of the
16 mineral.

17 I think I mentioned about being proactive within
18 the MSHA organization, and I think MSHA is moving in that
19 direction with the educational field services. And this
20 will be another very important factor in any change in the
21 rules, that the educational field service can go out and
22 really give an impact to the operator and can see them not
23 as adversarial, not as someone coming to write them a ticket
24 and fine them, but someone that's coming out there to help
25 their operations to be safer. And I think that will be very

1 important, and I think MSHA is moving in that direction as
2 we speak.

3 And, last, I would just like to say, in closing
4 that the industry does not need more regulation with
5 restricts our ability to develop training and educational
6 programs. Performance-based requirements must be geared to
7 provide the necessary flexibility so the large, small, and
8 all in between can tailor training and education to meet the
9 needs of their employees. We can have flexible rules and
10 still meet the intent of Congress through the Act.

11 Again, thank you for providing a forum for all
12 here to voice their ideas, and I am confident that by
13 working together, we can achieve what we all seek, and that
14 is a safe workplace, without overly burdensome regulation.
15 Thank you.

16 MS. ALEJANDRO: I have a couple of questions for
17 Mr. Elliott, and some of the other panel members may as
18 well.

19 Do you have -- and, again, I don't want to put
20 anyone on the spot. But you did mention the importance of
21 the state grants program in making sure that implementation
22 of a final rule is effective. Do you have any opinion as
23 far as what an appropriate compliance deadline might be for
24 a final rule?

25 MR. ELLIOTT: I think giving a time period of

1 approximately a year from the date of -- I don't know what
2 actual -- what date would you call it?

3 MS. ALEJANDRO: It would probably be from the
4 publication date in the Federal Register typically.

5 MR. ELLIOTT: Yes.

6 MS. ALEJANDRO: Yes.

7 MR. ELLIOTT: Because that would give some --
8 enough -- in the metal/nonmetal industry, a lot of it is
9 seasonal, so you're going to have a situation to where
10 you're going to have a group of people during that first
11 year. They're not going to know -- and there are a lot of
12 operators, quite honestly, that don't stay up on the rules,
13 and so it's going to take a while to get that information
14 out in the field.

15 So I think if you consider -- it should be a
16 consideration of a year or more, not -- certainly, by no
17 means, less than a year, because of that difficulty in
18 getting the word out to everybody.

19 MS. ALEJANDRO: Okay. And I have one other
20 question, and you may or may not be able to answer this, but
21 as far as contractors or subcontractors, typically is the
22 issue of who's responsible for safety and health training
23 for contractor employees addressed in the contract between
24 the operator and the contractor? Is that ever a subject?

25 MR. ELLIOTT: That definitely is a subject. One

1 of the issues that comes up -- I am not an attorney, but I
2 have talked to numerous attorneys over the years, and you
3 run into that problem with third-party liability and the
4 contractual separation of the liability responsibility.

5 And so we are very cautious in any contract that
6 we develop with a subcontractor, that we make sure that they
7 understand fully that they must comply with all applicable
8 regulations, whether they be OSHA, MSHA, whatever is
9 applicable. It may be environmental regulations. There are
10 a number of things which might be covered on the site.

11 And we are presently looking at how involved we
12 are going to be as a company with the day-to-day activities
13 with that contractor, because what you -- the problem in our
14 litigious society, the way it is today, that you go up to a
15 subcontractor and you start talking about the method with
16 which they are doing the job that they're hired to do. Then
17 potentially that employee has the -- may come back, if
18 there's an accident, and sue you for being involved
19 improperly in that process.

20 So that's a -- but we do make sure that it is in
21 all subcontracts. It is also on any purchase order
22 agreement that we make with a supplier. The items that they
23 might provide for us would have to meet any guidelines.

24 MS. ALEJANDRO: So when you have a subcontractor,
25 then the expectation is they would be providing the

1 comprehensive safety and health training and the refresher
2 training that would be required.

3 MR. ELLIOTT: That is correct.

4 MS. ALEJANDRO: Okay.

5 MR. BRELAND: I had one question on the -- you
6 talked about the less than 30-minutes time frame for
7 training, and that's been talked about a lot. But one of
8 the concerns that also comes up related to that has to do
9 with the recordkeeping and minimizing that.

10 Do you have any suggestions on how you would note
11 an individual had eight hours of annual refresher in a given
12 year?

13 MR. ELLIOTT: I think that's important in the
14 performance-based training. If I am using a format that is
15 less than one class outline and so forth, I would need to be
16 able to demonstrate to you how that was done, and if you
17 came and said, Well, what did you do in that 15-minute
18 training three months ago; Well, I don't remember, that
19 doesn't count. You didn't do the job.

20 So there needs to be appropriate documentation to
21 demonstrate that it's been done. And we do that. We have
22 forms, safety meeting forms, where each employee will sign.
23 The supervisor will put the primary subject, and then if any
24 questions arose and how they were addressed during the
25 meeting.

1 MR. BRELAND: Thank you.

2 MS. ALEJANDRO: Ron?

3 MR. FORD: Yes. Mr. Elliott, I've got a question
4 about a comment. You said that crafting a rule in one area
5 should be focused on subject matter and not the person who
6 does the training.

7 Do you have any ideas on how a standard could be
8 crafted in the sense that it doesn't require perhaps
9 certification of the person providing the training, but at
10 the same time also, provides security that the best subject
11 matter or the best method is being taught by someone who
12 doesn't know anything about the subject or the method?

13 MR. ELLIOTT: That's an excellent question, and I
14 have to admit I couldn't give you any detailed answer at
15 this point with respect to that question. But when you talk
16 about methods, what is so hard to determine is a standard
17 method.

18 You can -- and we work -- and I do a lot of the
19 training within our company, and there are employees who are
20 very articulate, very educated, and quite knowledgeable.

21 And then there are those that have been in this
22 business, maybe, for a number of years, who did not have an
23 in-depth education. They have a great deal of difficulty
24 reading and writing, and finding a person that can be
25 supposedly certified and then give that instruction to where

1 the person can understand it, it's not easy. And I don't
2 know there is an easy answer.

3 But one of the things that I believe Mr. Pautler
4 gave earlier about the situation where he had one of the
5 state grants provider came in and gave the training, and
6 could kind of cut to the chase, so to speak, and talk to the
7 people on their level, and that's the -- I think the person
8 has to be flexible, has to be knowledgeable about the
9 subject matter.

10 But I just don't have a real good answer for you
11 at this point, but I think it's important that whatever is
12 used by the operator, that they be able to demonstrate to a
13 representative of the agency how this is going to function
14 and accomplish what needs to be done.

15 If I am bringing someone in with a Ph.D., I
16 should be able to explain to you and demonstrate to you how
17 that is going to be effective with the subject matter. If
18 I'm going to us a loader operator, I need to be able to
19 demonstrate that, too.

20 So, again, it's performance-based, and the
21 operator has the flexibility, but they need to follow up and
22 explain how they're going to use those people.

23 MR. FORD: Thank you.

24 MS. ALEJANDRO: Thank you very much, Mr. Elliott.

25 MR. ELLIOTT: Thank you.

1 MS. ALEJANDRO: The next speaker is -- and I'm
2 afraid I'm not going to do very well on pronunciation --
3 Daniel P. Foltyniewicz from Risk Management Network.

4 MR. FOLTYNIEWICZ: Say that again.

5 MS. ALEJANDRO: Why don't you say it, but I'll
6 say it after you.

7 MR. FOLTYNIEWICZ: Foltyniewicz.

8 MS. ALEJANDRO: Foltyniewicz.

9 MR. FOLTYNIEWICZ: Very good.

10 MS. ALEJANDRO: Did you give the court reporter a
11 card or --

12 MR. FOLTYNIEWICZ: I believe I gave her an 8-1/2-
13 by-11 sheet with the correct spelling.

14 MS. ALEJANDRO: Okay. Great. Thank you very
15 much.

16 MR. FOLTYNIEWICZ: History teaches us to be
17 prepared, and December 7, 1941, we were attacked at Pearl
18 Harbor, 57 years ago to the day. Let's honor those that
19 have provided us this opportunity by sharing their lives
20 with us, so a second or two to honor the grateful dead.

21 (Pause.)

22 MR. FOLTYNIEWICZ: Training has prepared us to
23 likewise to go forward. To give you an idea of some of my
24 background, because I've listened to some of the others here
25 mention their state schools that they attended, so I'd like

1 to give equal time to the state school that I attended.

2 My background: In 1971, a bachelor's in
3 communication from Northern Illinois University; in 1975,
4 received my M.S. degree in communication, also from Northern
5 Illinois; in 1979, received my C.A.S. in safety. I'm
6 currently 13 hours away from my doctorate.

7 Taught seven years in the public school system,
8 two years in the United States Marine Corps, and one year at
9 Kubisaki [phonetic] High School in Sukiran, Japan, adult
10 education.

11 Since 1975, I've been involved as an instructor
12 or supervisor in the education and training of mining
13 industry personnel. I'm here today as a concerned
14 person/educator. Even though some of the statements and
15 comments presented by state associations and larger
16 companies have been addressed, I felt it was a duty as a
17 person to be in this room, likewise to make my voice be
18 counted.

19 Sometimes you don't see eye to eye with large
20 companies, smaller companies, or medium-size companies.
21 Some of the concerns raised here today, I think, represent a
22 larger segment of the mining industry, and either eliminate
23 or omit some of the smaller interests, so therefore some of
24 the observations that I've made since sitting here, and I'll
25 try and be brief to the five minutes that I requested.

1 MS. ALEJANDRO: Take as much time as you need.

2 MR. FOLTYNIEWICZ: That may not have been the
3 best thing to say.

4 MS. ALEJANDRO: Okay. Well, forget that.

5 MR. FOLTYNIEWICZ: I believe that effective
6 employee training is an important part of the safety
7 program, but it also includes other areas, but aren't
8 limited to some of the subjects or the subject matter that
9 was presented with the Mine Act.

10 Management concerns should be involved. Employee
11 participation should be considered. Certainly hazard
12 identification, evaluation, and control should likewise be a
13 part of that program. However, part of any program should
14 be its annual program evaluation.

15 I believe and support the development of MSHA's
16 enforceable effective training for employees. Part of my
17 training as a United States Marine, that I did follow the
18 rules and regulations that were promulgated to us, such as
19 in the M-16 rifle, we had certain guidelines that we had to
20 know, had to be followed to make a minimum standard.

21 Yet when we look at it, it should be goal-
22 oriented and not restrictive nor constraining. Lesson
23 plans: Many teachers, over the years that I had taught in
24 school, in the public school system, many of the teachers,
25 even though highly qualified --

1 The Rogers Group, Mr. Elliott addressed the fact
2 that there are good instructors out there that don't have
3 the credentials, and they are well knowledgeable people in
4 their field, that could present excellent material. yet I
5 also know highly qualified professional instructors that I
6 happened to share with for seven years, that I wouldn't want
7 as an instructor. So let us not let the credentials be the
8 criteria for the speaker.

9 Current Part 48 addresses training requirements
10 for coal and underground and other segments of the mining
11 industry. Training should be specific for those being
12 affected, such as let's compare apples for apples.

13 The unions provide excellent training likewise.
14 Yet at the same time, currently we do not recognize some of
15 the training offered by unions or other organizations that
16 provide work force personnel to our industry. I have yet to
17 hear anything address that as far as being a viable source
18 of training.

19 Requirements should be able to be met by all. We
20 cannot be half-pregnant in our approach. If large companies
21 can meet the need, we've got to make sure that the smaller
22 interests likewise can meet the need. The 17 years, 11
23 months, and 6 days brought by Kincaid Stone is a valid
24 reason and lesson for us to say that, yes, smaller companies
25 can meet that goal, too.

1 I feel the need to meet both the letter and the
2 spirit of the training requirements set forth in Section 115
3 of the Federal Mine Safety and Health Act of 1977. MSHA
4 should have minimum guidelines for the aggregate industry to
5 follow, as a guiding format, not as a dictatorial
6 presentation. To be effective, training must be
7 performance-oriented, not set in stone, pun intended.

8 Training should be recognizing current and
9 changing conditions in the instructional techniques. People
10 brought up today about some of the high tech ways of
11 instruction. Let us not forget the basic approach: hands
12 on, one on one, face to face. It is good to have CD-ROM,
13 and it's good to have some of these changing areas, but
14 nothing can meet the hands on, one on one.

15 I believe the primary responsibility for training
16 of an operator employee should be the operator.
17 Subcontractors or contractors are responsible for training
18 of their own employees. However, the operator should
19 provide site-specific information and appropriate training
20 for those outsiders.

21 For example, if you have a tire vendor who comes
22 in and is going to be changing a tire near a high wall, they
23 should be aware of those hazards around that high wall.
24 Don't want to change and have that person listen to me about
25 changing the tire, but to be aware and cognizant of some of

1 the other hazards that that person may be involved with.

2 In conclusion, MSHA would best provide offering
3 the aggregate industry training by flexibility in that
4 training that meets the needs of those being affected. With
5 the flexibility, the training goal of MSHA and industry can
6 be achieved. I think by working together it can be. Let's
7 not be restrictive; let's be goal-oriented.

8 Thank you.

9 MS. ALEJANDRO: Thank you very much.

10 That comes to the end of our list of speakers.
11 I'd like to ask if there's anyone here who has not spoken
12 who would like to speak, or if someone who has spoken has
13 additional remarks that they would like to make before we
14 close this.

15 MR. WITHEY: May I make a few comments?

16 MS. ALEJANDRO: Sure.

17 MR. WITHEY: I think I'm perhaps the only
18 contractor here. My name is Mark Withey, W-I-T-H-E-Y. I'm
19 with Evenson Explosives.

20 MS. ALEJANDRO: Could you spell the name of
21 Evenson?

22 MR. WITHEY: E-V-E-N-S-O-N.

23 MS. ALEJANDRO: Okay.

24 MR. WITHEY: -- Explosives, LLC. And I'm in
25 agreement certainly with training for our people. We have

1 more of a limited focus on exposure to danger. Basically we
2 deal with explosives, and we contract bore-hole loading for
3 various producers in the state.

4 Part 48 doesn't deal very well with contractors,
5 and I would like to see that addressed in future rule-
6 making. I would like to see, perhaps, the Subpart C, that
7 deals with training for specific contractors, not just
8 explosive contractors, but there's drill contractors that
9 are there, providing service to a producer.

10 And I think that if you narrowly focus on the
11 areas that you're liable to find hazard and teach your
12 people on that narrow focus and then have site-specific
13 training as Dan had indicated, site-specific hazard
14 training, because every location is different.

15 We need to know direction of travel on haul
16 roads, whether it's left-hand drive, right-hand drive,
17 things along those lines, that you encounter on a daily
18 basis. The individual mine site is best suited to give
19 site-specific hazard training, whether it be a presentation
20 by a safety department individual or simply a piece of
21 paper.

22 A lot of the mine sites out west will give you
23 one or two pages to read for your mine site, specifying the
24 specific hazards that you should look for out there. Some
25 mine sites require that you have specific gear when you

1 enter the mine site. There's a large coal mine that you
2 have to have a magnetic flag on top of your vehicle that
3 extends six, eight foot above the roof of your vehicle, so
4 you can be seen by big equipment.

5 Things like that are important. I'm not going to
6 belabor the training that is specified in Part 48, but to
7 have underground segments when you don't do underground work
8 is really wasting time. When you have specifically the need
9 to have that training, then it should be part of an overall
10 training program.

11 But when you have no personnel that ever go to an
12 underground mine site, they shouldn't have to worry about
13 respirators or if I don't have personnel that are anywhere
14 near electrical hazards, then I would rather spend time
15 teaching my people about dealing with hazards that they
16 would routinely expect to encounter on a daily basis.

17 So if we could, as I suggest, perhaps do a
18 subpart C, that would cover not mine sites but contractors
19 to mine sites, I think that would be most productive and
20 generally specify the type of training necessary for those
21 particular contractors.

22 Again, everyone in the room has indicated
23 flexibility, and flexibility is -- I believe we've always
24 had good flexibility from MSHA, and the personnel that I've
25 dealt with over 30 years with the mining industry, I don't

1 think really have had much problem with flexibility. And I
2 would think that that flexibility will continue. I
3 certainly would offer my hope that it would, and I think
4 that's about it.

5 I'll start rambling momentarily.

6 MS. ALEJANDRO: I'd like to actually ask you a
7 question. You indicate that as far as you're concerned, it
8 makes sense for the contractor to deal with the hazards that
9 are peculiar to the service, I guess, that they're going to
10 be providing.

11 MR. WITHEY: Sure.

12 MS. ALEJANDRO: And then the operator will follow
13 that up with site-specific training. Is that the way that
14 you approach training now at your operation?

15 MR. WITHEY: Generally, every operation that our
16 people attend, I've been to, and I give kind of site-
17 specific training, not -- most of the producers locally
18 don't have or we've never been invited to attend site-
19 specific training. That's something that's more unique to
20 the larger mine sites out west, that have lots of visitors
21 all the time.

22 It's something that probably -- the fact is I've
23 written a paper and presented it to the academy a couple of
24 years ago, about professional steps in blasting. One of the
25 items of interest, I guess, is that I suggested the

1 contractors make their own site-specific checklist, and what
2 we typically do to prepare our personnel for mine sites is
3 do that site-specific checklist ourselves, for people to see
4 conditions that are unique to that mine site.

5 And that's part of our ongoing training, and
6 we've talked about tailgate training. And tailgate training
7 is a wonderful thing. We've had comments about stopping
8 somebody doing something on site, correcting it immediately.
9 And you can't document that; you can't write a report about
10 it. I suppose you could, but you wouldn't catch all of them
11 if you were in the office writing reports.

12 But that's important, and I guess it opens up one
13 last thought. I'm on the task force for blasting here in
14 Illinois. I deal with DNR, Illinois DNR, our regulatory
15 agency, and the IAAP, Mr. Henriksen. And one of the things
16 that we've brought up with DNR is when you set time, time is
17 so arbitrary. You could have an eight-hour lecture and not
18 get ten minutes of value from an eight-hour lecture.

19 You could have somebody that is animated and get
20 more value and more use out of somebody that can interact
21 with people and point to somebody and get him to say
22 something, and all of our training is done that way,
23 interacting between trainee and trainer. So you're
24 constantly getting feedback on how effective your training
25 is.

1 I guess to specify eight hours, I don't know how
2 else you could do it for annual refresher, but the length of
3 time is such an arbitrary thing. The subject material is so
4 variable, that you can't specify subject material. You
5 shouldn't specify time. I don't know what other criteria
6 there is that you could legislate.

7 But, I guess, last statement: It's awfully hard
8 to legislate common sense, and that's what we're trying to
9 do here.

10 MS. ALEJANDRO: Actually, I have a couple more
11 questions. A lot of people who've spoken today have
12 indicated that it's appropriate for contractors to be
13 responsible for the comprehensive training of the
14 contractors' employees, which would include the 24 hours of
15 initial training and then the eight hours of annual
16 refresher training.

17 MR. WITHEY: Sure.

18 MS. ALEJANDRO: Do you agree with that?

19 MR. WITHEY: Yes. Absolutely.

20 MS. ALEJANDRO: Okay. And, also, do you contract
21 at sites where OSHA is the regulating agency as well as
22 MSHA?

23 MR. WITHEY: No.

24 MS. ALEJANDRO: Okay. So you're not in a
25 situation, then, where you've got -- you know, you're on

1 sites with two different sets of safety regulations that
2 come under training.

3 MR. WITHEY: No. Right now, it's just strictly
4 MSHA.

5 MS. ALEJANDRO: All right.

6 MR. BURNS: I was going to ask you about the OSHA
7 training aspect, but do I understand that you don't do
8 drilling? You just --

9 MR. WITHEY: Strictly explosives.

10 MR. BURNS: Okay. Someone else does the
11 drilling --

12 MR. WITHEY: Yes.

13 MR. BURNS: -- before you get there.

14 MR. WITHEY: Some of the larger producers have
15 their own drills and have their own blast crews, and
16 occasionally you'll be called in to do bore-hole loading or
17 a specialty type shot.

18 Some of the smaller producers don't have either,
19 and they have to contract drilling to be done, and they have
20 to contract for an explosive company to come in and provide
21 shot rock. So that's generally the area that we're in.
22 We'll come in and provide shot rock, once the holes are
23 drilled.

24 MR. BURNS: Just to address the -- you indicated
25 that some places you go, some of the mines you go to,

1 they'll give you a couple of pages to read for hazard
2 training.

3 MR. WITHEY: Yes.

4 MR. BURNS: Have you run into a situation where
5 you have perhaps an employee that would have difficulty in
6 reading some of these materials and understanding, getting
7 the information that they need to get?

8 MR. WITHEY: I haven't encountered that, but I
9 could see where it could happen, because our industry --
10 it's a changing industry. When I started back in the '50s,
11 there was lots and lots of laborers out there, with probably
12 fourth and fifth-grade educations, and that was probably --
13 if you were a high school graduate, you were top dog in the
14 field. That's changed to some extent.

15 And illiteracy, particularly in the states that I
16 service, Illinois and Indiana and Ohio, I just don't see
17 that many functionally illiterate people. But we do have
18 other folks that -- Spanish Americans, that don't read
19 English very well, and I don't know if they provide
20 something for Hispanics to read. I'm sure that if it comes
21 up, that they would.

22 But we have a couple of Hispanic employees now
23 that stay in the manufacturing aspect of our business, and
24 we have to get first aid video in Spanish, because I can
25 play it for them in English and they can see what's going

1 on, but they don't really understand the words.

2 So, yes. We have to be able to address -- again,
3 this would be site-specific. Because a person doesn't
4 understand shouldn't single him out to be injured, so there
5 has to be some way to communicate, whether you have to have
6 somebody read it to them or interpret it for them. Just
7 don't go through the motions of signing something you don't
8 even know what you're reading. So I think that has to be
9 addressed certainly.

10 MR. BURNS: I guess this is more of a general
11 comment, as this issue continues to come up, as far as
12 everybody here wants effective training, and I think really
13 that's what these public meetings are about, this rule-
14 making's about.

15 The last thing that we want -- and I think
16 anybody here wants -- is for you to end up where you have
17 people doing compliance training and doing their safety
18 health training in a different way, where they're really
19 doing it on separate tracks. And I think everybody here
20 really feels that there really should only be one type of
21 training that they want to do, and that's effective
22 training.

23 We need to develop a rule that allows that, so
24 the required training is effective training, so I think that
25 is what everybody here wants. It's figuring out how to get

1 there.

2 MR. WITHEY: Well, your district manager should
3 be -- when they approve a training program, you should have
4 the flexibility in that approval; if training programs are
5 going to have to be approved in advance, you should have the
6 approval to eliminate those areas that are specified in Part
7 48 now, that you can't approve if you don't include them in
8 the training plan, even though you really don't ever intend
9 to talk about it, but you're just covering your
10 documentation.

11 Again, talking about self-rescuers, for people
12 don't even know what a self-rescuer is and don't need one
13 because they're on the surface, I think -- I would like to
14 see the flexibility given to the district supervisors to
15 approve training programs that don't completely cover all of
16 Part 48, just the areas that are specific to the hazards.

17 MR. BRELAND: A couple of things to kind of
18 follow up on what Kevin Burns talked to you about. Do you
19 think the operator providing a checklist that you are able
20 to read would be sufficient to cover hazard mine site
21 training?

22 MR. WITHEY: Oh, I think it would be. If you
23 have something particularly dangerous or particularly unique
24 to the industry, maybe you'd want to take it a step further
25 and have somebody go out and escort you the first time on

1 the mine site, and many mine sites do that anyway. They
2 will take you to the area that you need to be in and ask
3 that you not drive around on your own.

4 But each site is so unique to itself that I think
5 the hazard training for that site has to be evaluated for
6 the site. And if you do have fast-moving haul trucks that
7 haul 250 tons or a thousand ton, there's some huge pieces of
8 equipment out there.

9 There's pieces of equipment you have to radio
10 before you approach their circle of influence, because they
11 can't see you. And you might be within 300 feet and they're
12 so high and have so many dead spots, that they just don't
13 even know you're there. You have to communicate by radio.

14 And if you don't know that as a vendor or as a
15 contractor, you could drive up and have a shovel swing and
16 crush you, and he's not even aware that you're there. And
17 after you're dead, you didn't even know he hit you. That's
18 the worst part.

19 So I guess you have to evaluate each site
20 individually, as to what method of hazard training site-
21 specifically you need to provide.

22 MR. BRELAND: Okay. One other thing on the
23 training: When you go to a mine site or contract with a
24 mining site, do you offer them some sort of evidence that
25 you have done your training of your employees? You said you

1 agree that contractors should do their own comprehensive
2 training.

3 MR. WITHEY: If we're asked to provide that, yes.
4 But we don't offer it just offhand, but if the producer
5 wants to see training records or training certificates, we
6 can provide those.

7 MR. BRELAND: Okay. And then one other thing you
8 brought up that I thought was interesting was the contractor
9 site-specific evaluation, if you will, or checklist. Do you
10 do that every time you go to a new operation?

11 MR. WITHEY: Absolutely.

12 MR. BRELAND: Prior to your start?

13 MR. WITHEY: Absolutely, and write up the site-
14 specific checklist. We've got that at our -- you need a
15 route book for delivery of explosives, and we have site-
16 specific checklist for each site that we deliver to or
17 operate in, and that's included in the route book, so it's
18 all in there.

19 MS. ALEJANDRO: Typically when you're at a site,
20 how long a period of time are your employees at a site, or
21 does it vary quite a bit?

22 MR. WITHEY: Oh, it varies tremendously. We've
23 spent as little time as two hours to knock down 10,000 ton
24 of rock, or a full day on a large shot. So, yes. You could
25 spend as much time as probably eleven hours in one day or as

1 little as one or two hours.

2 MS. ALEJANDRO: Is that usually the way that it
3 is, though? I mean, it's either a couple of hours or the
4 most that you'll be at a site is for a very long day? You
5 don't keep coming back, you know, one day after or another?

6 MR. WITHEY: No. Out west, they do, certainly.

7 MS. ALEJANDRO: But your operation does not?

8 MR. WITHEY: But here in the Midwest, and
9 Illinois specifically, we're not allowed to let explosives
10 sleep overnight, unless there's a prior approval by DNR, I
11 suppose. But you don't design anything that would extend
12 beyond a normal work day, that can't be detonated that day.
13 So it gets less in the wintertime.

14 MS. ALEJANDRO: Yes, I'll bet.

15 MR. WITHEY: Thank you.

16 MS. ALEJANDRO: Okay. If there's no further
17 questions, thank you very much, Mr. Withey.

18 MR. WITHEY: You bet.

19 MS. ALEJANDRO: And, again, I will reiterate what
20 I said earlier. Does anyone have any additional remarks
21 that they'd like to make? We've got a couple of people --
22 this gentleman here, you haven't spoken before, have you?

23 MR. STALDER: No, I haven't.

24 MS. ALEJANDRO: Would you like to make a -- all
25 right. Well, just come up and introduce yourself. If you

1 want, you can give a card to the court reporter.

2 MR. STALDER: Thank you. My name's Robert
3 Stalder, S-T-A-L-D-E-R. I'm a regional manager of
4 environmental health and safety for U.S. Silica.

5 And I hadn't requested to speak, because I've
6 only been in the sand side of the business for about eight
7 months, but I have seen some things here that I have insight
8 to.

9 Maybe a little bit of my background: I've had 18
10 years of mining experience, underground coal, gold mining,
11 surface and underground. Fifteen of those have been in
12 safety and instruction. And I'm a CMSP, a certified mine
13 safety professional, have a B.A. in education from the
14 University of Wyoming, an MBA from University of Phoenix;
15 been appointed to the boards of both Wyoming and Colorado by
16 the governors for certification of coal mines. And we built
17 the tests and certified people.

18 First of all, I think you folks have a very
19 difficult task ahead of you, and I recognize that. A lot of
20 things have been brought up today that are general things
21 that are problems and maybe not the solutions. I found from
22 some of the things I've done in the past -- I was a coach
23 for seven years, and I probably learned more there than I
24 did anywhere else.

25 And I found that if the coach tried to make the

1 players fit the plays, they always failed. And right know,
2 you're set into a situation that you're setting down a set
3 of plays here that's supposed to work for a mine that has
4 500 people in it and a mine that only has three in it. It's
5 very difficult.

6 So with that, I found the successful way of doing
7 it is to make the plays fit the players. Okay? You find
8 out who your players are and then make the plays to fit
9 them.

10 I think the only way that that may come about
11 from your perspective is regulations as being guidelines
12 only and not specific, and the more specific you make these
13 guidelines or these rules, regulations, the more difficult
14 it's going to be for the operators to handle it.

15 And I've heard comments today that some of them
16 don't want to produce training plans. Personally I think
17 that's the only way that the mine sites are going to be able
18 to handle something that's specific enough for their site,
19 and I believe that it should be specific for their site,
20 because each operation is different; it's unique. And I
21 don't care if it's exactly the same processes; it's still
22 unique, due to the people that are involved in it.

23 Therefore, I believe that the training should be
24 geared towards the operation itself and specifically their
25 needs. I feel that supervisors are probably the best, most

1 knowledgeable trainers in that particular area, and yet if
2 we look for certifications, as certified or instructors or
3 something, they're not going to have it.

4 And they may not have all the educational
5 techniques and everything else, but they probably know the
6 safety that's involved in that task. They know the dangers
7 in that area and everything else, and they're probably one
8 of the better communicators. I'd like to see them be able
9 to do training.

10 In my situation, I'd like to see them do the
11 training, with me being able to oversee it, but some of the
12 operations don't have that luxury, I guess.

13 I'd also -- something that would be beneficial, I
14 think -- I found this in all mining, from coal mining, gold
15 mining, whatever, is an alternate way of recordkeeping, the
16 5023 method of filling it out and signing it and four copies
17 and go here and there, and it becomes a paper nightmare at
18 times. I'm not sure that I have a solution for it.

19 I'd like to see us use sign-in sheets or
20 databases, where we can track it much easier, but that's my
21 personal feeling on it. I also realize that we need to
22 ensure that there's not, for lack of a better word, lying
23 about the whole process, that the instruction's actually
24 being done.

25 And those are the only comments that I had.

1 Thank you.

2 MS. ALEJANDRO: Thank you.

3 MR. BRELAND: Just on the training plan issue
4 that you're talking about, that you're opposed to submission
5 of training plans for approval, you're saying you wanted --
6 would expect to develop a training plan at your mine site to
7 be specific for the mine --

8 MR. STALDER: I'm not sure I'm opposed to
9 submitting a training plan for approval personally. I know
10 that there's some other mines here, and I don't want to step
11 on their toes. Like I say, I haven't been here that long.

12 I don't see it get bogged down in, You need to
13 have this, you need to have whatever. I would like to see
14 us be able to make a training plan, set up for our mines,
15 and in my case, I have three different ones, and each one of
16 them would be different, because they're unique.

17 but I would like to see that, where we could do
18 it, and it would be specific to that mine site, and it would
19 be usable.

20 MR. BRELAND: So then you're saying that maybe if
21 there was any evaluation, really, of the plan, of its
22 shortcomings or whatever, but if you had a mine site, then
23 consultation with the mine operator if there was some need.

24 MR. STALDER: Yes. I'd like to see some of that.
25 I think it could be worked out that way.

1 MS. ALEJANDRO: You say you're not opposed
2 necessarily to the concept of submitting a training plan to
3 MSHA for approval. Do you think that that process can add
4 value? I mean, is it just that you don't have any objection
5 to it, or do you think that that process adds value to the
6 training?

7 MR. STALDER: I've got to be careful how I answer
8 this, because, like any organization, there are people who
9 are qualified, and there are people who are knowledgeable,
10 and then there are people who are in positions that are
11 neither. It can very much add to the process.

12 MS. ALEJANDRO: But it depends on who.

13 MR. STALDER: Yes, it does. It certainly does.

14 MS. ALEJANDRO: Okay.

15 MR. STALDER: I would look forward to critiquing
16 from another person that's knowledgeable and sees things
17 that I missed. I don't have a bit of problem with that.

18 MR. BRELAND: The only other thing you mentioned,
19 some alternative methods of tracking, I believe, than 5023,
20 did you have some specific suggestions? You mentioned a
21 database, sign-in sheets?

22 MR. STALDER: Well, I believe there were some
23 regulations in the West, anyway, where we were able to start
24 using the 5023s off the computer, but it's still a 5023.
25 I'd like to see -- I don't know if each mine wants to put it

1 up or whatever, but if you have a database where you can put
2 all your employees in there and track their training that
3 way, that's nice.

4 And, yes. I understand that it's a lot easier to
5 sit at your desk and type in names and say they've been
6 trained than it is to get out and train them, so I'm not
7 sure it's a solution in and of itself. I like the sign-in
8 sheet, and I don't have an objection to someone going out
9 and asking an employee, Did you get trained on this date. I
10 believe we need to be accountable.

11 MS. ALEJANDRO: Thank you very much.

12 MR. STALDER: Thank you.

13 MS. ALEJANDRO: And I will ask again -- Mr.
14 Peterson?

15 MR. PETERSON: Thank you. I had alluded earlier
16 in my remarks to the need to accept existing and growing
17 technologies, and there's been a number of comments since I
18 spoke, as far as use of technology in the training process.

19 To clarify a couple of points, technology is not
20 a replacement for human or hands-on type training. That is
21 a given. One of the things that bothers us the most as a
22 producer of video-based safety training type programs is the
23 fact that we know very well that people will take a video,
24 sit a class in front of it, show it, and think that those
25 people are trained.

1 And one of the things that we try to emphasize in
2 all the support materials that we send with our videos is,
3 This is an instructor's device; it is not a replacement for
4 an instructor.

5 We thoroughly believe that, and we have never
6 been able to replace the human element. There are also
7 technologies that do exist at the present time that cannot
8 replace human beings. However, they can support their
9 efforts.

10 One of the great mistakes that is being made at
11 the present time, I believe, is an over-reliance on things
12 like CVT and CD-ROM. Sitting a person in front of a monitor
13 and providing information to them has a certain value.
14 However, it cannot answer their questions on a spontaneous
15 basis, and consequently, the value from a training point of
16 view is suspect. It can't interact with the individual.
17 That's really a major concern.

18 One technology that I alluded to in my earlier
19 remarks that we're involved in at the present time has to do
20 with the training of people for the actual operation of
21 motorized construction equipment or powered construction
22 equipment, and that is simulators.

23 There is a company that we're involved with who
24 had developed a number of simulators for the military for
25 training tank drivers and helicopter pilots and for gunnery

1 practice and things of that nature, that is now making a
2 transition to the civilian industries, and we have been
3 working with them to redesign the simulator or at least
4 adapt it to use for the heavy-haul mine trucks.

5 That technology is available, and we have exposed
6 some of the manufacturers of the heavy-haul mine trucks to
7 this technology, and they, I can tell you, have a great
8 interest in it. I think this is something that, what I was
9 trying to say earlier, needs to be considered when it comes
10 to flexibility for training in the future. These are things
11 that are going to happen, and if we have a closed-end
12 regulation, it precludes the possibility of some of this
13 taking place.

14 So I would urge whatever regulations come out of
15 these hearings that are going on around the country, that
16 they keep an open mind and try to build a regulation that
17 has an open end and can accept some of the newer
18 technologies that come along.

19 One of the other things that needs to be
20 addressed is the employment situation in the United States
21 is extremely high. The availability of trained employees is
22 difficult to come by in many parts of the country right now,
23 so consequently they seem to be getting an influx of
24 employees with little or no training, and frequently with a
25 language barrier.

1 Where English is used as a second language, there
2 are some technologies that are available that can help, and
3 I believe that needs to be considered in the development of
4 any regulations that are provided.

5 Standardized-type training, not site-specific,
6 but those basic elements that need to be addressed for all
7 employees in the mining industry, can be provided in some
8 technology formats that can handle new languages.

9 As far as testing is concerned, for those with
10 English as a second language or functional illiterates or, I
11 guess to be politically correct, we'd have to call them
12 learning-deprived, can also be done with some of this
13 technology.

14 There is a concept that exists that has not been
15 developed yet that would allow a literate, totally literate
16 and an illiterate person to sit side by side and neither one
17 would know if the other could read or write, and they could
18 still be tested. It's an interesting concept that we've
19 worked with the University of Wisconsin on to try to
20 develop.

21 These are some of the things that I think need to
22 be considered in the development of any regulations, so that
23 there are some open-end methods or open-ended regulations
24 that will allow people to use new technology, some
25 flexibility, some systems that are different from those that

1 are standard prescriptions.

2 MS. ALEJANDRO: I just have one question. You
3 indicated that such things as videos and CD-ROMs optimally
4 are used to support a human being, and I guess you could
5 call it the human element that's so important in training.

6 For a regulation, such as the one that we're
7 going to be developing, do you think that that is so
8 important that the regulation should somehow specify that
9 videos or CD-ROMs are support mechanisms, and that a human
10 element is primary or essential? Or, again, is this
11 something that philosophically you're recommending, but not
12 necessarily recommending that it be addressed in a proposed
13 regulation?

14 MR. PETERSON: No. I'm recommending that it be
15 addressed in a proposed regulation.

16 MS. ALEJANDRO: Okay. And how would you go about
17 doing that?

18 MR. PETERSON: Short of sitting down and working
19 out the language as to how it could be done, I believe that
20 it has to be stated in the regulation that these methods
21 which are available -- the problem that you encounter with a
22 video quite often is the fact that the instructor will plug
23 it in and leave the room.

24 MS. ALEJANDRO: Right.

25 MR. PETERSON: That has to be addressed. A human

1 has to be available, whether it's video training, CD-ROM,
2 CVT, you name it; there should be a human available to
3 respond to questions that arise at the time that the
4 training is being done.

5 MS. ALEJANDRO: Okay.

6 MR. PETERSON: A qualified human.

7 MS. ALEJANDRO: Right. Thank you very much.

8 Yes?

9 MR. WITHEY: Just one last comment. We talked
10 about the value of a good instructor.

11 MS. ALEJANDRO: Right.

12 MR. WITHEY: And if a MSHA-approved instructor
13 was on the premises, if there was somebody more qualified to
14 teach first aid that wasn't an approved instructor, as long
15 as the approved instructor is overseeing the procedures,
16 anyone that is qualified in the subject matter should be
17 able to provide that information to the students, as long as
18 the MSHA instructor is in agreement with its content.

19 MS. ALEJANDRO: Well, that raises another
20 question. I mean, the minimum requirements in Section 115
21 of the Act, I don't believe, require that an instructor who
22 provides training needs to go through any kind of
23 certification or approval process.

24 Do you think that -- I mean, you're talking about
25 having an approved instructor on site to ensure that

1 whatever persons who may not be certified or approved, be
2 certain whatever instruction they're giving is adequate. I
3 mean, do you think the approval process for instructors is a
4 valuable one? Or do you think that that is a requirement
5 that doesn't add value ultimately to training?

6 MR. WITHEY: Well, you could approve with
7 somebody 30 years' field experience --

8 MS. ALEJANDRO: Right.

9 MR. WITHEY: -- that's really got one year of
10 experience for 30 years or 30 times. You could have
11 somebody else that's had much more diverse background, that
12 is more knowledgeable in the entire field in ten years than
13 somebody that's been at one site for 30 years.

14 MS. ALEJANDRO: So are you saying, then, that
15 approving of instructors does not necessarily ensure that
16 they're going to be good and effective training providers?

17 MR. WITHEY: I am. Or they may not be good
18 communicators.

19 MS. ALEJANDRO: Right.

20 MR. WITHEY: You may have the best training
21 program and experience history in the world, but if you
22 can't convey that to somebody, there's no value there.

23 MS. ALEJANDRO: Okay.

24 MR. WITHEY: Or if you don't allow for
25 interaction, it misses that human element. Somewhere in the

1 rules, the word "interaction" has to be, because it's the
2 only way you're going to find out if your training is
3 effective. I don't care if you do a test or an on-site
4 review, watch them do the test; you've trained them to do or
5 interact with them as this whole process is being taught.

6 It's been my experience that if you interact
7 during the teaching process, that it really is so much more
8 valuable than just sitting there and talking. If you don't
9 get them to respond to you, you've lost them. Once you
10 can't make eye contact with them, you might as well go out
11 and let the video run, because that's all they're doing.

12 MR. HENRIKSEN: Just to follow up on Mark's
13 point, certifications are not magic. You've got to give
14 flexibility. If what the operators want to see the MSHA-
15 certified person do training, great. If an operator has
16 someone who's been doing a job for years, that person may
17 not be certified by MSHA; that person may not have a high-
18 level education. But that person has know-how to explain
19 the job, explain how to do the safety.

20 You can use that person as a trainer, because
21 that person is knowledgeable and would be respected by the
22 people that works under him or her. That person, I think,
23 would be paid attention to, and that person can give some
24 valuable training.

25 MS. ALEJANDRO: But from a regulatory standpoint,

1 if I hear you correctly, what you're saying is that an
2 approval process and an instructor certification or approval
3 process is not going to ensure that that person has those
4 skills and abilities.

5 MR. HENRIKSEN: I'm saying we were -- if we're
6 talking about certification of the instructor --

7 MS. ALEJANDRO: Right.

8 MR. HENRIKSEN: I don't think it's necessary --

9 MS. ALEJANDRO: It's not going to get you where
10 you need to go.

11 MR. HENRIKSEN: I think it's an option. You
12 might have a company that prefers you use an MSHA-certified
13 trainer for whatever reason to either do the training or
14 maybe supervise the series of on-line supervisors.

15 You may have somebody that may not have an MSHA
16 certification but is a person that could do the job, the
17 person who knows what they're doing, knows their business.
18 They don't need a piece of paper; they don't need perhaps
19 even much education. They know to impart information.

20 MS. ALEJANDRO: So -- but who should decide
21 whether that person does have the skills that's necessary --

22 MR. HENRIKSEN: The operator.

23 MS. ALEJANDRO: Okay.

24 MR. HENRIKSEN: The operator. And bear in mind,
25 I worked as an attorney for 17 years as a regulator in the

1 state of Illinois and state of Kentucky, primarily in coal-
2 mining enforcement and also aggregate mining and things like
3 that. So I understand this.

4 But truly I think our people are able to
5 determine whether that person knows what they're doing. And
6 I don't think it's impossible for an MSHA inspector to come
7 on the site and talk to the operator, and say, Who's doing
8 your training. Well, our superintendent. What does he or
9 she do? Well, they do this, that, and the other.

10 I don't think it would take an MSHA inspector
11 very long to figure out whether or not the person is doing
12 the job. He might have an MSHA certificate, or he or she
13 might have a lot of experience doing what they're doing. I
14 think it wouldn't be that difficult.

15 In the same way, it doesn't make sense for us to
16 have to send our plan away to be approved. You come on
17 site. There's a plan to follow. Yes, here's what we do.
18 Here's how we do our refresher; here's how we do our 24
19 hours. And we're a six-person sand and gravel dredge
20 operation, so we talk about electrical hazards a lot because
21 of that and we talk about drowning. You know, we talk about
22 all these kinds of -- you know, this is what we do.

23 There's no need to send that thing in to a
24 regional office in Duluth or something like that. If it's
25 in black and white, and we have it, we comply with the

1 statute. And I think that anything that makes people do
2 something that promotes safety, as simple as that, that
3 would work. Having to send it off and having somebody
4 nitpick it and all that kind of stuff -- again, I've been at
5 a coal site. That's not going to work, or precisely that's
6 not the best way to do what we all want to do which is to
7 encourage a safe environment.

8 THE REPORTER: I cannot hear them.

9 MS. ALEJANDRO: If you want to speak, you
10 probably need to come up to the microphone. Did you get --

11 THE REPORTER: Most of it.

12 MR. BRELAND: I did have a question for Mr.
13 Henriksen. You were saying the operator doing their own
14 certification, if you will, of instructors and selection of,
15 would you -- are you proposing any kind of criteria, other
16 than -- I know there's a mixture of whether they might be
17 skilled equipment operator. You mentioned the mine
18 superintendent might be the best.

19 But are you proposing some sort of criteria that
20 the operator would use for guidelines to select these
21 people?

22 MR. HENRIKSEN: The criteria I would propose
23 would be very -- well, I don't think -- it would be very
24 loose. I think know-how, basic competence. I think Randy
25 Logsdon with Vulcan had some language that i think he had

1 culled from MSHA Part 56, and that kind of -- there is some
2 basic kind of guidance in existing MSHA rules that could be,
3 you know, used to craft this, for those people who want to,
4 as an option, have their own people do the training.

5 There has to be some level of competence, and I
6 don't know if it's a matter of years. I'm not sure, but I
7 think there is some guidance at least. I think there is
8 some language in existing MSHA rules that can be used as a
9 starting point for what you all are trying to do here, and
10 that's what I'm suggesting.

11 MS. ALEJANDRO: I have a question on that,
12 though. I mean, if, in fact, we're not going to have some
13 kind of, you know, central approval system of instructors,
14 are we then going to be in a situation where an individual
15 inspector will come on property and perhaps make a
16 determination that an individual is or is not -- you know,
17 whatever the words are in the rule -- a competent
18 instructor?

19 I mean, does that create problems min and of
20 itself, that you may have a number of different individuals
21 making an essentially subjective determination? I mean, is
22 that a problem? Does that create a problem?

23 MR. HENRIKSEN: the question posed is well taken.
24 It is a double-edged sword. I think that if the rule's
25 crafted to get -- the idea being, you know, MSHA-certified

1 person, that makes sense versus someone with the level of
2 competence.

3 I think if we communicate enough, our industry
4 communicates enough, what that means and then that
5 communication is not only reflected in your regs, your
6 rules, but it's reflected in policy guidances that you all
7 generate, then I think if we are even part of that policy
8 generation, discussion process, we can agree not only with
9 what the rule says, but what the policy ought to be, and I
10 think we can probably do that.

11 That would cut through a lot of it. We don't
12 want somebody who doesn't know what they're doing, telling
13 someone how to do something that could hurt them. That's a
14 given. So I think we could work together to arrive upon
15 something that would work.

16 I think it would really be good, and along those
17 lines, it really is going to be good for you all to get your
18 safety and in forcing people together to talk about all
19 this, because compliance -- you could have the safest site
20 in the world, but you might have some violations.

21 You might have a place with no violations that's
22 a dangerous place to work. We all know this, so I think
23 it's real important to get your safety and you're forcing
24 people together, working here, and letting your inspection,
25 your enforcement staff know, yes, if they have somebody who

1 has -- that can do this and demonstrate this, that works;
2 you shouldn't write them --

3 You do have -- I think you all, in your safety
4 training arm people, that have the competence to kind of
5 help your enforcement people out, to make them know that it
6 wouldn't be appropriate to write somebody up if -- I think
7 we can work together. I understand the problem you're
8 talking about, but it should be an option. It should be an
9 option to have us decide who is competent. We don't want to
10 have an MSHA-certified person.

11 And they may -- because what they may do, they'd
12 have an MSHA-certified person on staff. They may choose to
13 get somebody that they think can do the job, do the work, or
14 they may go out to a third party, at which nine out of ten
15 of those people would be MSHA-certified, so there shouldn't
16 be any kind of problem.

17 These should just be options, a range of options,
18 an array of options, to promote good safety and good safety
19 culture, to make it easy for us to come into compliance. I
20 mean, I understand that.

21 MR. BRELAND: The one concern about -- and,
22 again, Kathy Alejandro discussed it -- was what if an
23 inspector or somebody on site in their subjective
24 determination felt that your choice wasn't qualified or
25 doing the right job. There would have to be a mechanism to

1 deal with that.

2 MR. HENRIKSEN: There would have to be, and I
3 think so. I think one thing to perhaps think about: As I
4 understand the MSHA enforcement system, even if it's a minor
5 infraction, you all are duty-bound to write a violation.
6 Perhaps these rules could be designed, that to follow it --

7 Well, for instance, the State of Illinois has
8 systems to write you up if you run an oil and gas company,
9 if you have a minor problem. What you can be given is, for
10 lack of a better word, a warning, an inspection report,
11 saying, Hey, you know, this is not -- you're not quite up to
12 snuff; why don't you get this place squared away, get this
13 corrected. If I come back again, I'll have it.

14 But it wouldn't be -- perhaps in your mine safety
15 training rules, there could be some kind of system where the
16 inspector comes and sees something. Maybe the recourse
17 shouldn't be just blasting that person and giving that
18 person a violation; maybe the recourse should be having a
19 dialogue, you know, having a discussion, trying to maybe get
20 the regional manager involved or whatever, or maybe getting
21 the people involved from your safety end.

22 That would be a lot -- if this program starts off
23 in a situation where you all are -- you all come in and are
24 seen to be helpers, trying to -- come in with the idea of,
25 We're not going to be writing you up for this stuff; we'll

1 be trying to get you up to speed, trying to work with you, I
2 think that would be great.

3 So anything that avoids any kind of enforcement
4 and litigation, can get away from that, but with a way to
5 fix it, great. There are alternatives that exist in other
6 systems, other states or federal systems.

7 MS. ALEJANDRO: Thank you.

8 MR. MAXEY: My name is Scott Maxey from Badger
9 Mining Company.

10 MS. ALEJANDRO: Excuse me. From --

11 MR. MAXEY: Badger Mining Corporation. I'm
12 the --

13 MS. ALEJANDRO: Could you spell your last name.

14 MR. MAXEY: M-A-X-E-Y.

15 MS. ALEJANDRO: Thank you.

16 MR. MAXEY: I'm the corporate health and safety
17 director for the organization. I'm new to the industry.
18 I've got a master's in science and health physics. I spent
19 the last 12 years in the chemical industry, so I'm new to
20 the mining industry, and that's why I didn't ask to speak
21 today, but I wanted to reflect a little bit about some of
22 our organization's perspectives on some of these issues that
23 have come up.

24 I'm a certified safety professional and a
25 certified industrial hygienist. As a safety professional,

1 we support performance-based types of training. There's no
2 question about it. We feel that that's the best mechanism
3 to get effective training to our associates.

4 A little bit about our organization: We're a
5 little bit different than most mining companies. We fully
6 embrace the team concept. We have self-directed work teams
7 in our mines that operate themselves. I mean, they do have
8 an operations team or a leader that attends their meetings,
9 but they know their job responsibilities; they're given a
10 lot of autonomy to do their jobs; they're given directions.
11 But ultimately they have the say in their day-to-day
12 activities and how their job -- if it gets done as a team,
13 everything from shift, who's going to work what shift, to
14 how long they're going to work and what are they going to do
15 first, that type of thing.

16 So I think the linchpin in this whole thing is
17 the training plan itself. We put a lot of time and effort
18 in our training plans, but we don't regiment specifically
19 all the different, I guess, elements that are in that
20 training plan.

21 We will indicate what needs to be trained, but
22 because of the autonomy at badger mining that we give our
23 associates, how they execute that is up to them, so there's
24 a lot of variability between the different mine sites and
25 the work teams themselves, so we put a lot of time and

1 effort into a training plan that's geared and regimented for
2 that particular work team, the culture for their particular
3 jobs.

4 So -- and, you know, I don't have a problem with
5 submitting our training plans to MSHA, and we have done that
6 in the past, just to show good faith, but the only thing
7 that I think from our organization's perspective that would
8 not be viewed as being reasonable is when we made small
9 changes to those training plans, to have to resubmit every
10 time.

11 I'd much rather -- I like this gentleman's
12 perspective of having that training plan potentially looked
13 at when the inspector comes on site, and if there's
14 deficiencies, to work on that training plan, to identify
15 ways to improve that training plan, as opposed to beating
16 them over the head.

17 I understand the challenges that you as an
18 organization are under. I mean, it's difficult to have
19 flexibility without a lot of subjectivity, to make it
20 enforceable, so I understand that. But I think the
21 objective to any good safety training program is the health
22 and safety of the associates, the employees.

23 And, you know, if there could be a period where
24 MSHA would work with the smaller companies to work on
25 training plans, I think that there would be a lot of value

1 to that, to identify deficiencies.

2 One thing that we do with this issue on competent
3 person, we don't like the idea of certification, but we do
4 like -- our organization does identify specifically the
5 qualifications an individual will need to do particular
6 types of training, and we do identify those people, certain
7 people, as having those qualifications and, in turn, we
8 identify that -- I hate to use the word "certify" but
9 identify it as being capable of conducting that particular
10 training.

11 We do have some qualifications of our associates
12 that will be conducting that training, and one of those
13 qualifications is they do attend like a train-the-trainer
14 course. We have an internal course that our associate
15 development team or equivalent to our HR department puts on,
16 for those associates who want to take on these particular
17 types of training rules, that they will need to attend this.

18 The train-the-trainer program, as probably most
19 of you are aware of, is designed to make people better
20 trainers, not specifically work on the content of the
21 particular type of training.

22 Those are some of the requirements that we
23 endorse, but, again, I think the training plan is what
24 should be focused on here. And our training plans do not
25 include timetables. They don't include specific issues that

1 need to be discussed in there.

2 There's an objective and a purpose, and also the
3 qualifications of the individual that would be conducting
4 those training plans, to allow the flexibility for people
5 conducting these trainings to make it different every time,
6 if there's retraining on these issues. Also, there's
7 different training styles that our associates have.

8 Now, we do have a program to assess our training
9 that I think is very important, where we go out and we have
10 physical observations and verifications that our training
11 was effective, based on what they were told to do. In some
12 cases, depending on what the training plan called for, there
13 might be a test; there might be a CD-ROM executed internal
14 test on a program, depending on how they wanted to execute
15 that particular type of training.

16 With respect to contractors, we do a lot of
17 contractor training, because our contractors don't come in
18 with the training. We feel that that isn't our
19 responsibility. We endorse having site-specific training
20 for our contractors, specific to our sites, the hazards
21 associated with our sites, and not only just contractors,
22 visitors, whoever may enter our mine site, so that site-
23 specific training is very -- we feel is very important, and
24 it, again, is specific to our mine site.

25 For lack of a better term to use, I mean, we

1 don't have any imbedded employees, where they are doing
2 extraction process, but I believe from our history, that
3 from a third-party liability, that we would take every
4 effort to embrace associates that were involved in those
5 types of activities. If they didn't have a line of -- a
6 hierarchy, a supervision or if they were expected to do the
7 same types of tasks at our site, we would probably consider
8 them to be subject to our training requirements for the
9 site.

10 Those are all the comments that I have.

11 MS. ALEJANDRO: Mr. Maxey, what kind of mining,
12 what kind of operations does Badger have?

13 MR. MAXEY: We're primarily an industrial sand
14 producer. We do have three sites in Wisconsin. We have a
15 new zeolite mine actually out in Nevada and California, and
16 then we've got a smaller operation in Paloma.

17 MS. ALEJANDRO: Okay. How many employees
18 typically do you --

19 MR. MAXEY: Globally, I think we have about 350
20 mine-site employees, probably about 450 total corporate
21 employees. We're a pretty small organization.

22 MS. ALEJANDRO: And on an average per site, how
23 many employees?

24 MR. MAXEY: Our sites range. We have at one site
25 less than ten miners, and at another site, we have as many

1 as 90 miners.

2 MS. ALEJANDRO: And you indicate that you provide
3 comprehensive training to the contractor employees, but you
4 would prefer --

5 MR. MAXEY: Well, we're forced to.

6 MS. ALEJANDRO: Because they don't provide it?

7 MR. MAXEY: When -- yes. They show up; they
8 don't have that training. We need them on site. We're
9 subject to those rules or our management has endorsed --
10 even though we have the rider, our management has indicated
11 that we will conduct that type of training, so we've been in
12 the position to do that.

13 MS. ALEJANDRO: But you haven't had any success,
14 then, in contractually getting your contractors to provide
15 that kind of training to their employees before they show
16 up?

17 MR. MAXEY: I think that has been somewhat of a
18 challenge in our organization, based on -- you know, things
19 would come up, and we would need someone to get in there and
20 get to work, something that was unexpected, something that
21 was unplanned. Therefore, we didn't have the luxury of
22 carving out -- they needed the training to do the particular
23 type of work.

24 MS. ALEJANDRO: Okay.

25 MR. FORD: Mr. Maxey, you have training plans at

1 every one of your sites, even the ones that are less than
2 ten people? Or is it that there's one training plan, and
3 every site has to decide how to use it?

4 MR. MAXEY: There's guidelines that we developed
5 in terms of the training plan for all -- for the
6 corporation, the types of things that we require, and then
7 there's -- each training plan for each site is specific for
8 that particular site, depending on how they want to conduct
9 or what they feel is important for that particular site.
10 And that training plan can change every year, depending on
11 the needs of that work group, or there might be just a
12 normal rotation of types of topics that we would like to
13 cycle through.

14 We do job family analysis for each of our job
15 families at a mine site and determine, based on exposure and
16 the hazard associated with those particular types of jobs;
17 we determine the training requirements that maybe it would
18 be -- we would want them to have, this training once a year.

19 We might want them to have heat stress training
20 every three years, so that would be specified, in terms of
21 what the team determines from that assessment, of what the
22 training requirements will be for each job family.

23 MR. FORD: Does your -- are there union workers
24 at your mines, your sites?

25 MR. MAXEY: We're nonunion.

1 MR. FORD: So all your workers are nonunion?

2 MR. MAXEY: That's correct.

3 MR. FORD: Do any of those workers cooperate in
4 looking at your training plans?

5 MR. MAXEY: They take an active role in the
6 development of the training plans. Now, there are corporate
7 guidelines for the types of things that we would like to see
8 in there, but the associates are ultimately responsible for
9 the training plans themselves.

10 Now, we have an administrator at each mine that
11 makes sure that it's executed and keeps all the
12 documentation on that, but the training plan itself is site-
13 specific.

14 MR. FORD: And just one other area. You would
15 not be opposed to sending any type of training plans like
16 into a district office or anything like that, but you're
17 just opposed to just updating them.

18 MR. MAXEY: You know, I want to be clear here.
19 The idea of a training plan is important, but we do not
20 build a lot of specificity in our training plan that's going
21 to be available for you to -- from an enforcement
22 perspective, to evaluate it.

23 So we don't have a problem with submitting
24 training plans, but it just seems kind of a -- I'm trying to
25 get the value of submitting that, when you should have an

1 inspector on site that looks at the entire operation, looks
2 at the hazards associated with the site, and then can
3 develop -- can look at the training plan to see if that's
4 appropriate for that particular site, as opposed to being in
5 an office and not looking at the activities of the mine site
6 and judging whether that training plan is appropriate.

7 MR. FORD: When you say you have a training plan,
8 a written training plan, that's the broad type plan. Right?
9 And then you send it out to your different sites, and they
10 develop a more specific plan, that's oriented just to their
11 particular needs.

12 Do they have a written plan then?

13 MR. MAXEY: Yes, they do.

14 MR. FORD: So that plan, though, would be
15 specific to that site. That would be more or less what MSHA
16 would be looking for, even if you send it in to them.
17 Right?

18 MR. MAXEY: Yes. It would be that site-specific
19 plan that would be enforceable. What I submit to our sites
20 is that these are the types of training requirements that we
21 need to do. For ne miners, these are the -- you know, if
22 you're going to issue respiratory protection, they need this
23 training; they need to be -- so those guidelines come from
24 myself.

25 But the actual training plan, in terms of what

1 each area may need -- I might they need hearing conservation
2 training, proper use -- very site-specific.

3 MR. FORD: Right. But when your general, broad-
4 based rules goes out to a site, they develop their own
5 written plan.

6 MR. MAXEY: That is correct.

7 MR. FORD: And have it on file.

8 MR. MAXEY: And have it on file and available for
9 inspection.

10 MR. FORD: Okay.

11 MR. BURNS: I have a question.

12 MR. MAXEY: Yes, sure.

13 MR. BURNS: You had mentioned that all your
14 trainers go through train-the-trainer type program. Would
15 you just explain -- can you explain how you came about
16 instituting that? Is there -- the reasoning behind it, I
17 guess.

18 MR. MAXEY: Well, I'll try. The team concept
19 that we've endorsed and fully implemented at Badger Mining
20 required that we allow a lot more responsibilities to go to
21 our associates, to take on budgeting, scheduling,
22 production, a lot of things, and one of those elements was
23 training; not only safety training, but job-specific
24 training, training on how to -- you know, what have you; it
25 might be administrative type of training, in terms of

1 filling out time cards or something like that.

2 We felt that we were going to flatten the
3 organization out and allow a lot more responsibility to be
4 given to specific associates that would have to be
5 identified. We'd have qualifications. They're paid --
6 their wages are dependent on how much responsibility they do
7 take on. We've implement a skilled wage program.

8 I don't mean to get sidetracked here, but, I
9 mean, there's the motivation for associates to take on more
10 responsibilities. I've got an expert for confined space.
11 I've got an expert that we provide them resources. Those
12 are our competent trainers.

13 We thought that we needed our associates not only
14 to be comfortable with the content of the training, but we
15 felt that they needed more knowledge on better ways to
16 deliver training, so we designed our own train-the-trainer
17 program internally. I think it's modeled right after the
18 MSHA train-the-trainer program.

19 But I know as an industry, probably most
20 organizations probably wouldn't be supportive of having a
21 train-the-trainer program. We, internally, have experienced
22 a lot of value from that. But, again, I don't assign people
23 to come in and do training. We have qualified individuals
24 doing it, and they are identified by the operator, so we
25 have a list of people and the qualifications for those

1 people to do those particular types of training.

2 And I think that that can be the enforcement
3 branch of what MSHA might be trying to do with this new
4 standard is being able to look at the training plan and make
5 sure it's being executed appropriately, make sure that there
6 are identified people by the operator, as being competent to
7 do those jobs and have some type of qualifications
8 identified for those people doing that type of training,
9 whether --

10 I don't know what's appropriate. In some cases,
11 it might be years of experience. In other cases, it might
12 be just general job knowledge. It might be that you send
13 them to a seminar, but I think that it's important that
14 there be some type of documentation for having someone
15 identified as a competent person.

16 MR. BURNS: I was just curious that perhaps the
17 people that were doing the training, you know, have some
18 people. I mean, if you just tell somebody they're going to
19 do training, and most people have not done that before;
20 probably their first reaction is fright, because they're not
21 sure what they're going to have to do. I was thinking that
22 perhaps that was the thinking behind the train-the-trainer.

23 MR. MAXEY: And it still exists. There's no
24 question about that, but a lot of our training is with the
25 new associates that are joining the organization, the actual

1 population of people that are -- I mean, it's usually one
2 person training two people or three at a time. They're not
3 in front of a large classroom.

4 I think that's where that fear factor comes in,
5 and I still think that that exists. So we look at
6 alternative ways to put our less comfortable associates in
7 those positions.

8 MS. ALEJANDRO: Thank you very much, Mr. Maxey.

9 Mr. Elliott, did you have additional remarks?
10 We'll get back to you, Mr. Withey.

11 MR. ELLIOTT: Ed Elliott with the Rogers Group
12 again. I want to speak just for a moment on the comment
13 about the inspector having the ability to have a mechanism
14 to verify training if they come on site, and everything at
15 the operation, when you turn in your legal ID, there is a
16 person at the site responsible for all the health and safety
17 at the site.

18 And when you look at the superintendent or
19 whoever that might be -- for the sake of this discussion,
20 I'll say superintendent. Let's say the superintendent. The
21 inspector comes to the superintendent and says, Are you able
22 to verify that every employee has received the training,
23 according to your training plan.

24 And I believe it is the ultimate responsibility
25 of that supervisor to be able to verify that. Now, when you

1 talk about the competent person, I think it's the same
2 thing.

3 It goes back to the supervisor/superintendent,
4 saying that our employees have received the instruction
5 according to the training plan, and then the inspector
6 could, if he wanted to take it to the next step, look at
7 that training plan, and then verify that by individual
8 questioning of employees on the site.

9 I know from time to time MSHA has had some
10 difficulty with instructors who have fraudulently signed
11 training certificates, and I think you can -- you know, you
12 can find that in any situation, but there is that system of
13 accountability within MSHA for everything at that site, for
14 that particular individual.

15 So that's all. I just wanted to speak to that
16 mechanism that may be able to take care of that, versus
17 saying, This person has to be certified, and if they're not
18 certified -- you know, that still doesn't verify that the
19 training's been done.

20 But if the person in charge verifies it, then
21 they are responsible and can be held accountable for it.
22 Thank you.

23 MS. ALEJANDRO: Thank you.

24 MR. WITHEY: Mark Withey. One comment about the
25 training plan. It seems to have generated a lot of

1 interest.

2 When you submit a training plan, perhaps with the
3 new rules, we could specify that when a training plan has
4 been submitted, I guess there's an implied approval if you
5 don't hear back. That would really make it less cumbersome.
6 It would also put the training plan in the hands of the
7 district office or regional office. They would have the
8 plan on hand.

9 If there were deficiencies, then they could get
10 back to you, and you could modify your plan. If there were
11 no deficiencies, that's the implied approval, I think, that
12 would really make it more expeditious.

13 As far as the instructors, I still feel that you
14 could have, as one of my producers, one of the larger
15 producers in Illinois, has instructors for loaders, front-
16 end loaders, that teach only about operating a front-end
17 loader, and instructors that teach about the plant
18 maintenance, belt safety, roller safety, things along those
19 lines. But you have the best of the mine site, teaching the
20 less experienced people.

21 You still have to have one person ultimately
22 responsible for it, though it's varied instructors, but
23 because a man has been certified or approved by MSHA to
24 teach a class doesn't mean he's the most expert person on
25 that mine site.

1 So if you have got the ability, as many of our
2 producers do, to incorporate their senior people in whatever
3 area of expertise they are expert in, to teach those folk
4 that are doing that same job skill, and then have one man
5 coordinating the whole training effort, I think everybody
6 would be better served, particularly the people being
7 trained.

8 MS. ALEJANDRO: So you're basically saying, I
9 mean, a variety of people have a variety of different
10 expertises on different subjects, and to get the best
11 possible training, it makes a great deal of sense to allow
12 the people with the expertise to train in their areas of
13 expertise.

14 MR. WITHEY: Having someone who is overseeing
15 coordinating, I guess, you know, to make sure that the
16 training is given --

17 MR. WITHEY: Yes.

18 MS. ALEJANDRO: -- and that it covers the
19 necessary areas, do you think that that person, I mean, the
20 so-called coordinator, needs to have some kind of approval
21 or certification by MSHA?

22 MR. WITHEY: I don't have any problem with
23 MSHA -- I think it's a good idea for MSHA to look at the
24 history of the individual that is overseeing this thing, to
25 have some type of resume, that would indicate that he's got

1 the skills to be an instructor. And I think that's probably
2 a pretty good idea. And it's not that hard to get approval
3 from MSHA. I mean, it's not rocket science.

4 If you submit a case study of your work
5 experience and it covers the areas that MSHA wants covered,
6 then you get almost an automatic approval, so it's just
7 taking it one step, but having an instructor on file, just
8 like a training program, to have that on file.

9 Most of these training programs are so general
10 that they're really not a whole lot of value on file anyway,
11 because there's no real specific information given. It's
12 just general.

13 But those are the two comments that I wanted to
14 make, about the instructors and about the training program.

15 MS. ALEJANDRO: Thank you. Thank you very much.

16 Mr. Logsdon?

17 MR. LOGSDON: Thank you. I'd just like to add a
18 couple of more comments and maybe clarify a few points from
19 our perspective of the Vulcan Materials Company.

20 With regard to submitting and approving training
21 plans, training programs, I think Mr. Henriksen mentioned
22 there are 419 surface aggregate producers in the state of
23 Illinois. Multiply that over the states, you're talking
24 about submitting a lot of plans for review.

25 I think it's to MSHA's benefit, as well as to

1 ours, to have a training program, a training plan process
2 written and in force on site, within a group of operations
3 under the same company or same area, that can be reviewed by
4 competent MSHA inspectors.

5 An inspector can -- there are a couple of easy
6 tests an inspector can use to determine whether that
7 training is competent and the individual miners have learned
8 from that during their inspection, by interviewing the
9 miners by observing what they do.

10 And if some deficiencies are noted, then those
11 should be brought to the attention of the mine management
12 and a determination in the judgment of the inspector, which
13 the inspectors use their judgment every day in determining
14 whether something is in violation or not, whether just need
15 to make some improvements or whether something justifies
16 citation.

17 Certainly if something is grossly inept, it
18 deserves to be cited, and the force of the Government as a
19 motivator to improve.

20 The issue of flexibility: Maybe I can relate one
21 instance that helps describe that, and I think we've heard
22 from a lot of people here this morning, and it's clear to
23 me -- I've learned just how diverse the group this is and
24 how important flexibility is to this issue.

25 We had a foreman at one of our operations that --

1 I believe he was sent to our corporate office for a couple
2 of weeks and missed the last segment of the annual
3 refresher. The plant superintendent called me and said, How
4 can we deal with this. I stewed about it for a little bit,
5 and I called him back and I said, Look, I'm going to inspect
6 another operation. It was about 100 miles from there. Send
7 him with me for the day.

8 I put together a checklist of the topics that we
9 needed to cover. While we were driving, we talked about
10 those, a lot of good interaction back and forth. We got to
11 the other operation, we did an inspection, asked a lot of
12 questions, learned a lot. And I think that was probably the
13 most effective annual refresher that individual ever
14 attended.

15 It was a very expensive annual refresher, and we
16 certainly wouldn't want to do that for every individual, but
17 it identifies some of the flexibility that we need to be
18 able to respond to.

19 Thank you.

20 MS. ALEJANDRO: Thank you very much.

21 MR. HOWARD: I have no business card. I intended
22 to come here and say nothing, and I'm not going to say much,
23 for those of you who are waiting for a restroom break or for
24 lunch. This will be short.

25 John Howard, H-O-W-A-R-D. I work with Illinois

1 Eastern Community Colleges. We -- I'm the associate dean of
2 work force education. We train 8-, 10-, 12,000 miners a
3 year, coal, metal/nonmetal, EMT, hydraulics, welding, not
4 just Part 48 type training, and have done so for -- I've
5 been doing it for 23 years, and I'm not the senior person on
6 our staff. We do lots of mine safety training.

7 I think training, both good and bad, is much like
8 pornography. It may be hard to define on paper, but when we
9 see it, we know what it is. It's wonderful to say that if
10 we have a qualified instructor or if we have an approved
11 training plan or we pull somebody off the job because
12 they've done this, that you're going to have good training,
13 and the bottom line is it just isn't that simple.

14 I have some frustrations that I hope the
15 metal/nonmetal people can learn from what, in my opinion,
16 are some of the errors that have been around Part 48 since
17 '77 that the coal people have had to live with, and I'll
18 just run through them as comments and not elaborate on this.

19 First of all, the issue of an experienced or
20 newly employed experienced miner is an issue that must be
21 defined than it is now. In Part 48, it will be redefined in
22 February of this year, but one of the last new-miner classes
23 I did, underground coal, was for a fellow who started mining
24 in 1959, and he had been laid off.

25 The definition says to be experienced, you had to

1 have worked 12 months within the last three years,
2 contiguously or randomly scattered out over the three years,
3 or you had to work October 13 of 1978. If you worked that
4 day and it was the only day you worked, you're experienced
5 forever.

6 This guy had worked in the mines twice as long as
7 I ever thought about it, and he had to go through a 40-hour
8 new miner course for the third time because of that goofy
9 definition. That needs to be corrected.

10 Secondly, the coal folks are -- we had a
11 conference October 29 at Rend Lake College in southern
12 Illinois in which we were struggling with the issue of
13 vendors and contractors and mine training.

14 One of the things that I urge you to do is to
15 consider the fact that if you have a miner -- a miner is
16 anybody who makes regular or frequent visits to the mine or
17 is there for five or more continuous days. If he's laying
18 asphalt in the parking lot, by technical -- if it takes him
19 a week to do it, he's a miner. And if he's a miner, that
20 means he needs comprehensive training, by some definition,
21 so we've been struggling with this since 1987.

22 Whether he's exposed to mine hazards or not is an
23 issue that has been difficult to define. Painters -- I did
24 a class of contractors who just painted the Eads Bridge
25 across the Mississippi River. That's the oldest bridge

1 crossing the Mississippi at St. Louis, a magnificent
2 structure.

3 They were going to come and paint the
4 administrative building inside at the mine, and they had to
5 have contractor training, because they were not -- they
6 weren't experienced miners. And what miners? They were
7 painters, and they were damned experienced painters. They
8 were very good, but they had to go through training anyway,
9 because now they were painting building on a mine property.
10 Let's define this.

11 If I'm a contractor and I'm going to be mining,
12 producing, processing, loading, or doing what in the coal
13 industry we unfortunately call dead work, being the
14 lifesaving work that keeps everybody else safe, dead work,
15 then that's comprehensive training. If I'm coming out to
16 put a windshield in a pickup truck on the ground or if I'm
17 going to replace a tire on a loader out in the yard, I'm not
18 a miner.

19 I agree with the comment that you made earlier,
20 Mr. Withey, that if I'm going to be changing a tire in an
21 area of a high wall and there are hazards around, I need to
22 know about that. But if I'm going to be putting a new
23 windshield in an Isuzu pickup truck, for crying out loud,
24 I'm not a miner. Let's acknowledge that fact.

25 I think the definition -- one of the things that

1 troubles me is there's some -- I made an inference, perhaps,
2 that Part 48 is compliance training and good training is
3 anything else. I'm not sure that's true. I wish Mr.
4 Pautler was still here, talking about the high quality of
5 training that he's had for years, from a gentleman who he
6 didn't name but I will, Scott Hanson.

7 Scott's one of our 13 instructors who does this
8 every day of the year. Scott's done Part 48 training for
9 metal and nonmetal. Many of the people here know Scott
10 Hanson. We have a competitor institution, and we have an
11 excellent instructor called D.J. Johnson, who many people
12 know Scott and D.J. They do wonderful compliance training.
13 It doesn't have to be bad.

14 A comment about training plans: Training plan is
15 not a lesson plan. Training plan is a broad, generic form.
16 It can be in many shapes or sizes. It just says that we're
17 going to spend about eight hours doing this, or we're going
18 to spend 24, or we're going to spend 40; we're going to
19 cover these topics; we're going to cover them in a variety
20 of ways.

21 We've been very fortunate with the coal people in
22 Vincennes to be able to say that our times are going to be
23 flexible. We may spend 15 minutes on this topic; we may
24 spend an hour on this topic. We don't submit a new training
25 plan every year. We have a generic training plan.

1 We then from that, and complying with that
2 training plan, develop a lesson plan. The lesson plan
3 varies from location to location, from date to date, to
4 group to group, depending on the problems that we encounter
5 with those people.

6 We talk to management; we talk to the miners. If
7 we determine that somebody does not know how to effectively
8 put on a self-contained self-rescuer, then we may spend an
9 extra 30 minutes on that, because that is, as the name
10 implies, a self-contained, self-rescue device, implies that
11 it's pretty important, and if they can't do it, we'll spend
12 time doing it.

13 I think to get locked into the concept that a
14 training plan is something that says, I'm going to spend ten
15 minutes on this and two hours on this, three hours on that
16 and 35 minutes on this, is to lock yourself in to something
17 that can be very counterproductive.

18 The idea of an unfiled and unapproved training
19 plan is not new. MSHA now is doing this with the new diesel
20 regulations, in which a plan is written; it is kept on file.
21 If somebody wants to see it, they can look at it. It is not
22 approved; it is not submitted; it's just there.

23 Some of the plans train people for one hour. One
24 company in southern Illinois trained people for three days.
25 Neither plan was approved. The thing that makes me

1 uncomfortable with that concept is that if they find
2 problems in the areas that has been trained, then MSHA can
3 come back and hold the trainer responsible for inadequate
4 training, failure to train.

5 I'm not sure that's fair, when we're given a one-
6 hour plan to do something another company is spending eight
7 or perhaps 24 hours on. And we are in some ways servants of
8 the industry. We train for every coal mine in the state of
9 Illinois, surface and underground, except one underground
10 mine, and we do much metal/nonmetal training throughout the
11 state of Illinois.

12 I think the idea that annual refresher training
13 is just boring, routine repetitions of the same topics every
14 year is a dangerous one, and I cite a study done by the
15 Bureau of Mines in 19- -- I'm going to say -- '91, '92, '93,
16 is a short study called, Donning Problems, SCSR. I know for
17 surface people, this has nothing to do with anything, but
18 take the example.

19 SCSR, Self-Contained Self-Rescuer Donning
20 Problems in Eight Eastern Mines, I believe was the correct
21 name of the study, which they found that at one of the
22 mines, even though this was done routinely in annual
23 refresher training, that 80 percent of the people could not
24 successfully or adequately, even, to the ability to save
25 their lives; 80 percent could not effectively put on a self-

1 contained, self-rescuer.

2 The Bureau of Mines thought that the mine
3 trainers were doing a lousy job, of course, and went out and
4 trained them themselves, and came back in 90 days and found
5 that 66 percent of the people couldn't effectively put on a
6 self-contained, self-rescuer either. People forget even
7 important things that are non-routine.

8 Lifesaving, critical skills that are non-routine
9 need to be refreshed, because we forget. The learning
10 curve, as you all know, goes down relatively quickly.

11 First aid training -- just the last, final
12 comment that I have to make here. First aid training: At
13 the Illinois Mining Institute in September of this year, the
14 Office of Mines and Minerals and the Illinois Coal
15 Association gave six miners, six underground coal miners,
16 lifesaver awards, first time in history, three from Turis
17 [phonetic] Coal Company's Elkhart mine, underground mine.

18 Had a fellow who left the classroom session, went
19 out to the prep plant because he was feeling poorly; dropped
20 dead. Even though Illinois law requires EMTs to be present,
21 there was none with him at that time, but there was a person
22 who saw him who was trained in annual refresher training.
23 We did that training as well, by the way, just for a little
24 plug. We do the EMTs and the first aid training.

25 That person went and started CPR. Randy is

1 familiar with -- how far is the mine from the town of
2 Elkhart?

3 MR. LOGSDON: Oh, isn't it about three or four
4 miles, at the most?

5 MR. HOWARD: Yes. The ambulance crew was there
6 with a defibrillator in a matter of ten minutes, maybe less,
7 very, very quick; very small town, 650 people. The EMTs
8 arrived; the guy is back at work today, not because the
9 ambulance service was five minutes away, but because there
10 was somebody there that knew CPR to prevent the bleeding.

11 The other incident was at Peabody's Mercer
12 [phonetic] Mine where a roof-bolting accident, a drill steel
13 came and literally clobbered the guy in the head so badly
14 that he may never be normal again, but they provided
15 instant, immediate first aid, and got him -- kept him alive,
16 treated for shock, and got him to a hospital.

17 And as a result of that, these six individuals
18 were awarded -- and these were not EMTs; these were first
19 aid folks -- lifesaver awards for saving those two people's
20 lives. There are other examples, many, many, many examples.

21 But I think there is some benefit to the topics
22 specified in Part 48, including first aid, including some of
23 the things that may seem redundant. One benefit is first
24 aid -- we had three --

25 When I was working for Monterey Coal Company, we

1 had three first aid people, three first aid experiences in
2 which lives were saved. Not one of them was mine-related.
3 One of them was a highway accident; one was a heart attack
4 in a basketball tournament. An older fan got excited and
5 had a heart attack.

6 And one was a little girl who was around a car,
7 and the jack fell off and crushed the two-year-old girl, and
8 one of the EMTs -- one of the first aid people trained at
9 the mine saved the little girl's life.

10 We teach CPR for infants. We teach CPR for kids,
11 parents, grandparents. It's very important to have these
12 skills, as well, and it builds respect for the fact that the
13 training -- the company or the trainer cares enough to give
14 them skills that they can take with them home and off the
15 job and maybe save a grandchild's life.

16 I think it's an important thing -- I'm sorry.
17 Just one other thing. A critical problem that we run into
18 in coal is that somebody misses a refresher training class
19 and comes back to work. They've been off ill; they've been
20 injured; they chose not to come to work the day they missed
21 refresher training class, and it creates a problem. We have
22 to go do a refresher class for one person, maybe on an
23 afternoon shift, maybe on a midnight shift, maybe on a day
24 shift.

25 One thing that would make a lot of sense to me

1 would be a provision in training plans, if you're writing
2 them, to say that the person who's been off and misses a
3 refresher training class will be hazard trained when he
4 comes to work of any changes that may have taken place in
5 and around the work site, and he will be scheduled into the
6 first available refresher training class.

7 It may be several weeks away, but again we're not
8 talking about a new miner here. People remember the core
9 fundamental things, but if there's been a change in
10 procedure, a change in machinery, a change in hazards, new
11 equipment, inform them of those things, but don't require
12 them to go to a one-on-one training class for eight hours
13 that first day back on the job because of an arbitrary
14 deadline. I think that would make some sense.

15 Those are the only comments I have. I appreciate
16 the opportunity to make those. Thank you.

17 MS. ALEJANDRO: I just have one question, Mr.
18 Howard. You drew a distinction between a training plan and
19 a lesson plan, which would have the specifics of what
20 subjects and how long, et cetera.

21 MR. HOWARD: Sure.

22 MS. ALEJANDRO: As you probably know, Section 115
23 says that a training program shall be approved by the
24 Secretary. What involvement -- I mean, how do you see that
25 working under a Part 46 rule as far as what role MSHA should

1 appropriately play in passing, you know, judgment or
2 approving a program or plan?

3 MR. HOWARD: I'm biased perhaps, because I've
4 been working with coal for 23 years. We have a plan on file
5 that's approved. It's in Vincennes. Occasionally the
6 district training specialist will call and say, or the
7 educational field services personnel will call and say, The
8 training plan's been on file for several years; why don't
9 you revise it. Or I think we have a problem; we want now to
10 include some silicosis training and it's not in our plan.

11 We take the old plan; we look at it; talk it
12 over; go to Vincennes if necessary, but basically submit a
13 plan over the fax machine. They'll say, I think this is
14 good; I'd like you to add something else here. We may need
15 some changes. We put a cover letter on it, and we send it
16 and we get it approved, and it comes up for review again in
17 a few years.

18 But it's nothing more than just a guideline,
19 saying, We're going to spend the time; we're going to cover
20 these topics. And then the lesson plan varies from day to
21 day. It's not something that is approved; it's not
22 necessarily something that I think needs to be approved.

23 Of course, we're not contract workers. We
24 provide lots of training free of charge through the Office
25 of Mines and Minerals State Grants Program. And if Scott

1 Hanson went to William Pautler's operation at Kincaid Stone
2 and did a lousy refresher class instead of the commendable
3 job that he referred to, he would just call me or my boss
4 and says, Don't send Scott Hanson back there. That's the
5 end of that; send another inspector. Or they go to our
6 competitors and get an inspector.

7 So we're bound to do as good a job as we can do.
8 And the lesson plan is something that can change in the
9 middle of a topic. Holy cow, I didn't know you didn't know
10 that; let's stop for a second; let's go back. Did you all
11 know -- and you may end up taking 15 or 20 minutes longer
12 for things that aren't written on the paper with this
13 particular group, because they're not aware or they forgot.
14 It's surprising how much people forget, shocking sometimes
15 how much people forget.

16 MS. ALEJANDRO: But as far as the generic, I
17 guess, for lack of a better word, training plan, I mean, you
18 get MSHA approval on that.

19 MR. HOWARD: Absolutely.

20 MS. ALEJANDRO: And is it your experience that
21 that is a valuable process --

22 MR. HOWARD: Sure, sure.

23 MS. ALEJANDRO: -- to go through?

24 MR. HOWARD: I look at it this way. We've said
25 what we're going to do. They know -- MSHA knows what we're

1 going to do. We've all agreed to this. It's approved, and
2 we also have a list of instructors. It doesn't say that we
3 can't use a good first aid instructor, if we have one. We
4 have an EMT instructor who offers first aid training all the
5 time, even though he's not an MSHA instructor.

6 But the person responsible who signs off is --
7 I'm responsible. If I have some idiot out there doing first
8 aid, I'm not going to let that happen, so if I'm going to
9 sign off on the form, I want to make sure that whoever I
10 pick is -- I wouldn't pick them if they weren't good. But I
11 don't think it hurts anything.

12 And it's not terribly cumbersome to do either, at
13 least, not -- we've been very fortunate in the Midwest, in
14 Illinois and West Kentucky. Our MSHA people are very
15 reasonable and very helpful. And I'm not saying this to
16 suck up; I'm not. They are; they're good.

17 I had a problem this week. We have a mine that's
18 on strike, and we have electrical people who need to have
19 electrical retraining now. Our plan says we can only have
20 30 people. I called Leland Payne. I said, Leland, we're
21 going to try and help everybody we can, and we've scheduled
22 extra classes.

23 But on the last day of December, December 19,
24 Saturday, if we have a class and we have 31 people, I'm not
25 going to kick somebody out; we're going to get them

1 requalified for electrical. He said, I don't have a problem
2 with that. He said, Don't abuse it. I'm not going to abuse
3 it.

4 It's just very good with us. I have no problems.
5 We work closely with Mines and Minerals, and it's a
6 wonderful relationship, I think. That's all I have. Thank
7 you.

8 MR. BURNS: I have one question for you. There's
9 been a lot of comments or suggestions made about the ability
10 to really do -- review all the plans that MSHA would get,
11 and basically there's about 10,200 exempt mines out there,
12 so that's a lot of plans.

13 MR. HOWARD: A lot of plans.

14 MR. BURNS: Based upon what you've described as
15 the broad outline, do you see where there could be some sort
16 of a general type of broad outline or plan that would be
17 across-the-board industry recognized as something that would
18 be appropriate and, I guess, would be -- meet approval, be a
19 guideline that this is the type of plan that would be
20 approved?

21 MR. HOWARD: Perhaps if it was meaningless.

22 MR. BURNS: Okay.

23 MR. HOWARD: I know it's tough to get four or
24 five trainers together, to agree on something, to try to get
25 10,000 operators to say -- unless it was a very vague, very

1 open document that said basically nothing other than, We're
2 going to do this, either in one block, in short blocks, and
3 we're going to cover all of these topics in any way, shape,
4 or form, that makes sense in our operation and meet the
5 needs of our people and our production needs and safety
6 needs and accident records and citation histories and all
7 these things.

8 I don't know that it would be particularly
9 valuable. If it were loose enough, I suppose everybody
10 would agree to something like that. I don't know. Others,
11 perhaps, should comment, more so than me. We basically take
12 a look at the plan that's in existence, and we go and
13 provide training based on fitting into the plan that the
14 operation where it would work.

15 MR. BURNS: How often are those broad-based plans
16 really almost identical from mine to mine?

17 MR. HOWARD: Some people -- there's a different
18 philosophy here. Some people think that the plan needs to
19 be relatively specific and actually will put down some time
20 frames, and that we will do -- we're going to spend 30
21 minutes on this particular topic, and then we are going to
22 have a written quiz at the end of this topic, or that we
23 will use a video tape as part of this topic.

24 The problem is that that's fine for one year, if
25 you want to submit a new plan every year, but you can't use

1 necessarily a videotape for CPR each year. You better have
2 some hands-on management practice. And you can't use a quiz
3 on self-contained self-rescuers every year, because people
4 get bored with that. They remember very well what was done
5 in the past. They want some new stuff.

6 So that, in my opinion, is where the lesson plan
7 comes in, and we keep a running list of what we did last
8 year, and then scratch out. We're not going to do that.
9 And this year, if it's been four or five years since we've
10 used a particular test on a topic, we may come back and do a
11 test that way.

12 So I don't think I answered your question. I
13 think others' opinions might be more valuable than mine on
14 that.

15 MR. BURNS: Thank you.

16 MS. ALEJANDRO: Is there anyone else who would
17 like to --

18 MR. CAMPBELL: My name's Pat Campbell. I work
19 for the Department of Natural Resources, Office of Mines and
20 Minerals, out of Benton, Illinois.

21 The only thing that I'm here to state today is
22 that we have been training or had the colleges do the
23 training for coal for many years. Some of the best training
24 I've ever seen first started in -- I went to the first class
25 in 1979.

1 I wasn't very impressed then. I was an active
2 miner at the time, and as it went on, it's got very well;
3 it's got very good.

4 John, of course, with Illinois Eastern Community
5 College, like he said, they provide the free training, but
6 what we as a department are going to try to do is set up
7 county by county training sessions, so that means -- we
8 figure there's going to be a problem with small operators.
9 I might be wrong on that, where we've got two or three or
10 four people working at a site, and they're going to have a
11 hard time finding somebody to train them.

12 So what we're going to try to set up is a county-
13 by-county training session that will be throughout the
14 state, if that's at all possible, so we're working on that
15 at this time, so that these operators can -- there will
16 be -- I'm sure they'll be getting in contact with Mr. Don
17 McBride [phonetic]. He is over training for our department,
18 for the refresher training and whatever. He will contact
19 colleges and get the appropriate instructors there.

20 These instructors are all MSHA certified. They
21 are all certified instructors and have been doing the
22 training for a long time. I personally do some training,
23 but I usually am in accident prevention, and I want to just
24 put in a punt in for our department and for the state of
25 Illinois.

1 The state of Illinois has almost went a complete
2 year without a fatality in coal. And somebody said there
3 was only four underground coal mines in the state this
4 morning. That is not correct. There is approximately 27
5 mines operating in the state at this time. There's probably
6 more than that.

7 I'm sorry. Maybe I'm wrong. I have been several
8 times. But I think that we as a department are pleased with
9 the training that has been going on in this state in metal
10 and nonmetal and in coal specifically, because that's what I
11 deal with, that's what I see. And you were talking earlier
12 about the training plan. I think that there has to be some
13 variables and has to be a lot of flexibility there.

14 I think you'd have to realize what you're dealing
15 with. I don't think John brought it up. These are -- I
16 shouldn't say a different breed of people, but they are
17 people that are very close to one another in a different
18 world, in underground especially.

19 And not taking anything away from strip mining or
20 metal/nonmetal surface mining, but these are all good people
21 basically, and they do need the best training we can give
22 them. And I think that these colleges and all the trainers
23 that I have been around this state have done that.

24 And I'd like to put a punt in for more state
25 grants money, though, since I said that training is cheap,

1 and basically we'll have to have that to continue to do this
2 type of training for the price that we are getting for it.

3 So I thank you. Is there any questions for me?

4 MS. ALEJANDRO: I just wanted to ask you. You're
5 talking about doing this county-by-county system.

6 MR. CAMPBELL: Yes.

7 MS. ALEJANDRO: Is that in anticipation of the
8 Part 46 rule, or is that something that you were intending
9 to do --

10 MR. CAMPBELL: I think that's in anticipation of
11 the Part 46 rule.

12 MS. ALEJANDRO: Okay. Good.

13 MR. CAMPBELL: We want to make sure that
14 everybody gets that proper training, gets good training, and
15 we feel that the small operators, it might be kind of a
16 burden to them, to go out there and try to get that training
17 on their own. So we'd like to be able to help them out.

18 MS. ALEJANDRO: Okay. Ron?

19 MR. FORD: Yes. Pat, you talked about set up
20 county-by-county training session. You talked about coal --
21 for both coal and --

22 MR. CAMPBELL: No. I'm just talking basically
23 for metal/nonmetal.

24 MR. FORD: Just for metal/nonmetal.

25 MR. CAMPBELL: Metal/nonmetal.

1 MR. FORD: Okay. Does the State have
2 requirements now that metal/nonmetal mines have to send in
3 plans to the State?

4 MR. CAMPBELL: I am not familiar with that. I
5 haven't dealt with metal/nonmetal other than basically going
6 in and doing some training for them myself. And as far as
7 their plans, I have no idea. You'd have to ask somebody
8 else in this room. They probably know more about it than I
9 do.

10 MR. FORD: I'm not sure I was clear on what
11 you're doing on charging. Are you saying you are charging
12 people now, or are you contemplating it?

13 MR. CAMPBELL: Well, John -- they don't charge
14 for any training, like their refresher training.

15 MR. HOWARD: Our metal/nonmetal training is
16 delivered at no cost. We waive all fees personally, and the
17 Department of -- Office of Mines and Minerals, through state
18 grants, funds our travel expenses incurred, and it is
19 essentially -- Mr. Pautler's high praise of our instructor,
20 Scott Hanson, that's all free.

21 MR. BRELAND: The county-to-county plan, though,
22 you're talking about, that would still be no charge.

23 MR. HOWARD: My understanding.

24 MR. CAMPBELL: That's the way we understand it
25 right now, unless something changes between now and -- I

1 don't know when all this -- you said February of '99. Am I
2 under the impression that's when it's supposed to take
3 effect?

4 MS. ALEJANDRO: Well, actually we have to
5 publish -- I think we're looking at publishing a final rule
6 before September 30, 1999, and then obviously there is going
7 to have to be some period of time allowed after publication
8 for people to get into compliance. And so then the question
9 is -- that I was asking earlier was, you know, How long
10 after the date of publication of September 30, '99, does the
11 industry need to get up to speed with the requirements.

12 So, I mean, at this point, we have not come to
13 any final determination obviously about how long it's going
14 to be, but that's one of the things we're looking for
15 comments on is, you know, what is your best guess as far as
16 what is adequate time for that.

17 Do you have -- I mean, assuming on date X we
18 publish a final rule; everyone is on notice of what the
19 requirements are going to be. I mean, do you have any
20 reasonable guess as far as how long it might take for the
21 industry to come into compliance with requirements?

22 MR. CAMPBELL: Do I have a guess of how long?

23 MS. ALEJANDRO: Yes. I mean, just any sense. I
24 mean, several people have said a year sounds like a good
25 period of time after date of publication. I mean, if you

1 don't have any sense --

2 MR. CAMPBELL: I don't really, because I don't
3 know what all it entails as far as you people --

4 MS. ALEJANDRO: Well, I mean, obviously it would
5 depend on what the requirements are.

6 MR. CAMPBELL: Yes. I'm sure it is. I think a
7 lot of this -- you know, I don't know a lot about
8 metal/nonmetal. I may be sticking my neck out here, but I
9 think a lot of this training has been done in the state for
10 a long period of time anyway, basically.

11 Basically now it's just going to be looked at
12 more. Am I right or wrong? Can anybody answer that?

13 MS. ALEJANDRO: I can't answer that.

14 MR. CAMPBELL: You can't answer that?

15 MS. ALEJANDRO: No.

16 MR. CAMPBELL: But I went with Mr.
17 Foltyniewicz -- I've done some training classes with him,
18 and some of the best training I've ever seen. I mean,
19 there's no doubt in my mind, but I think the training is
20 already being done. I don't think it's going to take a long
21 process in Illinois; I really don't. I might be wrong, but
22 I couldn't actually answer that. You need to ask somebody
23 else. I'm like John: You need to ask somebody else, as far
24 as that's concerned.

25 MS. ALEJANDRO: Okay. Thank you. Thank you very

1 much.

2 MR. WITHEY: One las comment about the training
3 plan, and I'll be brief. You had asked if you could develop
4 a broad-based training plan for approval, and we talked
5 about flexibility until I'm really sick of the word.

6 But if you take up the items that everyone should
7 be aware of, regardless of what area mining that they're
8 working in and then half of that is your basic training
9 program and the other half will be -- I'm just about as sick
10 of this, too -- site-specific training.

11 So you allow half of that training plan for site-
12 specific hazard training. The first half would include the
13 health and first aid, and things that everyone should be
14 aware of. The second half should be site-specific, and
15 that's the flexibility, I think, that we've all been looking
16 for.

17 So if you could develop a training plan with the
18 important areas that everyone should be aware of covered and
19 the site-specific, the other half of the training plan, it
20 might be enough to do everything we need to do.

21 MS. ALEJANDRO: Thank you very much.

22 Is there anyone else who would like to make new
23 or additional remarks?

24 (No response.)

25 MS. ALEJANDRO: If not, I would like to thank you

1 all very much for coming and participating on behalf of the
2 Mine Safety and Health Administration. We really appreciate
3 the effort that you've put in to letting us know your views
4 on this important assignment that we've been given.

5 I'd like to reiterate: If any of you have got
6 comments or suggestions that you have not made or would like
7 to submit your remarks in writing, feel free to do so. And,
8 again, I would recommend that you do this before February 1.

9 If you need an address, there was an address in
10 the Federal Register notice, but if you need an address of
11 where to send those written comments, you can come up to us
12 after the hearing, and we will give you that information.

13 On behalf of the panel, I would again like to
14 sincerely thank you, and if there's nothing else, I'd just
15 like to close.

16 Maybe actually one of the things that I might do
17 is just give you a short summary of what our schedule is
18 going to be. We're going to have six additional public
19 meetings in the next couple of weeks and also one week in
20 January.

21 We are going to be getting the draft proposed
22 rule from the Coalition for Effective Mining Training on or
23 before February 1 of '99. We're looking to publish a
24 proposed rule sometime early in the spring of 1999 and also
25 have some public hearings and a comment period after that

1 publication, probably in the early to mid-summer, and
2 looking for a publication date by September 30.

3 So we're going to try to keep to that schedule
4 very tightly if we can, and again, I would like to thank you
5 all for your participation, and I look forward to hearing
6 from you as this process goes on.

7 That's all there is. I'd just like to close this
8 meeting and again say thank you.

9 (Whereupon, at 12:30, the public hearing in the
10 above-entitled matter was concluded.)

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REPORTER'S CERTIFICATE

DOCKET NO.:

CASE TITLE: Meeting for Public Comment, re: 30 CFR Part
46

HEARING DATE: December 7, 1998

LOCATION: Northbrook, Illinois

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the Department of Labor, Mine Safety And Health Administration.

Date: December 7, 1998

Carolyn Dowley

Official Reporter

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