

UNITED STATES OF AMERICA

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DEPARTMENT OF LABOR

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MINE SAFETY AND HEALTH ADMINISTRATION (MSHA)

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PUBLIC HEARING

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30 CFR PART 48: TRAINING STANDARDS FOR SHAFT AND SLOPE CONSTRUCTION WORKERS AT MINES; PROPOSED RULE

+ + + + +

Thursday, August 26, 2004

+ + + + +

The hearing came to order at 9:00 a.m. in the 25th Floor of 1100 Wilson Blvd, Arlington, Virginia, Rebecca J. Smith presiding.

Present:

- Rebecca J. Smith Panel Chair
- Jennifer Honor Panel Member
- Mike Kalich Panel Member
- Tom McLeod Panel Member
- Phan T. Phuc Panel Member
- Larry Trainor Panel Member

I-N-D-E-X

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

9:01 p.m.

CHAIRPERSON SMITH: On the record. Okay.

Good morning, everyone. My name is Becky Smith. I'm the Deputy Director of MSHA's Office of Standards, Regulations and Variances. On behalf of Dave Lauriski, I would like to welcome of you to this public meeting this morning.

The purpose of this hearing is to obtain input from the public on a proposed rule that was published in the Federal Register on July 16, 2004. We have copies of that proposed rule at the back registration table if you need extra copies. The proposed rule we are addressing today would include shaft and slope construction workers under MSHA's Part 48 training requirements. Under the proposed rule, shaft and slope construction workers at surface and underground coal and metal/nonmetal mines would be treated like extraction and production miners and subject to the same Part 48 training requirements.

I'd like to introduce those on the panel with me here today. On my left, Tom McLeod is in fact the chairman of this Regulatory Development project and Tom is a training specialist in our Educational Policy and Development organization. Larry Trainor is

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1 from our Metal/Nonmetal organization. Jennifer Honor
2 is from our Solicitor's Office and Mike Kalich is from
3 our Coal Division of Safety organization and Phan Phuc
4 is economist from the Office of Standards.

5 This hearing is being held in accordance
6 with Section 101 of Federal Mine Safety and Health Act
7 of 1977 and as is the practice of MSHA, formal rules
8 of evidence will not apply. Therefore, cross
9 examination of this hearing panel member by the
10 hearing panel members will not be allowed, but the
11 panel may explain and clarify provisions of the
12 proposed rule.

13 As moderator of this public hearing, I
14 reserve the right to limit the amount of time each
15 speaker is given as well as the questions of the
16 hearing panel. Those of you who have notified MSHA in
17 advance of your intent to speak will be allowed to
18 make your presentations first. I will call speakers
19 in the orders that the requests were made of MSHA.

20 Following these presentations, others who
21 request an opportunity to speak will be allowed to do
22 so. We invite all interested parties to present their
23 views at this hearing and if you are sitting in the
24 audience now and wish to speak, please be sure to sign
25 in at the registration at the back of the room.

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1 We will remain in session today until
2 everyone who desires to speak has had an opportunity
3 to do so. Also if you are not speaking today, we
4 would like for you to sign the attendance sheets so we
5 have an accurate attendance record of today's meeting.

6 We will accept written comments and
7 information at this hearing from any interested party
8 including those who are not speaking. When I call on
9 you to speak, please come to the speaker's table and
10 begin your presentation by identifying yourself and
11 your affiliation for the record.

12 If you have a prepared statement or any
13 supporting documents that you would like to submit for
14 the record, please leave a copy with us today. You
15 can get written comments on this hearing to us today
16 or you can send them to MSHA's Office of Standards
17 electronically, by facsimile, by regular mail or hand-
18 carry using the address information in the Federal
19 Register notice.

20 The post hearing comment period on this
21 proposed rule will end on September 14, 2004 and
22 submissions must be received by that date. A verbatim
23 transcript of this hearing will be made as part of the
24 record and it will posted on MSHA's website. If you
25 would like a copy sooner than the publication on our

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1 website, you can make your own arrangements with the
2 court reporter. The company information is available
3 at the registration table.

4 Before the speakers begin their testimony
5 this morning, I would like to give you some background
6 on the proposed rule we are addressing today. Section
7 115(d) of the Federal Mine Safety and Health Act of
8 1977 states that "the Secretary of Labor shall
9 promulgate appropriate standards for safety and health
10 training for coal and other mine construction
11 workers."

12 On October 13, 1978, MSHA in fact did
13 publish regulations for the training of miners in 30
14 CFR Part 48. The regulations prescribed the training
15 that miners must receive before being exposed to mine
16 hazards. The regulations exclude shaft and slope
17 construction workers, workers engaged in construction
18 activities ancillary to shaft and slope sinking,
19 surface construction workers and underground
20 construction workers where the construction activities
21 require the mine to cease operations. Training for
22 these workers was left for future rulemaking.

23 Recently, we have analyzed accident data
24 and it shows that from 1982 through August 2003 there
25 have been 15 fatalities among shaft and slope

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1 construction workers. Based on this data, we believe
2 that miners performing shaft and slope construction
3 work will be provided with training like other
4 underground and surface miners.

5 A study of these fatalities and a review
6 of shaft and slope construction tasks and operations
7 reveal two important factors.

8 1. The hazards that confront these
9 workers are generally no different from hazards faced
10 by all other underground or surface miners; and

11 2. While we recognize that there are some
12 specialized shaft and slope construction tasks, shaft
13 and slope workers perform a number of tasks that are
14 similar to or the same as the tasks performed by
15 miners already covered by the existing regulations.

16 In fact, in some instances, shaft and
17 slope construction is being done by experienced miners
18 using conventional mining equipment and methods.
19 Therefore, we publish this proposed rule to include
20 these workers in the existing training requirements so
21 they receive similar protection to other similar
22 workers. Our purpose here today then is to further
23 receive information on this proposed rule.

24 Our first speaker today will be Mr.
25 William Howe. Mr. Howe, if you could please.

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1 MR. HOWE: Thank you.

2 CHAIRPERSON SMITH: Say and spell your
3 name for the record and your affiliation please, sir.

4 MR. HOWE: My name is William Howe, H-O-W-
5 E. I'm Secretary and General Counsel of the
6 Association of Bituminous Contractors.

7 CHAIRPERSON SMITH: Thank you.

8 MR. HOWE: I have an opening statement and
9 then we have four of our members here to testify today
10 as well as R.G. Johnson which is a former member and
11 shares the same concerns as the Association and its
12 member regarding this particular proposed regulation.

13 The Association of Bituminous Contractors
14 is an association of independent construction
15 contractors which perform construction work for mining
16 industry customers including the construction of
17 shafts and slopes by conventional, raised drill and
18 blind-hole drilling methods. The Association and its
19 members fully support the need to provide safety and
20 health training to shaft and slope construction
21 workers.

22 However, for a number of reasons, the
23 Association and its members disagree with MSHA's
24 proposal to accomplish this important task by simply
25 subjecting shaft and slope workers to the existing

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1 requirements of Part 48, particularly subpart A and
2 subpart B. It is not an effective way to provide
3 meaningful training to shaft and slope workers and it
4 fails to recognize the very real differences between
5 mining and the way construction is performed.

6 Shaft and slope construction is different
7 than underground mining, even though shaft and slope
8 workers may encounter, in some instances, some of the
9 hazards as miners when they are performing certain
10 phases of the work. Shaft and slope construction is
11 construction work. I think it's important to keep
12 that in mind. Its purpose is to build a structure
13 which only after it is completed will be used in the
14 extraction of coal or some other mineral for
15 commercial purposes.

16 A shaft and slope construction project
17 requires employees to perform work both on the surface
18 and underground. Workers are not assigned
19 exclusively to one location or the other. Almost 90
20 percent of our workers work both on the surface and on
21 underground. I mean this idea that you have surface
22 shaft and slope construction workers and underground
23 shaft and slope construction workers is simply not
24 true.

25 The hazards encountered in shaft and slope

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1 construction are typical of hazards found elsewhere in
2 heavy and industrial construction. Many of these
3 hazards are different from those in underground
4 mining. For instance, shaft and slope construction
5 workers like others employed in the building and
6 construction industry regularly face hazards
7 associated with working at heights. This probably is
8 our greatest concern and I think it's one that's not
9 shared with people working in underground mines.

10 Unlike at mines where miners are employed
11 on a permanent basis, shaft and slope construction
12 workers are employed at temporary construction sites.

13 The contractors that perform the work may do so at a
14 number of widely scattered locations with support
15 services provided from a home office which is many
16 times hundreds of miles away from where the actual
17 sites are located.

18 A typical shaft or slope project goes
19 through a number of phases from the time it is
20 mobilized until the time it is demobilized. Scales
21 and equipments vary from one phase of the project to
22 the next as do the types of hazards encountered.
23 Likewise, the work force at a typical shaft or slope
24 construction project goes through a number of phases
25 from the start to the completion of the project. The

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1 number of workers typically start small, builds up to
2 a maximum perhaps working around the clock seven days
3 a week when in full production and then tapers off as
4 the project is completed.

5 Hiring new employees usually takes place
6 throughout the life of the project. People are just
7 not hired at the beginning to work with the project.
8 It's a continual process in the shaft and slope
9 construction business. As in the case of most
10 construction projects when viewed in the form of a
11 graph, a manpower usage over the life of a project
12 appears in the form of a bell curve. It starts out,
13 builds up, finishes, winds down.

14 All shaft and slope contractors provide
15 training to their employees. The training provided
16 takes into account the way shaft and slope
17 construction is performed so that training is
18 appropriate for the work and hazards being encountered
19 at the time the training is given. New employees are
20 given orientation training and training in tasks
21 currently being performed and additional training is
22 then provided as necessary.

23 Crews at shaft and slope construction
24 projects are small since work is performed in a very
25 confined space. It is necessary to be able to fill

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1 vacancies quickly since the absence of even one crew
2 member may adversely affect the efficiency and
3 productivity of the project.

4 When Congress put mine construction under
5 the Act in 1977, it recognized as you did in your
6 opening statements remarks that construction is
7 different than mining and instructed MSHA to
8 promulgate separate training regulations for
9 construction including shaft and slope construction.
10 For the past 27 years, MSHA has acknowledged this
11 difference.

12 Some reasons why the proposal to put shaft
13 and slope construction under existing subparts A and B
14 is not appropriate include because shaft and slope
15 construction workers perform work both on the surface
16 and underground, they would have to be trained under
17 both subparts A and B. Would an new construction
18 worker would have to undergo 24 hours of training at
19 the start of the project and then another 24 hours
20 before going underground? For that matter, where
21 would MSHA draw the line between surface and
22 underground? Would a construction worker trained
23 under subpart A be eligible to go to work as an
24 experienced underground miner and would a miner
25 trained under subpart A be eligible to go to work as

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1 an experienced shaft and slope worker?

2 Next, much of the training content in
3 subparts A and B has little or relevance to shaft and
4 slope construction. Requiring approval of a new
5 training plan for each new shaft and slope is
6 unnecessary. The projects are all similar in nature
7 and a contractor should be able to have one training
8 plan that it can use throughout its work at various
9 different sites.

10 Emphasis on pre-work training is not an
11 effective way to provide training to construction
12 workers and is unnecessarily expensive. Forty hours
13 or even 24 hours of pre-work classroom training at a
14 green field site where nothing as yet has taken place
15 in the way of construction would not be productive.
16 Even for inexperienced workers, the best way to
17 provide training is throughout the term of the project
18 so that training can be enforced by actual work
19 experience.

20 MSHA, I don't believe, has also adequately
21 addressed the cost significance of this regulation.
22 In addition to wages paid to employees for time spent
23 in training, any cost analysis of the proposed
24 revisions to the Part 48 must also include the costs
25 incurred by contractors to prepare training plans,

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1 particularly if this has to be done time and again at
2 each project. The cost incurred by contractors to
3 provide approved instructors, this cost will be
4 considerable if contractors find it necessary to
5 provide a full-time approved instructor at every shaft
6 and slope construction site.

7 The cost incurred due to turnover of
8 employees within a company and at each project site,
9 it is not uncommon in our business for a new employee
10 after he's been trained and given orientation to quit
11 work after a couple of days once he finds how hard and
12 difficult this work is. This happens time and again.

13 A personal sign-up thinking this is going to be a
14 good job, he gets into the work and after two or three
15 days, he's gone.

16 If we have to provide 40 hours of training
17 before that individual goes to work, we have to
18 basically just eat the cost of that training. The
19 intangible cost of having to work short-handed before
20 new employees can be put to work, if we're down a man
21 in the crew and we have to wait 40 hours before we can
22 put a new man on that crew, the production, the
23 efficiency, of the entire operation suffers.

24 In conclusion, the most meaningful way to
25 provide training for shaft and slope construction

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1 workers would be to proceed as originally intended and
2 promulgate appropriate regulations under a separate
3 subpart C taking into account the unique hazards of
4 construction work and the way construction work is
5 performed. We have waited 27 years for these
6 regulations. I think we can wait whatever additional
7 time is necessary to do the job right. Thank you very
8 much.

9 CHAIRPERSON SMITH: Thank you, Mr. Howe.

10 MR. HOWE: And the Association will submit
11 a written statement by the deadline of September 14th.

12 CHAIRPERSON SMITH: Okay. That's good.
13 Do any of the panel members have questions at this
14 time?

15 (No response.)

16 MR. HOWE: Probably the people that come
17 after me could better answer it anyway.

18 CHAIRPERSON SMITH: Right. Thank you very
19 much.

20 MR. HOWE: Thank you.

21 CHAIRPERSON SMITH: I appreciate it. Our
22 next presenter is Robert Pond. Good morning.

23 MR. POND: Good afternoon. My name is Rob
24 Pond, P-O-N-D. I'm Executive Vice President of
25 Frontier-Kemper Constructors of Evansville, Indiana.

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1 I'm a mining engineer. I've spent my entire working
2 life in mining of tunnel. I've been a miner, foreman,
3 superintendent, project manager and an executive at
4 various levels. It's been said I've been promoted to
5 where I'm harmless.

6 I have more than 43 years of experience,
7 including 32 with my present company. We really
8 applaud your desire to make the working environment
9 and the workers safe as possible. We've been in
10 business for a long time and we know the human cost of
11 accidents firsthand. So we share a moral imperative
12 to place the health and safety of our workers above
13 everything else. We come to you in that spirit. We
14 don't differ with you in the goal. We think there's a
15 better way to get there.

16 We're a heavy contractor and we specialize
17 in shaft sinking, tiling, slope driving, raised
18 boring, wasting system insulation and related work.
19 Not only are our clients private mining companies, but
20 also public entities. They're coal, copper, salt,
21 lead, zinc and industrial materials mining companies
22 and the public entities building water, sewer,
23 highway, railway, subway systems.

24 Our company dates back to 1906. We've
25 been in the tunnel business ever since. In the 32

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1 year modern history of the company, we've completed
2 over 250 underground contracts with a value exceeding
3 over \$4 billion. This entails 95 miles of tunnels and
4 slopes ranging in length from a few hundred feet from
5 to more than six miles and 26 miles of shafts and
6 raises to as deep as 2200 feet.

7 Projects vary in size dramatically.
8 Sometimes it takes a few weeks and sometimes several
9 years to complete. Our work is regulated by OSHA, by
10 MSHA and often by other Federal and state regulatory
11 bodies. Some of our work force is open shop, but the
12 great majority of our work force is represented by the
13 UMWA (United Mining Workers Association), Labors
14 International, International Union of Operating
15 Engineers and other unions.

16 Unlike a mine which can be expected to
17 continue working on a more or less continuous basis
18 for decades, our contracts require us to complete the
19 work within a fixed time schedule with significant
20 contractual penalties as well as substantial added
21 costs if we are late. Almost always, we're required
22 to begin the work within a very short time after
23 entering the contract. There we are unlike a mine.
24 The time required for training becomes a significant
25 part of the time we are allowed especially on smaller

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1 short-term projects.

2 We're an advocate of training, not only
3 for new hiring, but continuing training for all
4 employees. I have served for several years as the co-
5 chair of the Labor's Union, Tunnel Training Advisory
6 Board, a body that makes sure that those laborers who
7 work in shafts and tunnels, also called sand hogs,
8 receive proper safety and task training. Members of
9 our engineering department present training classes
10 and shaft and slope wasting systems to entrance
11 inspectors of the academy in Beckley.

12 Training not only enhances safety
13 performance, but also fosters efficiency and
14 productivity. But for those desirable results to be
15 obtained and to make it more cost effective for the
16 employer, we believe training must focus on the work
17 that the employee will actually be performing in the
18 conditions that actually exists in his or her
19 workplace.

20 The basic work of shaft sinking and
21 tunneling and the hazards such work presents is
22 essentially the same regardless of the purpose to
23 which the facility will be put. Sinking and lining of
24 ventilation shaft for a coal mine entails exactly the
25 same processes, equipment, supervisory skills and work

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1 force as it would if the shaft were to become a
2 ventilation shaft for a long railway tunnel. The
3 geology including groundwater, innocuous search for
4 explosive gases usually encountered in the rock and
5 soil over underlying coal beds can and often are
6 encountered in shafts and decline tunnels constructed
7 for other purposes.

8 In our company, every newly hired employee
9 regardless of assignment and past experience
10 immediately receives eight hours of orientation and
11 general training in hazard recognition and action and
12 prevention. While regulations require specific
13 training, that training is also provided. All newly
14 hired employees are drugged tested. Test results
15 require at least one full day in urban areas with
16 nearby labs and can require up to three days in rural
17 locations. Employees are not permitted to work until
18 passing a drug test.

19 Even in areas of chronically high
20 unemployment such as the coal fields of Appalachia, we
21 commonly experience double digit turnover rates.
22 Wages and benefits for underground construction are
23 comparably high. Although some newly hired workers
24 soon quit because the work is wet, cold and dirty, the
25 primary reason for employee turnover is mostly

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1 societal and vary according to region. High turnover
2 remains a continuing factor and a concern.

3 Because of turnover, it's often necessary
4 to fill gaps in crews. So new employees are given the
5 initial eight hour FK training and the eight hour MSHA
6 48 training if they need it before drug tests are
7 known. Task training is applied for the first
8 assignment and at any subsequent time when the
9 employee is asked to perform a different task than the
10 ones for which he's already been trained.

11 MSHA has proposed that the shaft and slope
12 workers be required to complete training under both
13 subparts A and B of Part 48 which in essence would
14 require a newly hired miner without prior entry
15 training to be given as much as 64 hours of training
16 before going to work. Now we realize there is some
17 confusion about whether it's A and B or A or B or
18 whatever.

19 The course content in those is heavily
20 weighted toward employment in a producing mine. These
21 persons are being hired for construction and much of
22 the 40 hour part B mandated course content is neither
23 relevant to that work nor useful to a shaft and slope
24 construction miner in performing his job safely.

25 While the purpose of this testimony is not

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1 to criticize but to work toward a better result, we
2 note that MSHA's prediction of added cost is grossly
3 understated. The amount predicted for the entire
4 industry, \$195,000 annually, is barely enough to train
5 about 90 people for 40 hours including wages,
6 benefits, training instructors and materials. Our
7 typical turnover along requires training eight to ten
8 people a month. So the predicted cost would not quite
9 cover just us let alone the entire industry.

10 MSHA's presumption of prior training
11 ignores typical turnover rates and MSHA also presumes
12 an employment size for contractors that is
13 unrealistically low. We estimate the probable impact
14 on the industry is between \$1 million and \$2 million
15 annually. I might add that you're looking at the
16 majority of the shaft and slope industry sitting in
17 this room.

18 MSHA has proposed a new training plan be
19 approved for each project and be submitted two weeks
20 in advance of beginning work. This compounds the cost
21 impact to no associated added benefit. Approved
22 trainers may not always be available when needed with
23 attendant further delay. A basic training plan should
24 be approved for each employer valid for all locations.

25 MSHA also requires that shaft and slope

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1 construction contractors or mine operators and their
2 contractor workers are miners.? Even though the law
3 uses that nomenclature, this is simply not the case.

4 Shaft and slope contractors especially in
5 the coal industry do not operate producing mines and
6 do not perform the actual extraction of minerals which
7 is the definition of mining. The primary reason that
8 said contractors exist is that the mine operators do
9 not have the expertise, equipment or workforce with
10 the appropriate knowledge. If they did, they would
11 perform such work themselves.

12 Stepping outside of my written, I notice
13 you mention that conventional mining methods are
14 sometimes used. That is exceptionally rare and it has
15 failed every time it's attempted. It's not a reason
16 to do anything.

17 Unemployed coal miners do not usually seek
18 shaft and slope jobs nor do shaft and slope workers
19 usually seek coal mining jobs. There really isn't
20 much transfer between the two occupations. We also
21 note the fatalities referenced in MSHA's proposed rule
22 which includes that the hazards for shaft and slope
23 construction are ?generally no different from hazards
24 faced by all other underground or surface miners and
25 the shaft and slope construction workers perform a

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1 number of tasks that are similar to or the same as
2 tasks performed by miners already covered by Part 48
3 training.? We assert these conclusions are only
4 superficially correct and do not establish a
5 reasonable basis for requiring shaft and slope workers
6 to be trained for work in a producing mine.

7 Our corporate safety staff and I assisted
8 in formulating ABCs suggested training format which we
9 will submit to you by the 14th and it will address the
10 specific needs of shaft and slope construction workers
11 while not unduly burdening the contracting employer or
12 the ultimate payer, our customers. Subsequent
13 testifiers will provide you with more detail.

14 We urge you to postpone this action and
15 instead concentrate on finally promulgating subpart C
16 which was intended to specifically cover mine
17 construction and has never been completed. We're
18 hopeful that you can proceed to work with us to create
19 a more focused and practical training environment.
20 Thanks for your willingness to listen to me. I am
21 finished.

22 CHAIRPERSON SMITH: Questions of Mr. Pond?

23 (No response.)

24 CHAIRPERSON SMITH: Thank you very much.

25 Our next presenter is John Moore. Is this a good time

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1 or would you rather ?

2 MR. MOORE: No, it's fine. Good morning.
3 My name is John Moore, M-O-O-R-E. I am Vice
4 President of Safety and Human Resources for Cowin and
5 Company, Incorporated of Birmingham, Alabama. I have
6 17 years of experience with Cowin and Company. I've
7 held various positions including project manager,
8 purchasing manager, job site safety inspector and the
9 last 12 years as Director of Safety with the last five
10 also being an officer of the company as Vice
11 President.

12 I'm glad to be here today. This is
13 something that is important to me. I'm heavily
14 involved in our training programs at Cowin and it's
15 nice to be able to come up here and share with you all
16 today. I am here representing Cowin and Company.
17 We're a mining construction company that performs work
18 on the surface and underground.

19 Although we do perform many construction
20 surface to the mining community, our core business has
21 always been the construction of shafts and slopes.
22 Cowin and Company has been building shafts and slopes
23 for the past 80 years beginning in 1924. We've
24 completed over 2,000 shafts and slopes in that time.

25 We have the capabilities of a constructing

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1 shafts by means of convention drill and blast methods
2 or by raised drilling which I would like to address a
3 little bit later in my remarks. The 80 years Cowin
4 has been in business, we've completed these 2,000 jobs
5 with contracts of hundreds of millions of dollars.

6 We work all over the country in all types
7 of mines. We've worked in coal, zinc, gold, silver,
8 salt, gypsum, lead, copper and aggregate mines.
9 Depending on our work load, we usually fluctuate
10 between one and 300 employees. Our shaft and slope
11 projects average between 22 and 25 employees per site,
12 keeping in mind the bell curve that Mr. Howe mentioned
13 earlier which you start slow and then you build up and
14 then you wind back down.

15 The project starts usually with one crew
16 to mobilize and get the shaft ready for construction
17 including constructing the head frame and the hoist to
18 allow permanent sinking operations. Then you increase
19 your crew size actually by adding shifts to make it
20 generally a three shift operation which would operate
21 24 hours per day with usually seven or eight people on
22 a particular crew.

23 The duration of these projects depending
24 on the size would range between six and 18 months.
25 Raised bore projects usually would have smaller

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1 duration and have smaller crews. Crew size of a
2 raised bore job would generally be about six people
3 and their jobs usually run from one to three months in
4 duration.

5 I want to talk a little bit in my remarks
6 about raised drill. It's been my experience that of
7 all the construction services we offer that the least
8 understood in the mining and regulatory agencies is
9 the raised drilling. It is with that in mind that I
10 would like to offer a brief description today of the
11 methods used in raised boring a shaft and well as some
12 background on our involvement in this method of shaft
13 construction.

14 In 1987, Cowin and Company purchased
15 Raised Bore of Durango, Colorado, a company
16 specializing in raised drilling shafts. Raised Bore
17 still operates to this day using their own name, but
18 is operated as a fully-owned division of Cowan and
19 Company. They work literally all over the country and
20 their workforce moves from project to project.

21 They would be the definition of what is
22 known as "tramp miners." They literally have campers
23 and they pick up from one site and go to the other.
24 They could working in Southern West Virginia today and
25 could be in New Mexico by the end of the week. That

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1 very often is the way they work.

2 They work in all types of mining, on the
3 coal side, on the metal/nonmetal side, a lot of work
4 in the aggregate industry, civil. Sewer tunnels in
5 the large cities has been common for Raised Bore to be
6 doing ventilation shafts into.

7 I just would appreciate you indulging me
8 to go over the methods involved in raised boring
9 construction. As brief as I can, I'll give you an
10 explanation. Raised boring is the technic used to
11 mechanically excavate a large diameter shaft into an
12 existing underground opening or to install a shaft
13 between levels in an existing mine.

14 Raised boring has also been used in other
15 varying applications such as the installation of pen
16 stocks and search chambers for dam construction
17 projects, man ways and drop shafts for several water
18 and sewer projects, elevator shafts and the like.
19 These machines not only have the capability of
20 excavating vertical shafts, but also have the capacity
21 to excavate dip angle shafts back to 30 degrees from
22 horizontal.

23 Raised boring equipment is very small and
24 compact as compared to the equipment used to
25 conventionally sink a shaft, to blind bore a shaft or

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1 equipment used in the oil field industry. The typical
2 size of a raised boring machine is approximately six
3 feet wide with a length of six foot and fourteen feet
4 of height with an upward thrust capability of 250,000
5 to 1,300,000 pounds and available torque range of
6 between 38,000 to 365,000 foot pounds.

7 The typical raised drill system is made up
8 of four major assemblies: the berk (PH) assembly
9 which is the machine itself; the hydraulic assembly
10 which provides thrust; the electrical system assembly
11 which provides electrical power to the main drive
12 motor which in turn provides rotational bore; and the
13 dependent control assembly that controls the operation
14 of the machine. The system also includes accessory
15 equipment such as the drill string, pilot bits,
16 ramming heads and cutters and miscellaneous hand
17 tools.

18 Okay. In the construction of a raised
19 bore shaft, first you would have a pilot hole which is
20 drilled down into the existing mine. Once the
21 equipment has been erected on support beams over a
22 proposed shaft site, the pilot hole, drilling
23 operations begin. The typical pilot hole drilling
24 medium is a compressed air, water and drill foam
25 mixture consuming less than five gallons of water per

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1 minute. This mixture is used not only to remove the
2 pilot hole cuttings from the pilot hole as drilling
3 progresses but to control and suppress dust during the
4 drilling operations and to reduce frictional torque
5 within the pilot hole.

6 The typical drilling tools consist of a
7 pilot bit ranging in size from 9-7/8 to 13-3/4 inches
8 in diameter, a pilot bit sub, drill string,
9 stabilizers ranging in size from 9-7/8 inches to 13-
10 3/4 inches in diameter by 60 inches end to end and
11 drill rod ranging in size from 8 inches to 12-7/8
12 inches in diameter times 60 inches to end to end.

13 Then after that hole has been drilled down
14 into the mine, then a cutting head has to attached at
15 the bottom of the hole and that requires the workers
16 to go into the mine itself in the area that's already
17 been prepared by the mine for the raised drill shaft
18 and attach the cutting head. This would usually
19 probably take two 12-hour shifts and that would be
20 their length of time spent underground. The rest of
21 the time is spent on the surface marking the drill,
22 putting on drill steel and monitoring the operation.

23 After the raised head has been pulled from
24 the bottom to the roof of the underground opening, all
25 personnel are then removed from the area and the

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1 reaming of the shaft begins. The reaming of the shaft
2 is accomplished by applying thrust and rotational
3 speed from the machine through the drill pipe to the
4 reaming head.

5 As the reaming progresses, the ream
6 cuttings fall to the bottom of the shaft and are
7 removed through the use of a loader operated by the
8 customer's underground personnel. This operation
9 continues until the reaming head breaks through to the
10 surface at which time the equipment is removed and the
11 shaft is complete.

12 In regards to training Raised Bore people,
13 I must admit that in early years after we acquired
14 Raised Bore we tried to train them much like we train
15 our conventional shaft crews or underground crews and
16 I found that Raised Bore crews to be somewhat bored
17 and uninterested. In asking them what we could do to
18 improve their training experience, they unanimously
19 wanted more discussion of things that involved their
20 work.

21 They wanted to talk about preventing
22 accidents, lifting procedures, pinch points, rigging,
23 things that worried them day in and day out. They
24 weren't really interested in the job of a coal miner.

25 They wanted to talk about what raised boring

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1 construction workers or shaft and slope workers do and
2 how we can help them do their job more safely and
3 productively.

4 As a result, we made those changes. I
5 can't tell you how much I valued the time together
6 with those people because we really do spend the time
7 talking about the issues that affect them day in and
8 day out. We're not required by law to do this, but we
9 do it because it is the right thing to do for our
10 workers.

11 So I would say today that training like
12 that is about quality not quantity. Our concern about
13 the proposed rule is that what we're talking about is
14 taking people out and putting them in a classroom for
15 40 hours before they come to the site. Where a lot of
16 good things can come of it, this is a large burden on
17 small crews to have to lose people. Like a raised
18 bore crew will have three men on it. Three men, you
19 lose one of those guys. You're hurting to the point
20 almost of having to shut down.

21 You would be in a remote site where you'd
22 have a hard time getting someone to begin a 40 hour
23 class. Not to mention the fact that if you can
24 accomplish that, most of the time for one person, that
25 would be somebody that you would contract to do that

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1 kind of training. So you're having somebody train the
2 people. You're going to come up with a completed
3 5023, but I submit to you all that we're talking about
4 quantity not quality. It would meet the letter of the
5 law, but not the spirit of what we want for successful
6 and productive training.

7 Raised bore has a core workforce, but
8 positions such as drill helpers are hired locally as
9 needed. Crew sizes are small and cannot afford to be
10 short-handed. The turnover rate is not as high as
11 conventional shaft sinking, but the proposed rule
12 really would affect raised bore's labor adversely
13 because the jobs are short in duration and if someone
14 quits or leaves, they can't be replaced without going
15 through the new miner training which by the time you
16 get that done, you spend some time with the site, the
17 job may be winding up towards or getting towards its
18 conclusion.

19 A lot of those people are brought up
20 locally. We feel good about the way we task-train
21 people that we bring in and we show them. These
22 people are not just brought in and as they say, thrown
23 to the wolves. They are guided through every step of
24 what they're doing by experienced personnel. They are
25 properly task-trained, shown the hazards that they are

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1 going to be exposed to and signed off on by new task
2 training with a 5023 to document.

3 As far as raised drilling and its
4 conventional shaft goes in terms of training, I would
5 just like to say that we do not believe long hours in
6 a classroom learning someone else's job benefits the
7 construction worker. We believe that we can train
8 them. We do think that they do need an orientation
9 before they go underground or start on a project.

10 Our general way of doing that is to give
11 them an eight hour orientation in a classroom type
12 setting before they go underground going over the
13 items that basically are required under subpart B of
14 Part 48, cover the high points there, and then we try
15 to also incorporate into that the shaft and slope
16 hazards and the things that they are going to
17 encounter by doing their job. Then we bring them to
18 the site, do a complete walkaround with them and show
19 them the things that we discussed in the classroom.
20 We found that to be effective and it works.

21 While I agree that training is a good
22 thing, I would state that we believe that it would be
23 best to complete subpart C as opposed to subjecting
24 workers to subparts A and B, in other words, treating
25 them like coal miners or hard rock miners. They have

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1 unique jobs and we submit to MSHA today that they
2 should be treated as such.

3 Cost of training shaft and slope workers,
4 we do have an approved training program. This
5 describes how we do our training under subparts A and
6 B of Part 48. Subpart C is not covered in this plan
7 because for the past 26 years, it has not existed.
8 We've offered this eight hours of annual training in
9 the classroom and new task training on the job sites.

10 We've reviewed our shaft projects over the
11 past several years and found our employee count is of
12 24 employees. Sixteen of these, and I'm just taking
13 averages here, employees would work underground and
14 eight on the surface, although they are
15 interchangeable. But at any one time, that's how it
16 would roughly break down.

17 Turnover rates are almost exclusively
18 amongst underground workers. A typical shaft would
19 require 40 employees over the life of the project.
20 The turnover ratios range from two to three to one.
21 In other words, for every guy that makes it, two or
22 three don't. This work is very labor intensive. It's
23 hard work and although people often think they want to
24 come for the wages once they get into the environment,
25 they often change their minds.

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1 At the present, the cost of training 40
2 men times eight hours in training times a base cost of
3 about \$32 an hour would come to \$10,240. Under the
4 proposed rule, the cost would be divided out is for 15
5 stable employees would still get their eight hours at
6 a cost of \$3,840. Add the cost of training 25 more
7 workers saying maybe that ten of those would be
8 experienced miners that you could get by with eight
9 hours on at a cost of \$2,560.

10 Then 15 workers would require new miner
11 training at a cost of \$15,360. The total cost on that
12 shaft project of training 40 workers goes from \$10,240
13 to \$21,760. The cost of training doubles and that
14 does not include the additional cost of lesson plans,
15 facilities, instructors or travel costs. I wanted to
16 point these costs all at just a typical model. There
17 will be extremes both ways.

18 Much of our training is coordinated and
19 done from our corporate offices which are in
20 Birmingham, Alabama. We do not have certified
21 instructors at all projects. In other words, it's not
22 like a coal mine or a zinc mine or a gold mine that
23 have those kind of people onsite ready to train people
24 whenever needed. It would really involve having to
25 get to a location or either hire it done by another

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1 contractor.

2 These kind of people, especially that
3 understand the construction business, my experience
4 has been that they are not just readily available.
5 You can find people that can conduct training under
6 the letter of the law and complete a 5023, but once
7 again, I come back to this would just be quantity. It
8 wouldn't really be quality training that would benefit
9 the worker.

10 A final thought on cost of the proposed
11 revisions, we believe the costs that were estimated, I
12 believe \$161,000 to the industry, we believe that is
13 vastly understated. We could easily incur close to
14 \$161,000 in added expense ourselves much less to the
15 industry as a whole.

16 Suggestions, we want to be positive about
17 this. We really want to work with MSHA on this and to
18 make a better training solution for our workers. We
19 ask that you realize that construction workers are
20 unique and should have their own training. We believe
21 that subpart C should be completed and implemented.

22 In regards to training plans, one training
23 plan should apply for a whole company. We believe we
24 can provide adequate orientation with eight hours
25 before a new hire starts work and that we can even

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1 give hazard and new task training at the site. We
2 believe we can cover the items that they need to have
3 in that time, but we are definitely open to
4 suggestions of how additional time could provide
5 productive training for the workers.

6 Another item we would like to see in place
7 is that other contractors training should be
8 permissible because it's very common in the industry
9 if you go into different areas to hire workers that
10 have been employed by their contractors.

11 The proposed rule while good in spirit
12 would actually not improve training in our opinion.
13 It will have a large price tag and will be providing
14 long hours of training for jobs that construction
15 workers do not perform. We ask that MSHA consider
16 what training is being provided despite a not-firm
17 regulation.

18 The people that are here today all will
19 explain that training is being provided. It's not
20 regulated that way but it's being provided and we all
21 do understand its important and its place. Let's
22 provide the workers the quality training they need,
23 not just quantity. Thank you for your time.

24 CHAIRPERSON SMITH: Thank you. Any
25 questions?

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1 MEMBER McLEOD: I just have one comment.
2 The three of you have said this and maybe what we said
3 in the preamble wasn't clear, but it's always been our
4 anticipation that there would only be one training
5 class, the contractor, just like other independent
6 contractors. There wouldn't be a different training
7 plan for each shaft and slope job you were doing. We
8 may not have said that clearly, but that was always
9 our intention. All three of you said that so I just
10 wanted to make sure you understood. We only thought
11 it would be the same as any other contractor.

12 MR. MOORE: So we would just have to make
13 a training plan for shaft and slope workers or would
14 it be a supplement to our other training plan?

15 MEMBER McLEOD: If you already have an
16 MSHA approved training plan assuming that was adopted
17 as is or similar to this, you wouldn't need another
18 plan. The idea of a training plan is that there would
19 be lots of room within it, hazard recognition. You
20 talked about things that would germain to raise
21 mining. Certainly under hazard recognition, you could
22 funnel whatever was appropriate to that particular job
23 or task into the components of Part 48. So you
24 wouldn't need a separate training plan.

25 MR. MOORE: Just a supplement.

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1 MR. MOORE: You probably would need a
2 supplement, but you would probably want to have lesson
3 plans. As an training person would want to do, that
4 would be applicable. You talked about quality of
5 training which we're very big on and certainly 48 is a
6 container that all sorts of types of training could go
7 into. We've always felt that it was incumbent the
8 companies to identify what they needed to fit into the
9 existing Part 48. So, yes, one training plan.

10 MEMBER PHUC: I have a question. If I can
11 get data on the cost of compliance because you have
12 stated that we have underestimated a lot of the cost
13 here. If I can get that, have that submitted to us,
14 so we can review it over the cost estimate again.
15 That would be great.

16 MR. MOORE: All right. I would be glad to
17 do that.

18 MEMBER PHUC: Thanks.

19 CHAIRPERSON SMITH: I also would like to
20 make the same request of Mr. Pond. You indicated in
21 your comments an estimated \$1 million to \$2 million.

22 MR. POND: Yes.

23 CHAIRPERSON SMITH: If you would like to
24 submit any additional information on those
25 calculations for the record, we would appreciate that.

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1 MR. POND: I certainly can.

2 CHAIRPERSON SMITH: Okay. Mr. Moore, I
3 had a question. You talked extensively about task
4 training. Could you give us a general sense about how
5 you go about determining the amount of task training
6 needed and when it's actually needed? You had very
7 specific requirements for orientation. Eight hours,
8 you said. Then you do the task training thereafter.
9 Do you have a structure of criteria for determining
10 task training that's needed?

11 MR. MOORE: Well, we have to look at the
12 job that they are being trained to do and you have
13 somebody that goes over the items involved in their
14 job and what hazards to look for while doing that job.
15 For example, if they're removing drill pipe or
16 something like that where their hands can get into
17 pinch points and things like that, we show them and we
18 make sure that they understand that they have to be
19 wearing gloves and what is their safety equipment
20 that's required and what is hands-on training to their
21 job by an experienced person which would usually be a
22 superintendent or a foreman, a supervisor type of
23 person, somebody that can walk them through A to Z
24 what they are going to be doing and that would feel
25 comfortable. Task training may not be signed off on

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1 in a couple of hours. It may be several days before
2 that supervisor is comfortable signing that new task
3 training form that they know and can complete their
4 task safely and productively.

5 CHAIRPERSON SMITH: Thank you, Mr. Moore.

6 We appreciate that. The next presenter is Alan Zeni.

7 MR. ZENI: My name is Alan Zeni. I'm Vice
8 President of Shaft Drillers International. I've
9 personally been in the shaft drilling business since
10 my father and brother started Zeni Drilling in 1971.
11 So since that time, I started out at a laborer,
12 driller, truck driver, shift superintendent, project
13 superintendent, operations manager, the vice president
14 and president of Zeni Drilling until January of this
15 year which at time, I became Vice President of Shaft
16 Drillers International.

17 Shaft Drillers was formed by the
18 principals of North American Drillers and those are
19 Mr. Bill Maloney and Joe Swagger. Shaft Drillers
20 purchases Zeni Drilling Company and all the assets of
21 Zeni PTY Limited in Australia and has basically merged
22 their resources and personnel in North American and
23 Zeni Drilling in their entirety.

24 Shaft Drillers International is now the
25 largest and most proficient blind shaft drilling

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1 company in the world. We don't do any raised boring
2 or convenient sinking. Our work is very specific.
3 It's generally all done from the surface. The shaft
4 is drilled into the solid coal or the ore body
5 whatever it may be. We use a drilling rig similar to
6 an oil field rig, but it's unique in that it can drill
7 diameters up to as much as 20 feet.

8 The Shaft Drillers companies together
9 employ over 100 people. We have a lot of disciplines,
10 welders, mechanics, drillers, crane and equipment
11 operators, engineers and project supervisory. We have
12 certified electricians, certified examiner foreman and
13 licensed crane operators. We, as with my colleagues
14 here, also have a fairly high turnover rate for the
15 lower level jobs, unskilled and semi-skilled.

16 Just a typical blind shaft drilling
17 project will last anywhere from maybe three to six
18 months depending on the depth and the diameter. Most
19 of our work is in the southwestern Pennsylvania coal
20 fields, northern West Virginia, southern West
21 Virginia, Ohio, Kentucky and Illinois. We've drilled
22 shafts in the west, Colorado, Wyoming and in Virginia,
23 South Carolina, also in foreign countries, Australia,
24 New Guinea and France.

25 A full compliment on one shift of a

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1 typical project is three to four people. It's very
2 similar to the raised boring requirement. But three
3 or four people includes the supervisor/driller.
4 Usually on a shift, it's the same person.

5 Just to go quickly through the steps just
6 to explain how the work is done, the surface site is
7 prepared by the owner. They construct an access road
8 and prepare graveled area about 150 feet square and a
9 cuttings pond about 200 feet long, say, 75 feet wide
10 and 150 deep. They also provide power most of the
11 time that step down to 480 volt, three phase, at about
12 800 amps. If the power isn't available, we'll provide
13 generators to produce our construction power.

14 The first step we make on the site is to
15 excavate a surface hole 17 to say 20 deep and we do
16 this with a hydraulic excavator. If we hit any solid
17 rock, we break it with a hydraulic hammer on the
18 excavator. We don't have any people in the hole while
19 we're doing this.

20 We dig the hole out and set a steel casing
21 into it down onto the rock and then pour concrete
22 around the casing. It leaves a dry cylinder right
23 down to solid rock. Then we form up a foundation pad
24 for the rig to sit on and pour it around that surface
25 casing. That pad is around three feet thick and say

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1 24 feet square.

2 I just went through some of the hazards
3 during different phases. In this phase, of course,
4 there?s pinch points on the excavator, rough ground
5 because of all the excavation. There?s an open hole.

6 There could be excessive noise and concrete burns,
7 eye injuries, that type of thing.

8 We then set the drilling rig up on the pad
9 and our rigs have an A-frame type mast. It?s about
10 100 feet high. We bolt the legs of the mast down to
11 the concrete pad and set a hoist and use the hoist to
12 raise the mast into position. We fasten back legs to
13 the top of the hoist unit and those back legs have
14 hydraulic cylinders that allow the mast to boom out
15 beyond the shaft and pick something up and lower it
16 into the shaft without having to use a crane.

17 But we do have onsite a 30 ton hydraulic
18 rough drain crane that we use for all other utility
19 lifting and again we?re looking at pinch points, heavy
20 equipment, mobile equipment, working at heights, crane
21 handling, crane loads, pressurized hydraulics,
22 compressed air. Then the rest of the equipment we
23 need is a compression, 150 PSI, about 900 CFM, ten
24 inch electrically driven water pump, rotary table and
25 it?s hydraulically or electrically driven, hydraulic

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1 power unit and usually a loader or a forklift and the
2 crane.

3 Again we drill a pilot hole from the
4 bottom of the surface casing. We center up a pilot
5 hole bed in the bottom of the surface casing and drill
6 it down to the coal scene. We use water to circulate
7 and we draw water across the face of the bed and bring
8 out cuttings.

9 We can rotate the rotary table up to about
10 50 RPM during this phase and we use weighted drill
11 cars and break the rock and wash it out with the water
12 circulation. Then the chips are put in the pond where
13 they settle out and then the water is recirculated
14 back into the hole to be used again.

15 The reaming process is a large diameter
16 cutter head again with heavy drill collars on it and
17 it is designed to follow that pilot hole. It is
18 lowered in there and rotated again and a similar
19 method of circulation is used for that. The chips are
20 brought out and deposited in the pond.

21 We keep the shaft full of water during all
22 these phases. Of course, there?s a hazard of falling
23 into the hole or the pond, both of them filled with
24 water. Again heavy tools and there?s a lot of lifting
25 and pulling and handling heavy items and on very rare

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1 occasions, there could be methane that comes through
2 the water, but it dissipates almost immediately in the
3 air.

4 The next phase is we line the shaft with a
5 steel cycle, a steel tube. That's prefabricated. We
6 bring it to the site and weld it together. All this
7 takes place on the surface and lowered into the hole.

8 When it's fully welded, it covers the entire shaft
9 from the surface to the top of the scene. Then we
10 fill the space between the casing and the hole with
11 cement. That's also done from the surface through
12 trimming pipes. When the casing is in place and
13 cemented, the shaft is dry right to the mine level.

14 The last step is that we pump the water
15 out of the inside of the casing and leave the casing
16 dry. With casing operation, of course, there's all
17 the welding hazards, flash burns, the noise and the
18 flumes, crane work, electrical equipment, shock
19 hazards, abrasions, grinding abrasions, cement and
20 chemical burns.

21 The hole stays full of water, of course,
22 until the casing is finally pumped out at the end. A
23 solid barrier of coal at least 100 feet is required to
24 be maintained underground until the shaft is
25 dewatered. At that time then from underground, the

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1 miners cut under the shaft and they encounter a cap at
2 the bottom of the casing that's bolted on. So they
3 will take a plug out and let the remaining residual
4 water out of the bottom of the casing and then unbolt
5 the bolts and take the cap off. So consequently we
6 have no people underground normally on a project.

7 Our training program is the same as most
8 others. We do eight hours of initial training and
9 eight hours of annual training and 16 hours of on-the-
10 job training similar to what you've heard from other
11 people here. We focus the training on the surface
12 like the material handling, heavy equipment, mobile
13 equipment, electrical safety. We do methane detection
14 and we also focus on health issues such as back injury
15 prevention and noise and dust control. Hazards like
16 pinch points, eye injuries, tripping, weather related
17 hazards.

18 We normally work at a remote site. We
19 never interact with the mine at all. We very seldom
20 have occasion even to go to the mine site. The only
21 time most of our employees ever get to the mine site
22 is to go there for the initial hazard training.

23 We also feel that our slope and shaft
24 contractors should have their own training rules as in
25 subpart C. We have been working on a training program

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1 with the WBU mining extension that is focused on our
2 type of work. I think I'm basically finished. Are
3 there any questions?

4 CHAIRPERSON SMITH: Are there any
5 questions of Mr. Zeni?

6 Would you be willing to share with us what
7 you have worked on with UVA?

8 MR. ZENI: Yes.

9 CHAIRPERSON SMITH: We appreciate that.
10 We would like to submit that. Thank you very much,
11 Mr. Zeni. We appreciate it. Our next speaker is
12 Murray Johnson.

13 MR. JOHNSON: Good morning. I welcome the
14 opportunity to be here. My name is Murray Johnson, J-
15 O-H-N-S-O-N. I represent R.G. Johnson Company. I'm
16 the Vice President of Operations for them. They are
17 located in Washington, Pennsylvania.

18 Basically I spent a lifetime with some of
19 these other individuals in underground construction.
20 The last 16 years I have been employed by R.G. Johnson
21 Company, Incorporated as the Vice President. We're a
22 small company. We do about \$12 million to \$15 million
23 a year. We wear a lot of different hats. So through
24 my career, I have done a lot of different things.

25 Prior to R.G. Johnson Company, Inc., I had

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1 a family company, V.R.G. Johnson Company, which has a
2 history dating back to 1916. It's a family company.
3 Since 1988, the new company took over. We have done
4 more than 37 conventional shafts and over 685
5 underground mine projects.

6 We work primarily in a small region
7 relative to some of these other contractors here
8 today. We work in Western Pennsylvania, West
9 Virginia, Ohio, and Virginia. We have about 120
10 employees working for us. Our core business is
11 conventional shaft construction.

12 However, we do carry a separate group of
13 people who do a lot of associated underground mine
14 construction projects such as shockcrete work,
15 installing belt drives, pumping concrete long
16 distances, that kind of thing. Also, that group does
17 a lot of maintenance and repairs in existing shaft
18 facilities. They do some structural work underground
19 installing shafts and things like that associated with
20 belt drives and whatnot.

21 Basically what I want to do here today is
22 first say that we, like the rest of my colleagues
23 here, as a company promote training heavily. It's
24 very important to the livelihood of our business.
25 Safety has to come before production comes. So we

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1 applaud the effort at trying to formalize what
2 training should be required. Although we're not a
3 member of the ABC, we do share their position that the
4 proposed rule may not be the most effective method to
5 accomplish that.

6 Before I get into what we do for training
7 and some of the things about the proposed rule, I
8 would like to take a few minutes and discuss and share
9 with you the conventional shaft methods and operations
10 and talk about some of the hazards. First and
11 foremost, every project that we look at is a capital
12 project for a mine installation. What does that mean?

13 It means that we're on a fixed price usually at a
14 limited time schedule.

15 We're there for a purpose of construction
16 which means the installation of some type of facility
17 instrumental to the mine extraction process. We do
18 not mine coal. We do not get paid to mine coal.
19 We're there to construct a facility of some sort for
20 the use in the mine environment.

21 To digress a little bit and talk about
22 conventional shaft sinking, basically there are
23 projects that last eight to 12 months. They are
24 always in remote locations. They are separate
25 locations from the mine environment. In other words,

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1 the mine's transportation system, their housing
2 system, their offices, we're always two, three, five,
3 eight miles away from them. There's an independent
4 path location where we have our separate utilities.

5 So basically all of the site preparation,
6 power and whatnot is typically set up by the mine
7 owner. We take control of that work area as our
8 independent area. So I'll digress into the training
9 on that aspect, the idea of us taking control of an
10 entire area.

11 Basically our employment does, as Hank
12 said here a few minutes ago, go in the form of a bell
13 curve. That is, initially when we are mobilizing, we
14 have a few people on the job to accomplish the
15 erection of our plant and equipment. Then as we get
16 set up and get prepared to install the shaft, we
17 increase our staffing in numbers and in shifts.

18 Basically in the conventional world, we
19 primarily use hoists and stiff leg derricks. There's
20 most always two of those derricks on the property.
21 Some of the other contractors in the room typically
22 use a head frame installation and a work deck, two
23 different types of methods in the conventional market.

24 Basically we also use compressed air.
25 There's generally 1,200 to 1,600 CFM of compressors on

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1 the facility. We have jumbo drill rigs on the
2 facility for blasting purposes. I'll go into that in
3 a minute. We also have backhoes and imcoes (PH) for
4 mucking purposes.

5 All of this equipment is brought in during
6 the mobilization phase and set up. There's a whole
7 logistic associated with that. Also, concrete plants
8 are on the surface. So basically during the
9 mobilization phases, we are taking the power,
10 electricity and developing a network on the property
11 and we're responsible entirely for the safe operation
12 installation of those facilities.

13 When you take this equipment and apply it,
14 basically a conventional shaft consists of collars.
15 That's a soft ground area where you go from the
16 surface grade down to a hard rock strata. Then you
17 move into the typical section, the distance between
18 the collar and the mineral to be mined or the coal
19 scene. There's also water rings that are constructed
20 along the way. Then ultimately you would move into
21 the bottom section and develop that.

22 Now, within each of these areas of a
23 shaft, our work cycles back and forth between
24 excavation and lining or concreting. So in the collar
25 section, we begin excavating with backhoes. As we

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1 advance toward a harder strata that can't be dug with
2 a machine, we then drill it with our machinery in
3 vertical patterns, D-cut patterns for the purposes of
4 shooting it and blasting.

5 So blasting is something that is integral
6 to the entire process pretty much from the surface to
7 the coal scene. We blast very often and in very
8 specific drill patterns. We have specialized
9 equipment. We have jumbo drill rigs that are
10 pneumatic. They are operated with compressed air and
11 very specific controls on those equipments. We have
12 very defined patterns for productivity and proper
13 excavation and that kind of thing with our drill rig.

14 Blasting is an integral part of it.
15 Basically during excavation cycles on a norm, we're
16 blasting everyday for about a four day period, once a
17 day type of thing. You drill. You blast. You muck.
18 Muck is the removal of the rock from the shaft area.
19 You create open space to install a concrete liner.

20 The mucking process, you are in a very
21 confined space. Our conventional shafts are as small
22 as 14 foot in diameter. They are as large as 26 to 28
23 foot in diameter. You have your crews down there in
24 the hole, so to speak. That's the distinction between
25 conventional versus blind or raised drilling. All of

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1 our men, materials, and equipment are taken from the
2 surface, taken underground to do the work needed at
3 the time in the cycle, and then it's removed and you
4 move to the next phase.

5 We are what I would call a sequential
6 construction company. In other words, you have to
7 drill and blast before you can move on to muck. You
8 have to excavate a certain distance before you get
9 into the lining of the shaft. But you are working in
10 a very small work area. You are exposed to the rib, a
11 vertical rib in our case. Our cores are about 34
12 vertical feet.

13 We employ a lot of shockcrete as a matter
14 of safety so that we maintain proper stability of the
15 rib. Water control is also an important part of
16 safety and productivity. But you are operating
17 backhoes and imcoes (PH) in very small areas to load
18 rock into buckets to be conveyed to the surface. Then
19 this rock is loaded on the surface and hauled to a
20 spoiler haulage area.

21 Moreover, for a given excavation cycle -
22 and I referenced four or five days - we go through the
23 drill, blast, muck sequence probably four times before
24 we get to a concrete cycle. Then we're installing
25 concrete which involves installing corrugated sheeting

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1 as a water barrier, basically a mechanism to keep the
2 structure dry, allow a drainage point for the water to
3 later be collected in a water ring.

4 So we install panning (PH). We install
5 reinforcing steel. We install forms in the hole. If
6 there are utilities such as pipelines for any mine
7 application, we'll install those in the structure. So
8 you are raising and lowering all this equipment up and
9 down the shaft. It's a vertical operation.

10 That's one of the key points that I want
11 to talk to you about today, whether it be a shaft or a
12 slope. The excavation or concreting work that we do
13 is all a vertical application and it's sequential in
14 nature. So basically to talk in general about water
15 rings, those are constructed periodically during the
16 depth of the shaft.

17 The simple term of them is that they are a
18 collection point to collect groundwater, to control
19 it, to keep it out of the work area and remove it from
20 the mine operation. Those are put in as needed.
21 Again, they have to be excavated in the drill blast
22 mechanism. Things are shockcreted and the structure
23 is installed.

24 It's much the same in the bottom section.

25 Different clients work in different ways. There's

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1 lots of different configurations there. But again,
2 you are excavating. You are going from vertical to
3 horizontal, typically not more than 20 feet, although
4 there are some applications where you have to go
5 considerable distances underground to set up a mining
6 operation later.

7 Also, following the completion of the
8 bottom section, we get involved with the installation
9 of a curtain wall. Basically these are pre-cast
10 concrete slabs or divider walls. They are received on
11 the surface and installed vertically up and down the
12 shaft. The purpose is to divide the shaft into two
13 compartments to provide intake and return air for the
14 mine operator at a later time.

15 So basically one of the things that we're
16 talking about here is, we have a small work area. We
17 have the logistics of a sequential operation where we
18 have receiving materials on site. We're utilizing
19 them in a sequential fashion. We operate a vertical
20 operation in tight spaces. There's lots of hazards
21 there from rib control to electricity on the surface.
22 We have compressed air. We have concrete issues.

23 Probably 30 percent of our work operation
24 deals with handling concrete; installing it, finishing
25 it, form work associated with that. Steel forms,

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1 there's lots of pinch points. There's lots of rigging
2 requirements because of, we'll say, the crane and
3 lifting requirements associated with it. Then
4 ultimately when we're finished with that project in
5 eight to ten months, we pack up and go away and go to
6 the next project.

7 Some projects last longer, 12 to 14
8 months. But the bottom line is, we take this
9 operation and move it from location to location, from
10 mine to mine. We work for all of the local coal
11 companies. It's CONSOL, R.A.G., Peabody and whatnot.

12 We want to stress that we're independent. We control
13 our own work area. We're responsible for the safety
14 of that environment.

15 Basically we do get exposed to methane.
16 We have training and whatnot. Methane is a common
17 thing to coal and to our construction. It's in a
18 different environment. We train according to it.
19 It's exposure in our workplace. What I really wanted
20 to stress after you take that whole picture as an
21 understanding of the environment the conventional
22 shafts are placed in is, the equipment that we use is
23 entirely different than coal mining equipment, surface
24 or underground.

25 Hoists are Part 77 hoists for construction

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1 purposes only. They are not Part 75 or underground
2 hoists. The fans and tubing are not coal mine
3 ventilation fans. They are rigid tubing that gets
4 applied to the shaft liner. We have an independent
5 system there. We monitor that, change that, increase
6 that as required by the work environment and/or the
7 law.

8 Drills. Yes, coal miners do drilling for
9 bowing (PH) and occasionally blasting. But the
10 drilling that we do is entirely different from the
11 types of cuts that we install, the type of equipment
12 that we use. There are nuances associated with the
13 operation of that. Blasting is something that we take
14 critically to our operations. It's something we do
15 regularly.

16 Over the course of a shaft, we probably
17 put off 100 to 120 blasts. The process of loading and
18 shooting is something that the construction worker in
19 our field does regularly and has to learn that
20 process. We'll get into this a little bit in a few
21 minutes. We get into the certifications and training
22 of those people to perform those tasks.

23 The mucking, the removal of a rock.
24 Again, it is not typical of a mining task. It's
25 loading rock into buckets and taking it to the surface

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1 and loading it with different equipment and hauling
2 and storing it onsite or away from site as directed by
3 the coal operator. Basically coalcreting, that speaks
4 for itself. We're installing a structure basically.

5 The forms, the scaffolds, the work decks,
6 the buckets, those are not typical equipment used in
7 either surface or underground mining. They are
8 construction facilities. Basically when you move from
9 what a job looks like to the type of equipment used,
10 when we staff our projects, we carry panel. It's
11 based on seniority and qualification. These guys are
12 going to a specific project location for anywhere from
13 six to 18 months.

14 They are small crews. They are five to
15 seven people per crew in a conventional application.
16 We also work, when we're fully staffed, a 24-7
17 operation. We work three crews. It's basically four
18 crews. We work around the clock. Just to reiterate,
19 it is a sequential operation. In other words, a crew
20 coming on might find themselves for two or three weeks
21 drilling and in the excavation process. It might be a
22 month before that crew comes back and is actually
23 involved in the concreting process.

24 But due to the sequential nature of the
25 work, one key point is, our workers do the tasks that

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1 require it at the time that they come onto the project
2 which means they may be on the surface or they might
3 be underground. If we're on a drill shift, the guy
4 might be going underground to drill around. If we're
5 on a mucking shift, he might come outside and dump
6 buckets or drive a truck to haul rock off the hill.

7 So every person, due to the small staff
8 that we employ on a per crew basis, has to have the
9 versatility to be able to do the job wherever it is,
10 surface or underground. Basically the general
11 characteristic of our crews is from a certified versus
12 a new worker range. Probably 60 percent of our crew
13 on average are certified or qualified in some way.

14 Hoist runners, we have our own training
15 plant developed to certify hoist runners. It's
16 basically a 40 hour operation plan after one year of
17 service working in and around that hoist. We
18 developed that on our own primarily because it wasn't
19 clear to us what the regulations had about that. We
20 developed it based on our own methods and application.

21 We also get into blaster certifications as
22 well as mine foreman and so forth, electricians as
23 well. So on a given crew, between hoist runners,
24 blasters, mine examiners and so forth, probably 60
25 percent of our crews have some sort of certification

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1 that has required experience working in the field for
2 an extended period of time before they can get those.

3 We go through all of the refresher training and
4 continuing education for those positions.

5 Forty percent, two or three people,
6 depending upon the crew size, can be laborers or would
7 fit the "new employee" class. It just gives you a
8 picture of our workforce, how we work, and some of the
9 conditions that we work in. All of it is very
10 different than a surface or underground extraction
11 process. The equipment is different. The people are
12 different. They are asked to do different skills.

13 We submit construction plans for every
14 shaft that we do. It's a separate part of the
15 regulations. Yes, it's under surface, but it's a
16 separate part of the regulations that deals with the
17 scope of our operations. It defines what we do and
18 how it is. It basically becomes the law of our
19 operations and how we do things.

20 Again, it's distinguished from the mining
21 operation by the very need to submit a plan in the
22 first place. Also, the state and local authorities
23 that we work within, there's a very clear distinction
24 between miners and shaft and slope workers in terms of
25 the certifications and what they do. Shaft and slope

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1 examiners versus the mining examiners and/or blasters
2 or underground.

3 But integral to successful operations is
4 safety first. We do do a lot of training. In the
5 shaft and slope world, we don't have - we'll say - an
6 approved training plan but we do hazard training. We
7 receive hazard training by the mine operator. We do
8 it ourselves when the worker first comes onto a
9 property.

10 We have weekly safety meetings for crews
11 starting there, about 15 minutes long just to talk
12 about new topics. It's an open forum for our
13 employees on the project. We do annual refresher
14 training, although it's not required, via the
15 nonexistence of Subpart C. It's the right thing to
16 do. I heard that comment earlier. I agree with it.
17 We have always done it, but it's not done under the
18 forum of the training plan.

19 We also have all the certified and
20 qualified people that I spoke of. They go through the
21 appropriate training and retraining. That's the hoist
22 runners, the electricians, the blasters, the mine
23 examiners. All those people continue their
24 certification through training and retraining.

25 What we have done on the shaft side of

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1 things for new employees is in fact give them eight
2 hours of classroom instruction. When you take a look
3 at the newly employed, inexperienced criteria and
4 apply them to our environment, our operations, the way
5 we staff, basically what's necessary to accomplish it
6 is in terms of introduction to the work environment
7 things, hazards, health and safety to the minor,
8 things like that. Things are covered under the 40
9 hour program or the 24 in the case of the surface.

10 Most of those things that can be covered
11 in the classroom can be done in an eight hour class
12 when you apply it to the environment of the shaft
13 world. The key thing that we support is hands-on
14 training on the job site, the task training, the
15 operational training. I agree with, I believe, Mr.
16 Moore's comments that you bring a new employee onto
17 the job site. It may be two or three weeks or it
18 might be six weeks until he's exposed to a concreting
19 cycle.

20 But any time that individual, whether he's
21 experienced or inexperienced, if he's never seen a
22 jumbo drill rig and hasn't drilled before, we're going
23 to take one of our experienced people on that crew and
24 work with him and introduce him to that work
25 environment and show him how to do it, how to lay out,

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1 how to operate that equipment, and do it safely and
2 productively. It's in the work environment where that
3 instruction needs to take place.

4 We do that with all of our tasks from the
5 conveyances, from hoisting to haulage, all of the
6 criteria that's necessary for the safe operation of
7 our business. Again, we do that because it's the
8 right thing to do, not because it's listed in a
9 training plan somewhere.

10 I had mentioned earlier - and I'm not
11 going to get into too much detail on this - that we do
12 carry an underground crew that does a lot of work
13 underground in the coal mine. We do have training
14 plans in place for those people that go underground to
15 do construction work because they are exposed to the
16 mine hazards. They are going on their scapeways into
17 their mines and working in and around their equipment
18 and whatnot.

19 So basically we do have a Part 48 training
20 plan for that and all of the things that are
21 associated for it: hazard training, annual refresher,
22 certified/qualified training, new miner training. All
23 of that stuff is common to that side of our business.

24 So we do maintain people with that training.
25 Basically that gives you a picture of where R.G.

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1 Johnson is in terms of what we do and how we train on
2 both the shaft and the underground side.

3 I wanted to point out some of the
4 sentiment that I heard in the proposed rule as I read
5 it. There seems to be this theory that we are
6 excluded from training. Well, we have been, but I
7 don't believe that was the intent of the Mine Act.

8 We were not purposefully not included in
9 A-training or B-training. But we were defined to be
10 covered under Subpart C, which I wanted to echo some
11 of the sentiments that have already been said here
12 today. It has been 27 years since the Mine Act was
13 written that no regulations have been in place which
14 govern us.

15 We applaud the effort to do that. We
16 would like to participate in that process of
17 developing meaningful, appropriate, and effective
18 training for our work environment. But we haven't
19 been excluded. It was fully intended to have training
20 under Subpart C but Subpart C was never written.

21 So what's the response? We've taken it
22 upon ourselves to do our own training as we have seen
23 fit for the safety and productivity in our industry.
24 So basically that has been very successful for our
25 organization. I want to tread just a little bit

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1 lightly in looking back to some of the rationales put
2 forth in the proposed legislation.

3 I want to say first that when you take a
4 look at fatalities that for our industry or anyone's
5 industry, one fatality is one too many. So I don't
6 want you to misunderstand some of the thoughts that I
7 want to share with you on some of the fatalities that
8 you have listed in your proposed rule. But really
9 what our thoughts are is that you have to look at the
10 cause and effect of the circumstances that surround
11 each of those issues.

12 When you are looking and proposing
13 regulations that apply to surface and underground
14 mines, you want to make sure that while the effects
15 might be the same - people die from ignitions and
16 explosions and impact and falling and so forth - that
17 the causes of those accidents are identified in your
18 training plans and to not muddy the water of reaching
19 that there are similarities between the two work
20 environments when in fact they are very different.

21 What I mean is the three fatalities that
22 occurred in 2003 were the direct result of water in
23 construction methods. Those are not mining methods.
24 There's not a miner that I'm aware of that would be
25 involved with that construction process. Unfortunate

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1 incident. It's a tragedy that we're all dealing with
2 and learning from.

3 The four fatalities in ignition in '92, I
4 believe, that those were, if I'm not mistaken, from
5 the Blacksville I mine explosion. If I'm correct in
6 that, those people were dealing with mine closures
7 which was construction work in and around the surface
8 of the mine. It had nothing to do with the actual
9 mining process or the development of the shaft.

10 So the work that was involved associated
11 with that tragic event is not involved with the type
12 of work that we put in the shaft construction world.
13 Certainly methane is common to both environments, but
14 the work processes are very different. Our people
15 need to be trained to manage that in a way that it
16 affects our environment with our work processes.
17 Those are very different than surface or underground
18 mining.

19 Certainly when you go on to look at the
20 fatalities listed and you prepare this rule, there was
21 a number that involved hoisting, platforms, buckets,
22 and things like that. Again, those unfortunate
23 occurrences were a result of operations in our
24 industry. They are not operations that would occur in
25 the coal mining or the surface mining facility.

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1 Basically the other two fatalities listed
2 in the proposed rule were the result of falling
3 objects or falling individuals. We work at heights
4 all the time. That's an integral part of our
5 business. We're a vertical development. Mines are a
6 horizontal development.

7 I can't say that miners, surface or
8 underground, are not exposed to those kinds of
9 hazards. I would not say that. The only thing I
10 would say is that in our work environment there's a
11 higher frequency of exposure to those kinds of things.

12 Again, when I look at those history, I am just trying
13 to learn what the causes of these accidents are so we
14 can learn from them and make our operations better in
15 addressing conditions that attributed to those and
16 they are very different than the mining process.

17 Also, within the proposed rule, there were
18 comments to the effect that drilling, blasting, and
19 mucking, welding, gas examinations were similar in our
20 operations as they were to the mining operation. Yes,
21 while both environments involve drilling, it's
22 drilling for much different reasons. Our purpose, our
23 applications, our methods are basically not common.

24 I share the sentiment that's been spoken
25 here today that conventional mining methods are not

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1 viable for development of slopes or shafts for that
2 matter. If they were, they would be doing the work
3 themselves. One hundred percent of shafts and slopes,
4 to my knowledge, in our region are contracted out to
5 specialized contractors such as ourselves and everyone
6 in this room.

7 Basically the conclusion there is that our
8 work environment is different than the mining
9 environment. We want a training plan that focuses on
10 our environment with our methods and is not
11 restrictive. I believe basically that in applying
12 Part 48(a) and (b) that it's misguided in the sense
13 that there is a great deal of classroom work that has
14 to go on before an individual can get out into the
15 field to learn the process that we're hiring him to
16 do.

17 As I said, again, I can understand there's
18 some confusion. But the way the proposed rule is
19 written, if we have to have surface and underground
20 regulations, there's potentially 64 hours of training.

21 Now, some of it may overlap, but it's something more
22 than 40 hours the way the regulations are written
23 right now. That's basically before a guy can become a
24 productive member of our workforce.

25 For our environment and what we do, eight

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1 hours of classroom instruction is very effective in
2 getting that guy's knowledge up to speed about our
3 environment. Then it comes with hands-on training
4 with the processes that we do in our environment and
5 working with our experienced people. Having a new
6 hire come out and be taught by the guy who knows how
7 to run the drill or knows how to run the mucker or set
8 the forms and that type of thing is very important.

9 To speak about the expense side of things,
10 I share the sentiment that the \$161,000 in the
11 proposed rule is understated. When you take a look at
12 developing instructors, annual refresher training,
13 task training, hazard training, all of those items in
14 addition to new employee training, our costs are over
15 \$100,000 annually. I'm glad to share information with
16 you on that information.

17 We want flexibility and speed and
18 competency in the hiring process. Remote locations,
19 different locations, a guy working on multiple
20 projects through the course of a year. We do have
21 turnover. We need to be able to hire a guy, teach him
22 about our environment, and teach him about our work
23 process but have flexibility and speed in the hiring
24 process once we put him through our drug testing and
25 our pre-employment physicals and initial training

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1 requirements.

2 So basically I just want to pretty much
3 conclude that we feel that the best forum for training
4 to occur from MSHA's perspective is to write Subpart C
5 as it was originally intended by the Mine Act. As
6 much as you said earlier, Mr. McLeod, about that you
7 attended one training plan for the contractor, the
8 language within the laws, it's written in the
9 regulations. It talks about training plans for
10 miners.

11 You mandate this regulation applying to
12 us. As much as the intent is to do that, the language
13 of Subpart A and B is that those training plans are
14 mine specific, not contractor specific. I would think
15 that would have to be addressed. In any event, that's
16 a simple matter. But we would share the idea that any
17 training plan developed for shaft and slope under
18 Subpart C be contractor specific and apply to any mine
19 in any district for our operations.

20 Likewise, we believe that the eight hour
21 initial training in the classroom is adequate for the
22 introduction to the workforce for the hazard training.

23 We would support the idea of 16 hours or more - I
24 should say at least a minimum of 16 hours in the
25 workplace. In the long run, we probably do more than

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1 16 hours in terms of showing a guy how to do the
2 various phases of our work. But in terms of what's
3 mandated, I think 16 is adequate for that.

4 Basically all of the other issues that
5 exist within those training plans, the annual
6 refresher, the hazard training, the task training, all
7 those things are norms within our business and they
8 have worked well. It's just that we want speed and
9 flexibility in being able to get a new hire onto the
10 project. That's all I have. I don't know if there
11 are any questions anybody has.

12 CHAIRPERSON SMITH: Thank you, Mr.
13 Johnson.

14 MEMBER PHUC: You stated that your company
15 is small. How many people do you employ?

16 MR. JOHNSON: About 120 people.

17 MEMBER PHUC: Out of 120, how many of them
18 are shaft and slope construction workers?

19 MR. JOHNSON: Approximately 95 are shaft
20 construction. It's been quite a few years since we
21 have constructed slope.

22 MEMBER PHUC: Ninety-five?

23 MR. JOHNSON: Yes.

24 MEMBER PHUC: Now, is that the absolute
25 number?

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1 MR. JOHNSON: It's an approximate number.
2 We probably have 15 to 18 people that are salaried
3 people. We have about ten people that are underground
4 crews that do underground work.

5 MEMBER PHUC: Right. Is that 95 operating
6 at optimal when you were talking about that bell
7 shaped curve?

8 MR. JOHNSON: Yes, when we have three
9 projects going, upon a given shaft job, there's
10 anywhere from 24 to 28 maybe 30 people at a time that
11 may have to go on a project to staff a shaft. We can
12 basically run between three and four shafts at a time.

13 MEMBER PHUC: Okay. Thanks.

14 MEMBER McLEOD: Could you maybe expand a
15 little bit on the, you used the word, 16 hours of on
16 the job training? Is that under the mentoring of
17 somebody? How actually does that work? Talk about it
18 a little bit.

19 MR. JOHNSON: Well, there's a couple of
20 different things. You can take, for instance, when
21 you look at the new miner requirement as far as
22 underground mining. There's a provision in there that
23 talks about mine map transportation communication.
24 Well, in our business, we have to come out here to
25 show them what our bell system is for our hoist.

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1 It doesn't take long. They are given a
2 card to understand the bell system. They are shown
3 how to get in and out of the hole. We have emergency
4 escape provisions on our hoist and how to hook up a
5 hoist to get people out of the hole in the event of a
6 power outage and that kind of thing.

7 So it's a check in-check out system. It's
8 things that are in place on the job site. It's also
9 how to operate a drill, how to lay out a drill round
10 to shoot a V-cut, how to muck with a two bucket system
11 underground with a backhoe or an imco (PH), how to
12 properly dump buckets on the surface.

13 You are in the midst of a concreting cycle
14 and basically a delivery comes up to the job site of a
15 rebar. You have to get the logistics of how to keep
16 your operation going, receive the materials, and get
17 them placed in a small confined area.

18 So in answering that what I'm saying is,
19 in part we go through what's required in the
20 regulations and in part it's how to be an effective
21 worker doing the task at hand on the job site. In
22 part, it's task training. In part, it's covering some
23 of the criteria that's listed as far as new miner
24 training. I don't know if that answered your question
25 or not.

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1 MEMBER McLEOD: Have you identified tasks
2 and then somebody goes through that training? In
3 other words, if I'm a supervisor and you send me five
4 guys, am I going to know what training they have
5 already had with your company if they come from
6 another site, as an example? In other words, what
7 have you done formally?

8 MR. JOHNSON: We have a task training plan
9 set up by the law where we record the tasks that they
10 have been trained in. They have a personnel file that
11 goes from job to job.

12 MEMBER McLEOD: Great. Thanks.

13 CHAIRPERSON SMITH: Thank you, Mr.
14 Johnson. We appreciate it. What I would like to do
15 is take about a five minute stand up break for
16 everybody. Then we'll come back on the record. We
17 have two other individuals who have requested to speak
18 this morning. We'll check to see if there are others.
19 We'll be back in five minutes. Off the record.

20 (Whereupon, the foregoing matter went off
21 the record at 10:50 a.m. and went back on
22 the record at 11:01 a.m.)

23 CHAIRPERSON SMITH: We are back on the
24 record. Our next presenter is Steve Thomas.

25 MR. THOMAS: Good morning. My name is

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1 Steve Thomas, T-H-O-M-A-S. I am the Safety Manager
2 for Gunther Nach, Incorporated of Saint Louis,
3 Missouri. With eight years of construction safety
4 experience, I would consider myself a better than
5 average trainer.

6 I'm qualified to instruct more than a
7 dozen different topics for construction. I'm in the
8 process of receiving MSHA trainer certification.
9 That's mainly through seven years of strictly
10 construction activities, muddy boot field experience
11 with the last year coming over to Gunther Nach and
12 doing more in the mining construction industry.

13 A conservative estimate, in the eight
14 years of experience, I have trained over 5,000
15 construction workers on various topics. Gunther Nach
16 has been in the business of shaft and slope sinking
17 since 1967 and in that time have completed
18 approximately 34 slopes and 56 shafts for the coal,
19 metal and non-metal mining industries.

20 Constructive slopes have ranged from 150
21 feet to several thousand feet. Shafts of varying
22 shapes have ranged from 100 feet to over 2,000 feet
23 deep. Additionally, numerous tunnels and underground
24 excavation projects have also been constructed.
25 Presently, we're participating as a joint venture

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1 which is constructing a major sewer tunnel in the
2 Saint Louis, Missouri area.

3 Most of these projects have been located
4 in the eastern part of the United States, but we have
5 ventured as far west as Kansas City, Missouri. Since
6 the beginning of the company, the core business has
7 been mine construction and consisted mainly of shaft
8 and slope construction. However, in recent years,
9 Gunther Nach has diversified and is now providing
10 construction services in the petrochemical,
11 communications, food and beverage, power generation,
12 and other related fields.

13 Although the number of employees at the
14 Gunther Nach payroll is increasing due to
15 diversification and additional opportunities, the
16 number of employees on payroll usually ranges from 50
17 to 150 employees. The number of employees on a
18 typical shaft or slope project usually peaks out
19 around 40 when it's fully staffed. The duration of
20 the projects can vary from a few months to a couple of
21 years.

22 As I stated before, training our employees
23 is a major role as Safety Manager. I'm an advocate
24 for training. When it's done correctly, it's an
25 integral piece of an effective safety and health

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1 program. However, training is not a cure-all for the
2 perceived problems with our industry.

3 In Gunther Nach's current program, we give
4 all newly hired employees an orientation pertaining to
5 the work they are expected to do. Additionally, we
6 cover parts of our safety program they are expected to
7 participate in. This normally takes two to four hours
8 depending on the complexity of the project. Providing
9 they have successfully completed the drug screen, they
10 are then allowed to go to work.

11 But the training does not stop there. We
12 have procedures in place that requires supervisors to
13 train employees everyday and extensive training
14 programs for our supervisors. Prior to performing any
15 task, supervisors are required to go over a project
16 hazard development, PHD, which is our version with a
17 fancy name for job safety analysis or job hazard
18 analysis.

19 If there is equipment involved in the
20 work, they are task trained. Supervisors additionally
21 observe employees while they are working and provide
22 feedback and corrective actions. This doesn't occur
23 only on the first day but on everyday of the project.

24 All supervisors are required to make written
25 observations of the work in progress on a daily basis

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1 and provide what corrective actions were taken. Most
2 of these observations are geared toward employee
3 behaviors.

4 In addition, we hold safeguard meetings
5 everyday to discuss the day's operations and how to
6 overcome hazards before the work ever starts. This is
7 about 15 to 20 minutes taken out of everyday before we
8 ever pick up a wrench.

9 As I said earlier, I'm an advocate for
10 training and feel this is the more effective way to
11 conduct training. Studies show that an average person
12 can listen with understanding for approximately 90
13 minutes but can only listen with full retention for an
14 average of 20 minutes. Taking that into
15 consideration, in a full eight hour day of training,
16 how much is an employee really retaining?

17 The key to productive training is
18 reinforcement over the life of the project. As I
19 understand it, the proposed regulations would require
20 all slope and shaft contractors to provide a minimum
21 of 40 hours of training for every employee prior to
22 the performance of any work. This is based on a
23 prudent and safety-minded contractor's assumption that
24 every employee on the project site may be required at
25 some point to work underground and thus requiring

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1 training under Part 48(a).

2 Forty hours of training prior to starting
3 work is not only inefficient, it's ineffective. When
4 we start a shaft or slope project, there may be a
5 month or more lag time prior to performance of any
6 underground work. This is not the time to train
7 personnel on topics such as ventilation systems,
8 ground control, et cetera.

9 They have to be covered in the new hire
10 orientation. It's my opinion that training for these
11 procedures and safeguards for the hazards should be
12 much closer to the time these skills are to be
13 utilized. Conducting 40 hours of training with eight
14 hours of retraining annually may be appropriate in
15 operating a mine where the conditions and workforce
16 are relatively constant.

17 However, shaft and slope workers, while
18 facing several of the same hazards, also face other
19 differing hazards due to the construction activities
20 that they perform. Shaft and slope workers face
21 constantly changing conditions as they progress in
22 performing their work and often experience a workforce
23 that is constantly changing due to the nature of their
24 work.

25 These differences necessitate a need to

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1 have a training program which is conducive to the
2 hazards to which the workforce is exposed. Shaft and
3 slope workers should have their own training program
4 and not be merely included in other programs.

5 Some questions that the proposed
6 regulations would bring up - and I realize this is for
7 the federal and not the state but these are some
8 consequences - is, how will state run programs respond
9 to this? Currently, Kentucky requires 48 hours
10 training for an experienced miner, West Virginia 80.
11 Are we going to be thrown into those groups going into
12 those states?

13 Will a coal miner trained under Part 48(a)
14 really be qualified to work on a slope or shaft? The
15 gentleman before me described a lot of the differences
16 between the two. Looking at it the other way, will a
17 shaft and slope worker with Part 48(a) training really
18 truly qualify to work in an underground coal mine?

19 A review of the proposed Subpart C
20 language from the Summer of 1978 indicates that the
21 authors recognized that construction work was separate
22 and distinct from production mining activities. In
23 reality, the proposed section could have been broken
24 into two separate subparts: one for shaft and slope
25 and the other for construction workers engaged in

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1 erection, alteration, repair, dismantling, and
2 demolition of all structures, facilities, and
3 equipment on mined property with the exception of
4 shaft and slope construction.

5 The training programs which were proposed
6 differ from the mandated courses in Subparts A and B
7 to provide training for the type of work that was
8 actually going to be performed. For example, shaft
9 and slope workers were to be trained in explosives
10 while clean up of rock was excluded.

11 For whatever reason, Subpart C never came
12 to fruition. MSHA has again recognized that the shaft
13 and slope industry has a need for up to date training
14 regulations. Gunther Nach and the rest of the
15 industry support the new training regulations which
16 are developed for the work our employees perform.

17 We stand ready to assist MSHA in the
18 development of shaft and slope specific training
19 content and implementation. In my opinion, a joint
20 effort between MSHA and the industry is needed to
21 develop meaningful and effective training for this
22 specialized workforce. Any questions? Thank you very
23 much.

24 CHAIRPERSON SMITH: Thank you, Mr. Thomas.

25 We appreciate that. Our next speaker is Adele

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1 Abrams.

2 MS. ABRAMS: Good morning and thank you
3 for giving me the opportunity to testify here today.
4 My name is Adele Abrams. I am speaking today on
5 behalf of the American Society of Safety Engineers
6 which is a professional society of 30,000 dedicated
7 safety and health professionals that is headquartered
8 in Des Plaines, Illinois.

9 I am their Washington representative. I
10 am also a professional member of ASSE, of both their
11 mining and their construction practice specialties.
12 I'm a certified mine safety professional. I have
13 coauthored textbooks on construction safety and on
14 mine safety including a recent book published by ASSE,
15 Construction Safety Management and Engineering. I
16 authored a chapter on MSHA considerations for
17 contractors in that book.

18 ASSE's membership includes certified
19 safety professionals, certified mine safety
20 professionals, certified industrial hygienists as well
21 as professional engineers, fire protection engineers,
22 system safety experts, and an impressive collection of
23 other disciplines. There are 13 practice specialties
24 within ASSE including mining. Since 2003, ASSE has
25 worked cooperatively with MSHA through an alliance to

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1 advance mine safety and health. I am a participant in
2 that ASSE and MSHA alliance.

3 We are pleased to submit this statement
4 concerning proposed modifications to Part 48 training.

5 We commend MSHA for addressing the issue of
6 construction worker training at mine sites. In my
7 prepared statement, which I would like to have
8 included in its entirety in the rulemaking record, I
9 have addressed many of the same things that Ms. Smith
10 did in her opening here today.

11 Section 115 of the Mine Act of 1977 did
12 direct the Secretary of Labor to promulgate
13 regulations concerning health and safety training
14 programs for miners. It did specify that there should
15 be training standards governing construction workers
16 at mine sites. Since 1977, however, MSHA has largely
17 refrained from addressing this area.

18 Based on the statutory language
19 apparently, it exempted all slope and shaft
20 construction workers from the scope of the mandatory
21 miner training when it promulgated the Part 48
22 standards in 1978. At the time, this exemption was
23 based on an assumption that shaft and slope
24 construction was substantially different from the
25 extraction and production mining that took place, and

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1 therefore that miner training would not be relevant or
2 applicable.

3 As MSHA's rulemaking notes, there have
4 been 15 individuals in the shaft and slope
5 construction arena that have been killed at mines over
6 the past 20 years roughly. MSHA's analysis shows that
7 their hazards are not substantially different from
8 those faced by other underground or surface miners,
9 and that indeed there are many tasks that are similar
10 between those conducted by miners and those conducted
11 by construction workers at mines.

12 There's also some similar equipment that
13 is used. You have had a lot of expert testimony here
14 today from those who perform this work that did point
15 out some of the unique facets of shaft and slope
16 workers. But the bottom line is that in recent years
17 MSHA appears to have changed its perspective, at least
18 in part, with respect to there being a statutory bar
19 to encompassing construction workers within miner
20 training.

21 Specifically in the Part 46 rulemaking
22 back in 1999, MSHA did intentionally include
23 construction workers within the definition of miner.
24 Despite this, the proposed rule that we are commenting
25 on today would retain the training exclusion for mine

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1 construction workers other than for those shaft and
2 slope workers. It continues to refer to a, perhaps at
3 some point in the future, pending Subpart C that would
4 address separately mine construction training in the
5 future.

6 ASSE notes that the rationale for this is
7 not very clear given that MSHA has already addressed
8 construction worker training for certain categories of
9 mines, specifically those in the aggregates industry
10 and cement industry and some other categories of
11 surface non-metal operations. When you look at the
12 preamble to that Part 46 rule, it suggested that
13 exposure to the hazards of mining occurs for those
14 construction workers who perform activities integral
15 to extraction and production or those who are working
16 at an active mine site.

17 In practice, this encompasses virtually
18 all construction workers other than those who are
19 engaged in new construction at mines not yet open or
20 at mines that have temporarily suspended active mining
21 because of the construction or possibly those with
22 intermittent operations. MSHA's program policy manual
23 defines construction work as including the building or
24 demolition of any facility, the building of a major
25 addition to an existing facility and the assembling of

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1 a major piece of new equipment such as installing a
2 new crusher or the assembling of a major piece of
3 equipment such as a drag line.

4 Again, those seem to be covered under Part
5 46 but would continue to be exempt from any miner
6 training requirement under Part 48 if this rulemaking
7 were to proceed as it's proposed. Specific to this
8 proposal, ASSE believes that more explanation is
9 needed for the decision to limit the expansion only to
10 those construction workers engaged in shaft and slope
11 work.

12 You have attempted to quantify the
13 fatalities and injuries suffered by the shaft and
14 slope construction workers. But the preamble to this
15 proposed rule lacks any data for injuries or illnesses
16 suffered by other categories of construction workers
17 at the mines that are currently covered by Part 48.
18 It might be beneficial to make that data publicly
19 available in the final rule or at some interim phase
20 in this rulemaking so that it can be determined
21 whether this continued exemption of all other
22 construction workers is still warranted because as of
23 now, the agency has not articulated a reason why
24 construction workers at Part 48 regulated mines should
25 receive a lesser degree of protection than

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1 construction workers at Part 46 regulated mines.

2 Now, having said that - and perhaps it is
3 radical to be suggesting expansion of this proposed
4 rule - I do want to note that what ASSE is suggesting
5 is not uniformly taking Part 48 as it currently exists
6 and applying it to construction but rather by looking
7 at what has already occurred in the Part 46 arena.
8 When MSHA decided to include construction workers in
9 the Part 46 training requirements, they recognized
10 that those individuals might have long-term experience
11 and also training before they come to the mine site
12 that is relevant to the task they perform as ?miners.?

13 So it consequently gave them credit for
14 such experience in positions like a heavy equipment
15 operator or a skilled craftsman. If MSHA does decide
16 to extend Part 48 to slope and shaft construction
17 workers or to all categories of construction workers
18 either now or in the future, we would suggest that a
19 similar grandfathering should be permitted for those
20 construction workers who have at least 12 months of
21 cumulative prior experience performing the same tasks
22 that they would perform at the mine and who also have
23 documented appropriate training.

24 In other words, they should receive credit
25 for OSHA 10 or 30 hour courses for construction that

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1 they have received. The crediting of such training
2 can apply to both the initial training and also annual
3 refresher training. You have heard again from a
4 number of construction companies here today that seem
5 to have very well developed and documented training
6 programs that are specific to their shaft and slope
7 construction.

8 So ASSE is not suggesting that they should
9 have to start from scratch but rather that the
10 documented training that such companies are already
11 providing should be recognized and be credited toward
12 the training requirement for the initial new miners or
13 perhaps for those who are returning to mines to
14 constitute part of the annual refresher training.
15 MSHA, with respect to experienced miners as they do
16 with Part 46, continue to permit workers to be
17 classified as experienced miners if they have this
18 type of experience, if they have been working for more
19 than a year but further suggest that they should be
20 classified as this permanently regarding of what date
21 they begin work at the mine or if they resume work at
22 a mine after an extended absence.

23 This is something that Part 46 tends to do
24 but Part 48 currently does not in its definition of
25 experienced miner if there has been an absence from

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1 the mining industry for a period of time. We believe
2 this will ease unnecessary burdens prospectively on
3 construction employers while it will not diminish the
4 protection of workers since these workers arguably
5 would be performing the same type of tasks just not
6 doing them at a mine site. They might be doing it at
7 an underground tunneling operation in the construction
8 arena that is regulated by OSHA.

9 We do believe such workers should be
10 subject to eight hour annual refresher training if
11 they did not have equivalent documented training under
12 an OSHA construction training program within the 12
13 months proceeding they return to the mine site.
14 Obviously they would still need any kind of refresher
15 training on hazards unique to the mine site, the
16 initial hazard training and then having that refreshed
17 on an annual basis as well as new task training if new
18 hazards are introduced to the work environment or if
19 they are assigned to perform a task while they are at
20 the mine site in which they do not already have task
21 training experience.

22 MSHA has already set a precedent under
23 Part 46 for giving partial credit toward new miner
24 training for construction workers who come to the mine
25 pretrained on certain mandatory subjects that are set

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1 forth in the MSHA standard. I would direct your
2 attention - and I'm not going to read it in its
3 entirety - to the preamble to the final Part 46 rule
4 where MSHA gave an example of what types of credits
5 could be given.

6 They go through training that the person
7 might have received under an OSHA program on use of
8 respiratory devices or on the safe operation of a
9 front end loader, instruction on hazards related to
10 electrical operations or silica, fall protection,
11 material handling, and excavations, first aid
12 training. If the workers have received that training
13 already from an OSHA 500 approved trainer and they
14 have gotten this through an OSHA 10 hour course or an
15 OSHA 30 hour course, they could get credited for that.

16 In the example MSHA gave in its Part 46
17 preamble, they saw where a new miner could get up to
18 15 hours of training credit in such a scenario. That
19 is in 64 Federal Register 53106. That appeared on
20 September 30, 1999. By taking a similar approach to
21 shaft and slope construction training or to all
22 construction worker training under Part 48, it will
23 reduce the regulatory burden on the businesses,
24 especially on those that only occasionally perform
25 such work at mine sites and who normally do work at

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1 OSHA regulated construction projects.

2 It will also avoid redundancy and provide
3 needed flexibility while not diminishing the training
4 protection for employees. We also note that you
5 should consider exempting from these comprehensive
6 training requirements those construction workers who
7 do not have a regular presence at the mine or who work
8 no more than five consecutive days at the mine site.
9 This is consistent with MSHA's current approach for
10 non-construction contractors at mines.

11 As a practical matter, again from the
12 testimony presented earlier, it seems most of these
13 people are there for extended periods of months at a
14 time. But where you do have some turnover or where
15 some specialty subcontractors might come in to
16 participate in shaft and slope work, this exemption
17 may be appropriate there other than for the initial
18 on-site specific hazard training.

19 With respect to training plans under Part
20 48, ASSE supports giving construction companies at
21 least 120 days from the date of the final rule to get
22 plan approval from MSHA, but we agree that more
23 flexibility is needed. We suggest that the employers
24 should be able to elect to either have their own Part
25 48 training plans or to use, with the mine operator's

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1 consent, the plan already approved for the mine where
2 the employees would perform their work.

3 This flexibility is needed because the
4 training plan approval process can be lengthy. I have
5 seen, with some companies I work with, it extend well
6 beyond the 60 days suggested in the preamble here. It
7 can even be longer if mine employees or employees of
8 the company object to what is in the plan or if the
9 MSHA office comes back and wants a rewrite of certain
10 portions of the plan.

11 It can then require a resubmission of the
12 training plan that can take, again, well beyond the 60
13 days. When you are working in contracts where time is
14 of the essence, that may be an unnecessary burden if
15 there is an appropriate mine plan that could be used
16 by the construction contractor.

17 The rule is silent really concerning the
18 qualifications for trainers. Implicit in that is that
19 the existing Part 48 requirements would carry over to
20 the newly covered entities. I myself am a Part 48
21 approved instructor. My firm and myself also provide
22 OSHA training, the 30 and 10 hour courses for
23 construction companies under 29 CFR Part 1926.

24 I would suggest that the training
25 requirements to be an OSHA 500 or an OSHA 501

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1 instructor are pretty much as arduous as those for
2 being a Part 48 approved instructor. There is a lot
3 of redundancy between the training subjects that are
4 covered in the OSHA 10 hour course and the OSHA 30
5 hour compared with the MSHA Part 48 especially if you
6 are trying to focus those subjects on the tasks that
7 are actually undertaken by the construction employers.

8 Therefore, we suggest considering a
9 departure and following the agency's procedures
10 already adopted under Part 46 which would allow a
11 construction company to use either the mine's Part 48
12 approved instructor or their own Part 48 approved
13 instructor or the construction company's own competent
14 person, someone who would normally provide the
15 company's safety and health training for its work on
16 OSHA regulated sites such as a person who has
17 completed an OSHA 500 course and has appropriate
18 credentials as a CSP or a CMSP.

19 By allowing them to oversee the training
20 provided to these workers, I think that removes some
21 of the impracticality for construction companies of
22 getting their own person MSHA approved in a timely
23 manner. It's going to be very difficult for them to
24 do that. You have heard testimony on that already.

25 Moreover, in my experience because of

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1 resource limitations, many of the state grant
2 recipients just do not have sufficient resources or
3 personnel to provide this type of training on demand
4 to companies that are not mines and that are not
5 regularly or directly engaged in mine operations. So
6 it does leave these companies hanging out there
7 without a lot of resources to fall back on if they
8 have to hire one or two new employees at a moment's
9 notice.

10 Finally, with respect to grandfathering of
11 training and also the credit for the partial training
12 for the OSHA programs, as I said, they should consider
13 waiving the requirement that this training be provided
14 by an MSHA approved instructor. My written remarks
15 say "MSHA improved." That may well be the case but I
16 meant MSHA approved because this is probably
17 infeasible for all construction operations.

18 So we do recommend that the competent
19 person standard used under Part 46 be implemented for
20 the construction companies either through this
21 rulemaking or if you decide to proceed, as has been
22 suggested by every other speaker this morning, that
23 you do these as a stand alone Subpart C. ASSE does
24 not have a particular objection to proceeding that
25 way. We just feel that there should be some training

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1 requirements that are written and that are enforceable
2 for all construction workers who are performing work
3 at mines.

4 The last thing I wanted to address is the
5 utilization of voluntary consensus standards. Under
6 the Technology Transfer Act of 1995 as implemented by
7 OMB Circular A119, whenever an agency is engaged in a
8 rulemaking, they are supposed to look and see if there
9 is a consensus standard out there that is applicable
10 to the subject matter being covered.

11 Although we are not suggesting that MSHA
12 incorporate as a whole the ANSI Z490.1 standard, we do
13 draw your attention to it. This is a standard titled
14 ?Criteria for Accepted Practices in Safety, Health,
15 and Environmental Training.? ASSE is the Secretariat
16 of this standard. MSHA participated in the committee
17 that created this standard and has previously endorsed
18 its use in references to it in the preamble for the
19 MSHA Hazard Communication Standard.

20 So in the context of this rulemaking, we
21 again urge MSHA to review the ANSI Z490.1 standard,
22 reference it in this rule as a tool that can be used
23 by construction companies and by mine operators in
24 improving the efficacy of their training programs. It
25 also provides a method for employers to benchmark

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1 their training practices.

2 So in conclusion, we just note that
3 appropriate and effective training is a critical
4 element of any company's safety and health program
5 regardless of whether the employer is engaged in
6 mining, construction, or shaft and slope work. The
7 proposed rule makes long overdue modifications to Part
8 48 that we believe will increase safety and health
9 protections for those individuals engaged in shaft and
10 slope construction work at Part 48 regulated mines.

11 We urge MSHA to consider applying the same
12 flexibility to these companies as it does to their
13 construction counterparts who perform similar work at
14 Part 46 regulated mines. We also ask that MSHA more
15 fully evaluate whether the remaining exemption for
16 other categories of construction workers at Part 48
17 mines is still valid.

18 ASSE pledges its support in working with
19 the agency to ensure that best practices in miner and
20 construction training are developed and disseminated
21 for use by the entire mining community so that no
22 worker is left behind in terms of safety and health
23 protections. We hope that the resources that we have
24 through our mining and construction practice
25 specialties can be employed perhaps through the MSHA

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1 and ASSE alliance in bringing this rulemaking to
2 fruition.

3 So thank you for your consideration of
4 these comments. We ask that these be included in the
5 formal rulemaking record. We may submit additional
6 post-hearing comments. I'll be happy to respond to
7 any questions you might have.

8 CHAIRPERSON SMITH: Questions for Ms.
9 Abrams.

10 MS. ABRAMS: Here's your chance, Tom.

11 MEMBER McLEOD: I know. I'll be nice.

12 (Laughter.)

13 CHAIRPERSON SMITH: Okay.

14 MS. ABRAMS: Okay. Thank you very much.

15 CHAIRPERSON SMITH: Are there others who
16 would like to say a word?

17 MR. BRENDEL: My name is Jim Brendel. I'm
18 Vice President and Secretary of Gunther Nach and Vice
19 President of the Association for Contractors. I have
20 been in this business for 29 years, all of it with
21 Gunther Nach. I don't have a written statement. I
22 just have a few comments I would like to make
23 concerning the proposed regulations.

24 One of them is, we probably need a better
25 definition of shaft and slope workers that would be

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1 included under this regulation. You propose an
2 amended definition of miner to include shaft and slope
3 workers and workers engaged in construction activities
4 ancillary to shaft and slope sinking. We may need a
5 better definition concerning subcontractors that might
6 be involved on a shaft and slope sinking project.

7 Sometimes when we are doing a slope, a
8 dirt mover might come in and open up the cut
9 excavation, back field, do sheet panning. How wide
10 reaching is this definition? Is it only what our
11 company specializes in which is sinking a hole and
12 lining it? Does it include the person that comes in
13 and puts in the shaft steel at the end of the project?

14 Does it include the guy that puts the fan
15 over the top of the shaft or the permanent hoist?
16 What about later on where, during miner certification,
17 a couple of years down the road, somebody needs to
18 come in and do grouting in the shaft or miscellaneous
19 shaft repair? We would like to see that clarified a
20 little bit more.

21 One comment I would like to make is, in
22 our type of work, the workers are always together in a
23 crew activity. It isn't like a mine where you have a
24 couple of guys over here and a couple over there.
25 We're pretty limited where our people can be. As a

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1 result, an inexperienced worker would always be with
2 an experienced worker.

3 I just want to express our willingness to
4 work with MSHA to develop a meaningful policy that
5 would be good for our employees. I have a question
6 for you. How did the meeting go in Salt Lake City?

7 (Laughter.)

8 CHAIRPERSON SMITH: We had no attendees
9 and no speakers in Salt Lake City.

10 MR. BRENDEL: So it was a pretty quick
11 day.

12 (Laughter.)

13 CHAIRPERSON SMITH: Yes.

14 MR. BRENDEL: Hopefully then we make up
15 for it.

16 CHAIRPERSON SMITH: We appreciate your
17 attendance here.

18 MEMBER McLEOD: Absolutely.

19 MR. BRENDEL: That's all I have. Thank
20 you.

21 CHAIRPERSON SMITH: Thank you. Any
22 questions for Mr. Brendel? Thank you very much.
23 Others? We thank you all for coming this morning and
24 for your remarks. We look forward to follow up
25 documents that you might submit for the record,

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1 additional data that you have indicated you might be
2 able to provide for us on a variety of topics.

3 Cost information would be very helpful for
4 us. September 14 is the close of the comment period.

5 So we would encourage you to please, if you are going
6 to submit that information, get it to us so we can
7 consider it as we move forward in this rulemaking.

8 MR. POND: Can you say at this time how
9 soon after that you would expect to finalize your
10 thoughts?

11 CHAIRPERSON SMITH: It's hard to say, but
12 we intend to move this rulemaking forward
13 expeditiously. We will be analyzing comments as they
14 come in. I don't believe we have received more than
15 one comment at this point in time. So we look forward
16 to analyzing your discussions today and any additional
17 comments that we might get from you or from others as
18 this record closes. But we plan to move forward as
19 quickly as we can. Thank you very much. The record
20 is closed for this hearing. Off the record.

21 (Whereupon, the above-entitled matter
22 concluded at 11:36 a.m.)

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