The Public Hearing was held at the National Mine Health and Safety Academy Auditorium, 1301 Airport Road, Beaver, West Virginia, at 9:00 a.m., Ernest Teaster, Moderator, presiding.

PANELISTS:

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RICHARD FEEHAN, Educational Policy Development
DEBORAH GREEN, Solicitor's Office
CAROL JONES, Metal and Nonmetal Mine Safety and Health
ROBERT SNASHALL, Solicitor's Office
CHERIE HUTCHISON, Office of Standards, Regulations, and Variances
PHAN PHUC, Office of Standards, Regulations, and Variances
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MODERATOR TEASTER: Good morning, and welcome to MSHA's public hearing on the Interim Final Rule for hazard communications in the mining industry.

I'm Ernie Teaster, administrator for metal and non-metal, and I will be your moderator here today. The members of today's panel are Bob Snashall from the Solicitor's Office, Richard Feehan, from our office of standards, regulations, and variances, Cherie Hutchison, who is from our office of standards, regulations, and variances; Carol Jones from metal, non-metal, and Phan Phuc, from the office of standards, regulations, and variances.

We are here to listen to your comments on the hazard communications Interim Final Rule, which we published on October 3rd last year. We are holding this Hearing in accordance with section 101 of the Federal Mine Safety and Health Act of 1977.

As is our practice, we will conduct the Hearing in an informal manner. During the proceeding panel members may ask questions of the presenters.

Although formal rules of evidence will not apply, we will be taking a verbatim transcript of the Hearing, and we will make it a part of the official
rulemaking record.

The Hearing transcript will be made available for public, review by the public, along with all comments and data that MSHA has received to date.

The entire rulemaking record, of course, is available at our office in Arlington, Virginia. If you wish a personal copy of the Hearing transcript, please make your own arrangements with the Court Reporter.

Now let me briefly give you some of the background on the Interim Final Rule, and highlight its major provisions. Following that I will share with you some of our reaction to some of the comments received thus far.

On November 2nd, 1987, the United Mine Workers of America, and the United Steel Workers of America jointly petitioned MSHA to adapt OSHA's health communication standard, hazard communication standard to both coal and metal, and non-metal mines, and propose it for the mining industry.

They based their petition on the need for miners to be better informed about chemical hazards, and that miners working at both surface and underground coal and metal, and non-metal mines, are exposed to a variety of hazardous chemicals.
On March 30, 1988, in response to this petition, MSHA published an advance notice to proposed rulemaking on hazard communication for the mining industry.

In this notice we indicated that we would use the OSHA hazard communication standard as a basis for our standard, and requested specific comments on a number of related issues.


Interim comments on our advance notice of proposed rulemaking and proposed rule, commenters represented both small and large mining companies, individual miners, a variety of trade associations, state mining associations, chemical and equipment manufacturers, national and local unions, members of Congress, and other federal agencies.

We reopened the rulemaking record on March 30th, 1999, requesting comments on the impact of the proposed rule on the environment, small mines, state, local, and tribal governments, and health and safety of children.

The National Environmental Policy Act, and
most recent statutes, and Executive Orders, included requirements for us to evaluate the impact of a regulatory action in these areas.

At that time we also requested comments on the information collection, and paperwork requirements of certain provisions of the proposal, now considered as an informational collection burden under the expanded definition of information under the Paperwork Reduction Act of 1995.

We received seven comments to the limited reopening of the rulemaking record, primarily from trade associations, and labor organizations. The rulemaking record closed June 1, 1999.


We gave commenters until November the 17th, 2000, to submit comments. The Interim Final Rule specifically requested comments on the plain language format, and the content of the Interim Final Rule.

Non-operators experience under OSHA’s hazard communications standards, and any changes in the mining industry since the publication of the proposed rule.
On December 7th, 2000, we personally spoke with, or emailed all commenters, and other interested persons, telling them of our decision to hold a public Hearing in Washington, D.C., on December 14th, 2000.

The Public Notice of the Hearing appeared in the Federal Register on December 11th, 2000. We received 22 written comments on the Interim Final Rule and heard testimony from six persons at the Public Hearing on December 14th, 2000.

Commenters objected to what they considered to be an inadequate comment period, and an inadequate notice of a Hearing. These commenters stated that they did not have sufficient time to fully analyze the impact of the Interim Final Rule, which affected their ability to develop and submit meaningful comments.

They also stated that many operators were unable to testify at the Hearing, because they did not have enough time to prepare testimony, and make plans to attend the Hearing.

Members of the mining community have also stated that because this is the first time MSHA promulgated an Interim Final Rule, there is some confusion about their compliance obligations.

The National Miners Association, and the
National Stone, Sand, and Gravel Association, have asked for a delay in the effective date of the Interim Final Rule until we respond to their previous comments submitted on it.

A number of mine operators and trade associations challenged the hazard communication Interim Final Rule in the US Court of Appeals, and the United Mine Workers of America, and the United Steel Workers of America have intervened in that litigation.

Now I will briefly highlight the six major provisions of the Rule. Hazard determination. The hazard communication Interim Final Rule requires mine operators to identify the chemicals at their mines, and determine if they present a physical, or a health hazard to the miners, based on the chemical's label and material safety data sheet referred to as MSDS sheet, or on a review of the scientific evidence.

Under the Interim Final Rule for the purpose of hazard communication, MSHA considers a chemical hazard, and subject to the hazard communication rule, if it is listed at any one of the following four recognized authorities or sources.

Title 30, Code of Federal Regulations, chapter 1. The American Conference on Government and Industrial Hygienist, threshold limit values, and
biological exposure indices.

The National Toxicology program annual report on carcinogens, and both of those would have been the latest edition under the Interim Final Rule. The International Agency for Research on Cancer, mammograms, or supplements.

The hazard communications program. The hazard communication Interim Final Rule requires mine operators to develop, implement, and maintain a written program to establish a hazard communication program.

The program must include procedures for implementing hazard communication through labeling, MSDSs, and training of miners. A list of hazardous chemicals known to be present at the mine, and a description of how mine operators will inform miners of the chemical hazards present in non-routine tasks, or of chemicals in unlabeled pipes and containers.

If the mine has more than one operator, or has an independent contractor on-site, the hazard communication program also would have to describe how the mine operator would inform other operators about the chemical hazards and protective measures needed.

Container labeling. A label is an immediate warning about a chemical's most serious
hazards. The hazard communication Interim Final Rule requires mine operators to ensure that containers of hazardous chemicals are marked, tagged, or labeled with the identity of the hazardous chemical, and appropriate hazard warning. The label must be in English and prominently displayed.

I would like to clarify one point about the labeling requirements. Practically speaking very little labeling is required. You only have to label stationery process containers, and temporary portable containers, and then only under some circumstances.

Chemicals coming onto mine property are almost always labeled. They would not have to relabel them unless the existing label becomes unreadable.

You would not have to label containers of raw material being mined or milled by their own mine property. You would not have to label mine products that go off a mine property.

You would have to provide the labeling information to downstream users upon request.

Material safety data sheets. A chemical's material safety data sheet provides comprehensive technical and emergency information. It is a reference document for mine operators, exposed miners, health professionals, and firefighters, or other
public safety workers.

The Hazard Communication Interim Final Rule requires mine operators to have an MSDS for each hazardous chemical at the mine. Mine operators should already have MSDSs provided by the supplier for those chemicals brought to the mine.

The MSDSs must be accessible in the work area where the chemical is present or in a central location immediately accessible to miners in an emergency.

HAZCOM training. The Hazard Communication Interim Final Rule requires mine operators to establish a training program to ensure that miners understand the hazards of each chemical in their work area, the information on MSDSs, and labels, and how to access this information when needed, and what measures they can take to protect themselves from harmful exposure.

Under the Interim Final Rule mine operators have the flexibility of combining the training requirements for the hazard communication with existing part 46 and part 48 training.

The Interim Final Rule does not require mine operators to have an independent training program separate from part 46 and part 48 training.
Mine operators already cover some of the above information in their current training program. If so they do not have to retrain miners about the same information.

We designed the hazard communication training requirements to be integrated into the existing training program for miners.

Making HAZCOM information available. The HAZCOM, the Hazard Communication Interim Final Rule requires mine operators to provide miners, their designated representative, MSHA, and NIOSH, with access to the materials that are part of the hazard communication program.

These include the program itself, the list of hazardous chemicals, labeling information, MSDSs, training materials, and any other material associated with the program.

Mine operators do not have to provide copies of the training materials purchased for use in training sessions, such as videos. Also mine operators do not have to disclose the identity of a trade secret chemical, except where there is a compelling medical or occupational health need.

I will now share with you our thoughts on some of the comments we've received on the Interim
Commenters representing the aggregate industry argued strenuously that the Hazard Communication Rule is unnecessary, and that the aggregate industry should be exempt from the Rule.

The HAZCOM Rule does not duplicate other MSHA standards, it augments, supplements, and complements these existing standards. The Rule specifically deals with chemicals and chemical exposure.

Chemicals may be used in any mine, including those in the aggregate industry. There have been hundreds of chemical burns in the aggregate industry. Chemical burns can occur on any part of the body.

Skin burns may require multiple skin grafts, and require repeated hospitalization. Eye burns can be serious and result in permanent loss of eyesight.

We believe the burden of small mines is less than some commenters stated. First, small mines typically use far fewer chemicals than large mines. And in many cases no new chemicals.

Second, small mines typically use chemicals in small quantities, and for shorter periods.
of time, similar to household use.

Third, many of the chemicals used at small mines are not covered by the Rule. For example, soaps used for washing hands are cosmetic, and are exempt. A can of spray paint is a consumer product, and exempt when used in small quantities, intermittently.

The length of exposure, as well as the amount, is really the determining factor. A can of spray paint only lasts a short time. Glue, or adhesive, when used intermittently in small quantities, are exempt.

Again, the length of exposure, as well as the amount, is the determining factor in whether or not a consumer product is exempt. We recognize, however, that not all mines are likely to use a wide range of chemicals.

Although we cannot exempt the aggregate industry from hazard communication, as we said, there are steps we can take to minimize the burden of the Rule.

For example, we intend to make extensive compliance assistance visits, and conduct extensive outreach. We also will be finalizing a compliance guide to help operators and miners understand the application of the HAZCOM final rule.
We are developing a variety of compliance aides, such as a model HAZCOM program, a training video for mine operators about determining chemical hazards, and a training video for miners about chemical hazards reading the MSDS.

A draft of MSHA's Compliance Guide has been on the MSHA website for months. If you refer to the Compliance Guide, many of these issues are explained.

If you have any question in these areas, send them by email to comments@msha.gov, or the Office of Standards at the address listed in the Hearing Notice.

We will use these questions to clarify your responsibilities and include additional or better examples in the compliance guide.

As a rule of thumb, however, if you are in compliance with OSHA's Rule, you will be in compliance with MSHA's Rule.

In the same vein, mine operators may obtain help from organizations that have developed generic guides to help OSHA's health communication standard, because HAZCOM contains the same basic requirements.

We will provide links, on our website, to
some organizations which have developed a variety of
generic HAZCOM material. While it will remain the
responsibility of each operator to develop and
implement a HAZCOM program, and to have MSDSs, to the
extent possible we will help you establish a hazard
communication program, if requested.

We have already taken other steps in
revising our Interim Final Rule to make it easier for
mine operators to comply, without reducing the
projections afforded by the Rule.

We are considering the final substantive
changes to the Interim Final Rule in response to
commenters concerns. We are also considering several
non-substantive changes to clarify our intent and
correct errors based on the commenters perspectives
and questions.

Under hazard determination we may revise
a reference to the American Conference of
Government/Industrial Hygienist, the National
Toxicology Program, and the International Agency of
Research on Cancer, from those considered in
determining if a chemical is a hazard, and if a
chemical is carcinogenic.

One option we are considering, in
determining whether a chemical is a hazard, is to
refer to the 2001 editions of the American Conference of Governmental/Industrial Hygienists, TLV booklet, and the International Agency for Research of Cancer, and the National Toxicology Program.

In determining whether a chemical is carcinogenic, we are considering referring only to the 2001 editions of the National Toxicology Program and the International Agency for Research of Cancer.

We had expected the use of the American Conference of Government/Industrial Hygienist, the National Toxicology Program, and the International Agency for Research on Cancer list, to reduce the burden on the mine operator, because the miners use relatively few hazardous chemicals for which they would have to develop an MSDS and label.

Commenters objected to the use of these listings, stating that the organizations which compiled them, offer no opportunity for public comment. They impose unknown future requirements by citing the latest edition, and they violate regulations governing incorporation by reference.

We are hoping to consider alternatives, where the impact of the alternative would not reduce protection afforded miners by the Interim Final Rule.

Concerning labels and MSDSs, commenters
requested additional language to clarify that the
designated responsible person mentioned on the labels
and MSDSs, can be the mine operator.

Accordingly we are considering changing
these provisions to read the name, address, and
telephone number of the operator, or a responsible
person who can provide that information.

Concerning the availability of the MSDSs,
commenters asked that we increase compliance
flexibility, and recognize that MSDSs may be stored in
a computer.

In response we are considering modifying
the requirement to have MSDSs available for each
hazardous chemical before using it, requiring the
operator have an MSDS available for each hazardous
chemical which they use.

MSHA is also considering accepting a list
of OSHA PELs on MSDS as an alternative to listing the
MSHA PEL. This would facilitate the use of widespread
existing MSDSs, and reduce costs by eliminating the
need to develop additional MSDSs.

In response to comments concerning hazard
communication training, we are considering changing
the language from requiring the operator to train the
miner whenever introducing a new hazardous chemical.
into the miner's work area, to requiring training when the operator introduces a new chemical hazard into the miner's work area.

This change would clarify MSHA's intent that when a new chemical is introduced, additional training is required, only if the hazards change. This is the intent, as discussed in the preamble of the Interim Final Rule.

Also, in response to comments, we are considering revising the definition of health hazards. The Interim Final Rule defines health hazard to include chemicals that damage the nervous system, including psychological, or behavioral problems.

We are considering deleting the phrase psychological or behavioral problems. We are also considering adding the criteria toxic, or highly toxic, to more closely conform to the language to that in OSHA's hazard communication standard.

The Hazard Communication Interim Final Rule is an information and training standard that requires mine operators to know about the chemicals at their mines, and to inform miners about the risk associated with exposure to hazardous chemicals, the safety measures implemented at the mine to control exposures, and safe work practice.
The Hazard Communication Interim Final Rule does not restrict chemical use, require control, or set exposure limits.

We will publish our response to the written comments, including those comments received today at this Hearing, in the preamble to the Hazard Communication Final Rule.

We will consider all comments contained in the rulemaking record from the publication of the advanced notice of proposed rulemaking on March 30th, 1998, through the close of the record on October 17th, 2001, in a development of this final rule.

You may submit written comments to me during the Hearing, or send them to the address listed in the Hearing Notice. We will also accept additional written comments, and other appropriate data, on this Final Rulemaking from any interested parties, including those who do not present oral statements.

All comments and data submitted to MSHA, including that submitted to me, today, will be included in the rulemaking record. The record will remain open until October 17th, 2001, for the submission of post-hearing comments.

We ask that you please sign the attendance sheet at the back, where you enter the room. If you
have not done so, we ask you to do that during the
first break.

And if there is anyone that wants to speak
we have our sign-up sheet at the back of the room, we
would ask you to please sign up.

We will begin with the folks that have
signed up in advance, to speak. If there is time, and
we will make time, at the end of that any one in the
audience who wants to come up and make a statement
will be able to do so.

We will ask that anyone that has a
statement, or a comment, that they come to the podium
to speak. We will continue the Hearing until all
speakers have the opportunity to address the panel.

Should it be necessary to be extended
beyond 5 o'clock we will stay as long as we need to,
so that all that choose to do so, will have an
opportunity to speak.

This concludes my opening statement. We
will now start with the speakers. Our first speaker
of the day is Gary Trout, from the United Mine Workers
District 29.

MR. TROUT: Good morning. My name is
Gary Trout, I'm from the United Mine Workers of
America Local Union 1335.
On October 3rd of 2000, after years of delay, MSHA finally issued an Interim Final Rule, which would provide safeguards for miners against harmful chemicals in the workplace.

This rule would have went into effect October of 2001. On August 28th, 2001 MSHA stopped this HAZCOM rule from going into effect. By doing this MSHA has thrown the entire HAZCOM Rule wide open for comments, and to date, soliciting comments on any issue relevant to the rulemaking.

In our opinion, or in my opinion I should say, this severely weakens the rule that was out there for adoption, that should have went into effect.

You know, as I looked at the Rule, and looked at what OSHA already has, and OSHA has had a HAZCOM Rule for years, I think it is a shame that our miners, myself, my brothers and sisters, have to work in chemicals, or around chemicals that could cause various health effects.

Joe Carter and I just recently was asked to come down to a doctor's office and visit some of our miners that are his patients. And those folks had worked at preparation plants, and those folks had severe health, damage to their health.

They had anything from Parkinson's-like
disease, to various other nerve disorders. And it was real -- an awakening experience for myself, and Joe, to see these folks in that condition.

And, you know, some folks would make the argument that these folks might have gotten these diseases from elsewhere, but two of those folks, one individual had worked at a preparation plant handling various chemicals.

And when he got disabled to where he couldn't work any more, another individual took his place, and both of those individuals have the same symptoms now, after working at the same job occupation.

And, you know, it is just a shame that we can't provide the miners, I should say our miners, with the same protection that OSHA has for their workers.

It is my understanding that MSHA, in their opening statement, announced that they were going to look really hard at a lot of the objections posed by the mine operators.

Myself, my brothers and my sisters, you know, we have objections too. And those objections are that every day we are exposed to various types of chemicals. And some of those chemicals could cause
cancer.

And, ladies and gentlemen of the panel, I don't know whether any of you all have ever seen anyone who has died from cancer, but it is not a real pretty sight.

My father in law, who has over 35 years' experience around the mines, and around preparation plants, just recently, about a year and a half ago, died of cancer. And that was very long suffering, and it just wasn't a very pretty sight.

And, you know, we've got a lot of miners up there that are exposed to these chemicals. And, you know, I would just ask that each one of you look around and consider some of these individuals who have had serious injuries, and some who have possibly even died from chemical exposures.

And here today you are going to hear other testimony from individuals who has actually gotten burnt by chemicals working around preparation plants.

And if you could just put yourself in their place, would you like to give up the job that you have and trade places with those folks, and be exposed to those chemicals that you know, that there is data out there, that some of these chemicals can cause cancer, and would expose your own self to
cancer.

You know, it is my opinion that the HAZCOM rule should be put into effect, should have been put into effect on October 3rd of 2001, and I think that this rule, even though it is not perfect, it might very well have protected, and give our members protection from various types of chemicals.

You know, I think that the access, that MSHA is there to protect miners, I think that MSHA should be enforcing the laws, and not delaying the implementation of these rules so that it could protect our miners.

In closing I would just ask each one of you, I would like to leave you with this question in mind. As you contemplate this rule, how many miners must be injured or die before we can get a chemical exposure, of chemical exposure, before we can get a HAZMAT rule implemented. Thank you.

MODERATOR TEASTER: Gary, if I might, when you and Mr. Carter visited the doctor, do you know what chemicals that these miners were supposedly exposed to?

MR. TROUT: I can have Dr. Kasincko probably get that information to you, Ernie.

MODERATOR TEASTER: Okay.
MR. TROUT: It was flocculent, but I don't know the specific chemicals.

MODERATOR TEASTER: Gary you, I know, get around to a lot of different mines. Are you familiar with to what extent Part 48 training is provided to the miners under the annual refresher training that deal specifically with hazards, chemical hazards at their operations?

MR. TROUT: I know the retraining that I attend at various operations, you know, normally there is very little, if any, given. At the ones that I have attended.

You know, it is kind of a hush hush situation that, you know, nobody wants to get into. The only way that any of our members can get any information is basically trying to force the issue to get any type of MSDS sheets, or anything of that nature. It is real hard to do, Ernie, real hard.

MODERATOR TEASTER: Okay, thanks. Some of the mine operators currently get MSDSs. Are you aware of that?

MR. TROUT: Yes.

MODERATOR TEASTER: And do you know if there is a request, do the miners normally request to see those, and whether or not those are made available
to the miners?

MR. TROUT: I don't think it is made available to the miners, straightforward. I think that normally they have to make a request. And my experience has been, when they make a request, a lot of times they don't get a sufficient MSDS sheet.

A lot of times they will have like maybe half of it there, and some of it be gone, it doesn't go into any details toward the chemicals that might be involved in there, about the reactions that may occur if you are overexposed to it.

Any type of treatment that might be necessary if you are overexposed, it doesn't go into any of that kind of detail.

MODERATOR TEASTER: Okay, thank you. Our next speaker will be Timothy Miller, United Mine Workers Local 9177.

MR. MILLER: Good morning, Panel. I am Timothy Miller, I have worked in the mines for 26 years, I'm presently employed with Peabody Coal at their Rocklake preparation plant.

And at our plant alone there is probably in excess of 12 chemicals that not everyone comes in contact, but is used on the job site, each and every day. Sheets are available on some, but they are not
very extensive into what we can do after we've been
exposed, or anything of that nature.

I would like to read some notes, or
something I wrote down. We need to have the right to
know what we are working with, at all times. We need
to be able to force our employers to use a chemical
that is after if it is available, even if our employer
has to pay more for it.

We need more training on each chemical,
and all dangers involved with using it. I would like
to see a law put into effect that would force
employers to have a data sheet that would be sent with
an employee to the emergency room, or doctor's office,
in the event one comes in contact with the hazardous
chemical.

We need some training for our employees to
be able to administer proper first aid to coworkers
who have been exposed to hazardous chemicals before
being sent for medical assistance.

MODERATOR TEASTER: Tim, are the
chemicals, you said there are probably 12 used at your
operation?

MR. MILLER: Yes, sir.

MODERATOR TEASTER: Has the company made
the miners aware of what those 12 chemicals are?
MR. MILLER: Only if you ask, and then what we are given out is like the chemical makeup, not exactly what it is, what the long-term effect is, to look out for signs, like if a skin irritation starts, that it is an exposure, and that you need medical attention, or something.

And even our employers, I don't really feel that they are aware of what dangers are involved with each of the chemicals.

MODERATOR TEASTER: The information that you get related to the hazards associated with these chemicals, and the type of chemicals, does that come as part of your part 48 training, or is that something that is passed on to you as you perform various tasks?

MR. MILLER: It is passed on to you, if you ask. It is not automatically, before you start a new task, or a new job, you are not enlightened as to, you know, they just say this is what you use this for, they don't inform you, unless you ask, or you research it yourself, as to what that it can do to you, and what that it can do if it is mixed with something else incorrectly.

Or what the long term effect is if you are exposed to it on a daily basis. Or when we change from one chemical company to the other, you know, you
might be getting basically the same thing, but they
make it up in a different process, and use some other
chemical in making that.

And that if we change our data sheets, are
sort of slow about getting revitalized, and stuff.

MODERATOR TEASTER: Do you have any
knowledge of any injuries that has occurred at the
preparation plant where you work?

MR. MILLER: Yes, sir. I've seen chemical
burns on skin, I've seen people suffer with watery
eyes, or burn in their throat from being around
different things, and cleaning.

MODERATOR TEASTER: Do you think these
injuries were a result of the lack of knowledge of
what exposures they were --

MR. MILLER: Yes, sir. And I think that
the employers have a lack of knowledge, too. I feel
that they really need to research what they are
bringing on the job, prior to bringing it.

And if there is something out there,
better and cheaper, for the employer, even though that
it is not as available as what they are getting, or
maybe not from the supplier they have a contract with,
we need to try to get a hold of that, and put that
into effect.
MR. SNASHALL: In your experience do miners commonly use MSDSs?

MR. MILLER: Yes, sir. Some do, some don't. Where I'm at we have quite a bit of people that have worked underground, went into the preparation plant, they are not familiar with a lot of things.

And a lot of people are proud and are ashamed to ask. And, you know, unless someone forces the employer to sort of school them in this, even though they might not come in contact with it but once a week, or something, at least give them some knowledge and be more informative about what they are using.

I've got a buddy that is a doctor. A lot of times he gets people in, they tell him, I've been exposed to this. Well, he doesn't know what that is. And then it is a big bunch of red tape to try to find out what exactly that is, that he was exposed to.

MODERATOR TEASTER: Thank you, Tim.

MR. MILLER: Thank you.

MODERATOR TEASTER: Our next speaker is Larry Lee of United Mine Workers Local 1332.

MR. LEE: Hello, good morning. My name is Larry Lee, I work for Pittsburgh and Midway, out in
New Mexico and Arizona, we are on the Navajo reservation, and we are a surface mine.

Out there we deal with a lot of dust, we have haul roads, and we have dump trucks and haul trucks that haul coal, and there is a lot of dust out there, and that is what we deal with every day.

And our Local is 1332, and the reason I came up before you guys, is we should make this HAZCOM a rule, a policy, let's make it a policy for the mines, either underground, surface, or aggregate.

And after all these years I think it should be made a policy. So miners will know what they are dealing with, and mine operators, they will give us information on what we use out there, as HAZCOM.

And I know we deal with a lot of hazmat products out there, and some of these products we don't know what it is, but we use them every day, and we ask the management what it is, but they don't tell us, because it is not a rule, and we don't go through training for that.

We go through training but they just give us a little overview of what it is, and I would like them to make it a full training process, that way we know what is in there, what the contents are in the
MSDS sheets, and all that stuff.

Because the other places where I worked before they have a training program that they give these chemicals about, and all that, because they have a rule. But in the mining area they don't have that rule.

So I guess it is up to you guys to make it a rule, and all that. That is why we came up here testifying before here, and giving an overview of what we think it is, and what we think should be done.

And over there at the mine, where I work, we have a chemical that is called penzzupress, we use it to mix it with water, and spray it on the haul road. And we don't know what is in there, they don't tell us, there is no MSDS sheet about what the chemical is.

We tried talking to the management for the full page on there, or a full chart, but they don't do that, because they say it is not harmful, they won't do anything. But we use it anyway. Our people are exposed to it, our truck drivers.

They get it on their skin, and their clothes, and they come up to me and say, how come you are not doing anything about that? Because over there I'm the safety chairman, so I try to work with the
I ask them and it seems like they don't know, either, it is not a rule, and they don't have to worry about it. And we use that stuff like three times a night for our haul roads. We spray it on the haul road, and we mix it with water like 20 to 1, or whatever they tell us.

They might say 5 to 1 or 10 to 1. We try to mix it that way, and that stuff is dirty, it is sticky, it looks like tar. And these guys are exposed to it almost daily.

And we don't know what is in that stuff. All they tell us is that it is safe, and unhararmful, and all that. But then we put it on the road and the dust comes around, it blows it off, and we have people around the area, and they don't know what it is.

And we have people that have livestock around the area, and I think they should be made aware of what we use out there, what kind of harmful or harm that that stuff we use out there, I think they should be made aware of.

Because we have had people around there that live, that have animals, and livestock. So I think this should be made a rule, and I think the mine operators should be aware of what they use out there,
and let their miners know what is harmful, and what
can kill them, or what can -- all the stuff that goes on.

I've heard miners that are commenting
about that, and I think it should be made into a
policy, and all that. That is why we are up here, in
front of you guys, trying to testify and after all
these years, and also the chemicals we use, solvents,
whatever we use out there, hazmat, that they should
all be labeled, instead of just saying chemical
distillants.

We don't know what it is. It can be
anything. I think it should be labeled, this is what
it can do to you, or if you get it on yourself, or on
your clothes.

So I guess all I'm saying is let's make it
a rule and go from there.

MODERATOR TEASTER: Larry, you said that
you asked for the information on this chemical that
you used to spray the water, and the company wouldn't
share any information with you, or they didn't have
any information?

MR. LEE: They had the information, but
they don't want to go deep into it and say, this is
what it will do to you, or what --
MODERATOR TEASTER: So they do have the information, but don't share it with you. Do you know if there is any other incidents where that type of chemical, or other types of chemicals that they had the information, and the miners requested it, and were not allowed to get that information?

MR. LEE: I tried to talk to the management, put MSDS sheets out there where people can read it, they don't do it. And all they say is it is down in the warehouse, but we don't have time to go down there and read it.

MODERATOR TEASTER: You also mentioned some other close by workers that maybe were covered under OSHA, where they had this information. Do you know if the miners regularly requested to review that information?

MR. LEE: I don't think so, not to my knowledge.

MODERATOR TEASTER: Okay.

MR. LEE: And that penzzupress, we will use that on the haul roads, and then there is another chemical, mat chloride, we use that too. And that stuff we don't have information on it too. All they have is MSDS sheets, and that is all they can tell us.

MS. HUTCHISON: The dust suppressant that
you mix with water, to use on the haul roads, does it come from a container that is labeled?

    MR. LEE: No, that stuff is like a big water tank, the truck comes in and just pumps it in there. There is no label or anything on it. The only thing it says on there is penzzupress, that is all.

    MS. HUTCHISON: It says what?

    MR. LEE: Penzzupress, P-E-N-Z-Z-U-P-R-E-S-S.

    MS. HUTCHISON: And so there is no -- you have no information as to what this stuff contains?

    MR. LEE: No, as miners working there, we don't have any information.

    MS. HUTCHISON: It is brought in, in bulk, pumped -- just verifying. It is brought in, in bulk, pumped into a tank. The only thing the tank says is the name of the product?

    MR. LEE: Uh hum.

    MS. HUTCHISON: And you use the suppressant out at the tank, and mix it with water, and --

    MR. LEE: Yes.

    MS. HUTCHISON: -- spray it --

    MR. LEE: Spray it on the haul roads.

    MS. HUTCHISON: -- on the roads?
MR. SNASHALL: Larry, you said that you don't get much training except a little review of what it is. That little review you get, could you say something more about that, what little do they give you?

MR. LEE: We have an annual retraining, we call that. That is the only place they give it to us.

MR. SNASHALL: Not on task, when you are assigned a new job?

MR. LEE: During that retraining we might not even have that stuff, and we don't know it, because the retraining is usually in the winter, and we don't use that in the winter.

MR. SNASHALL: And in your retraining what is the nature of the training, what is the information that they give you?

MR. LEE: It is like first aid, then annual retraining, like haul roads, and equipment operation.

MR. SNASHALL: On the chemicals, on your annual retraining, do they get into chemical hazards in your annual retraining?

MR. LEE: Not that much.

MR. SNASHALL: Okay, thank you.

MODERATOR TEASTER: Larry, could you come
back? We have one other question.

MR. PHUC: How much time do the operator
take to do annual refresher training?

MR. LEE: Usually it is a full shift.

MR. PHUC: Full shift is 8 hours?

MR. LEE: Yes.

MR. PHUC: And HAZCOM is not part of the
training?

MR. LEE: It is part of the training, but
it is just a little bit.

MS. HUTCHISON: About how much?

MR. LEE: Maybe half an hour.

MODERATOR TEASTER: Sorry, Larry, thanks.

Our next speaker is Donald Keith, from

United Mine Workers Local 1620.

MR. KEITH: Hello. My name is Donald
Keith, and I'm from the Arizona Navajo Reservation,
and as you can see I'm a Native American, just like
Larry is.

And there is four or five of us that is
here today, and we are all gone into mining business,
and I work for Peabody Coal Energy, Local 1620, in
Arizona.

The way I'm concerned about this is if I
may elaborate a little bit into the things that my
Native American people are experiencing out there in the West.

As we all know that Native American people has been neglected quite a bit, going into anything that has been brought into the United States, what we consider United States, and we call it our Native American States.

Going back to the time of the wars, of the big wars, World War II in that sense, you know, people were -- a lot of my people were in need of jobs, so they went underground to become uranium miners.

And we all found out about, what, 20, 30 years how harmful, how dangerous this is to human body, and because the nature that these people were illiterate in english, and not knowing what was all in those chemicals at the time, now people are out there suffering with cancer, and the dangerous amount of things that they've experienced.

And a lot of my people are, again, without medical facilities, or diagnosed with cancer. And to continue with that, during the Vietnam War a lot of us had gone into Vietnam, and exposed to Agent Orange.

Here, again, no knowledge of what was we were involved in. I have a brother in law, my nieces, they have been exposed to this, because their father
was in contact with agent orange. Now my niece, I see her hands and they are all swollen up, sores, because people that supposed to have this knowledge, they are not bringing out to the people the amount of dangers they are being exposed to.

I've seen some of my people, again, like Larry and me, safety committee chairman, and I have some rank and file members come up to me and ask me the things that they are exposed to.

You know, I have some people that are doing blastings, and shootings, and we call them shooters, and they have been in contact with different type of chemicals, and you can see that their hands have gotten sores, and they have been given time out to have their hands heal.

They have been to, again, bad medical facilities, and they don't know what is causing it. But they say they have handled those shooters, and things that they use to explode, for explosive.

They have been in contact, they are given a different type of gloves. But here, again, we don't know that the gloves is doing them any good. But I know of three or four different cases now that a lot of these old miners because, here again, they didn't have the opportunity to have gone to school, and they
don't know what they were in contact with, with management bringing all these type of different types of chemicals onto the mine property, and people are getting into it, being exposed to it.

And now they are suffering from hands they can hardly use any more. And without the knowledge, you know, had this chemical that is being brought on to the mine site, had they been labeled, and having a history of what it could cause, what it could do further down the road, and had these guys been taught, even if the management, I don't think the management -- I don't think they even have the knowledge of what these things are, when they bring these chemicals on to the mine site.

So that the management doesn't have the knowledge, how are they going to relate to their, to us miners about what dangerous effect it can cause us.

Yes, we do have these training courses, but all it is, is just numbers, statistics about things, and an 8 hour annual retraining, you don't have the time to get these out to people.

You have so many other things that is involved in your 8 hour annual retraining, so that stuff usually doesn't come up to surface.

So, you know, I'm thinking about, my mouth
is getting dry. But I don't know why these people are giving these type of things, and it is not required to have these people given the knowledge to -- thank you, I appreciate that.

But we should be informed of these things, and you know, we have a history where we have to get our people educated and into a society. Back then, a long time ago, our people were taken off the reservation to be educated into a society where we all could speak a common language.

And now that some of us have been educated, now there is this type of chemicals that has been brought out, and they don't even have it labeled to let us know what it can do to us.

I don't know where the problem is, but had MSHA brought this on long before, I think we could have been, us educated people could have in turn told -- we would have had the knowledge to tell our people what is going on, and they would have a different point of view about things right now.

Things are just so much into just making production, making more money for everybody, and the Native Americans are getting kicked around and without knowledge of these type of things, I don't know how it is going to affect us down the road.
I spent, all these excuses, we have heard all different kinds of excuses, just to procrastinate things, instead of preventing of these types of things, which has been prolonged.

And the economic factor there, that is the total loss, and so to be trained, and to have the knowledge, and also the management to have the knowledge to make these things available to us to help us with our health more effective.

I don't understand why this is being brought up and then shut down, and continue to let it sit there without any kind of effort being made to a law.

I think that we really do need to bring these concerns out to the people. And not only am I talk about the miners, I'm also talking about people, like Larry said, we use these different types of chemicals on our roads.

And when we have all these different types of miners being exposed to, say on these big drag lines machines, the welders are -- when they heat up different type of toxic, and they are being exposed to different types of toxins, and they don't know what that is. Some of these people get nauseated so they have to be relieved of their job for three or four
hours before they can continue again.

And, here again, there is no knowledge of what we are all involved in, here. So I've always -- I went up to my management and asked them what they are going to do about that? Again, they don't have the knowledge either.

And the people that are building these different type of chemicals and bringing them on the mine sites, I think they should be made aware to what they are doing, what they are bringing out.

So in terms, they, my management can have the knowledge to where they can let us know what we are involved in.

So basically I guess what we are saying is, why is it taking this long of a time to put a label on a barrel. You know, it is simple, people make these things, they know what they are putting in all that stuff.

All they've got to do is write down what is in there, what the long-term effects are going to be, how it is going to hurt you. You know, us Native Americans, we don't have the very thing -- we don't have the basic things, like running waters, stuff like that.

And so all these chemicals that are left
on-site, you know, we have a rain, and it gets on to
different atmospheric, it is airborne, some of them
are run into different type of water that is being
where our livestocks are using up, drinking this
water, eating these plants.

So in an essence what I'm saying here is
that whether it is the miners, or the people that are
living around there, that are exposed to it. Because
they use their livestocks for food, and those
livestocks drink out of that same water that is
contaminated from these different type of chemicals,
you know?

And we have no knowledge of what is all
out there. A long time ago we were -- you know,
people took our land and our water away from us, and
they took our mountains away. Now they are coming
back and taking our rocks, and using all this kind of
different type of chemicals.

I don't know whether there is an excuse
for it, not label these things, or why we have to go
through this type of course again. And, you know, I'm
very concerned about it, and my people are concerned
about it.

And I think that this stuff needs to be
labeled, it needs to be brought up, and it needs to be
informed all the people what it is about. And I think as long as we are -- have an excuse to procrastinate, and to prolong these type of accidents, it needs to be stopped, simple as that.

You know, all you have to do is people that make these things, they just need to put it in writing and say, these are the dangerous effects. It could help a lot of people's lives later on down the road.

And I am concerned about this thing. And, again, I say that yes, we do need to have these things labeled so we have an understanding of what we are all doing. And I thank you.

MODERATOR TEASTER: One thing, Donald, on the -- you mentioned the miners that were exposed to the chemicals associated with the explosives.

Did you say that the operator did not have the knowledge as to what chemicals were in there that may --

MR. KEITH: No, they do not have the knowledge, because we did ask what is in that. The guys that have these sores in their hands, are asking me to talk to them, and I ask why are these people getting those sores on their hand? And they had no knowledge.
And with poor medical facilities out there, and these people are, they don't have the education, so they are just living with it now.

MODERATOR TEASTER: So prior to this occurring, did the company require gloves to be worn?

MR. KEITH: No, no.

MODERATOR TEASTER: Just after this?

MR. KEITH: Yes, people started getting sores, so then they started providing different type of gloves. But we don't know if that glove is going to protect their hands, because they already got sores in their hands, it is probably entered their immune system, and it is probably too late, you know?

So whether you provide them with gloves after the fact, what good is it, you know?

MODERATOR TEASTER: Did they, did the company -- do you have knowledge of whether the company had changed types of explosives that they used?

MR. KEITH: The company is always trying to change different things to make it more efficient for their means of production. It is not -- they are not looking at the health and the welfare of the people, they are looking at production.

MODERATOR TEASTER: The OSHA rule which
applies to most of the, other than mining, and they are required to provide labels. So we have anticipated, under the drafting of our rule, that most of the labeling will be done by the manufacturer, and it will be there, in place, when it arrives on mine property.

Are you telling me that this is coming to the property with no labels, most of this stuff?

MR. KEITH: Probably, because we have no knowledge of, and the mine managers don't even know what they are bringing in. But my problem here, my -- I don't understand why it is taking this long.

I mean, if OSHA had this into law 12 years ago, and here we are still trying to implement something that has been out there for years and years, and here we are just having prolonging.

I don't know what type of excuse it is, but it is not on the law yet.

MODERATOR TEASTER: Thank you, Donald.

MR. KEITH: I think you guys.

MODERATOR TEASTER: Our next speaker is Larry Huestis, the United Mine Workers.

MR. HUESTIS: Good morning panel. I'm Larry Huestis, I do the surface inspections for the United Mine Workers International in the western
United States. I'm also a past member, or current member of Local 1972 out of Sheridan, Wyoming, that is my home.

I have some personal experiences with some different chemicals that I was going to talk to you about. But I have heard quite a few different questions, and I guess I would like to get into some of your questions you've asked some of the other speakers, from my experience going down to the Navajo Nation, for instance, doing safety inspections.

Also, I guess maybe the Panel, I would ask them to really try to put themselves in a miner's shoes. And I'm going to ask you to think about, for instance, I was hired at Decker Coal as a mechanic in 1978.

And about 1983, '84, in that time frame, as a mechanic I was asked to, you know, repair things like brakes on Euclid 170s. so I would take the wheel motors off the 170s.

And it became a very common practice. The electricians, we seen they had some chemicals that really worked good for electrical cleaning. Boy, that took the grease off, it evaporated, so they didn't have dirt, grease, and stuff on their contacts.

Well, the mechanics, and with the
knowledge and the blessing of management, we started getting this stuff in, in 55 gallon barrels. So if you were working on a brake system, you would go get a five gallon bucket, you would get your air hose hooked up, you had to basically a suction device set up in -- and it wasn't good enough, the ones you could buy, you had to use the three quarter inch pipe, so you could suck that five gallon bucket out in about three minutes, and you could put a lot of this chemical to get the grease off the brakes if you had a bad wheel seal, or if you were trying to get to even the nuts and the bolts to take something apart.

And there was enough of this chemical in the air that if you used it for a minute and a half, you wouldn't be able to see the other end of this auditorium. And we didn't know what this stuff was. It was nice and cool, you could put your hands in it, but boy it would clean things.

And I guess my point being, there is a chemical, and if that chemical is produced, or brought on to the mine site for a situation, that may not be what it is only used for. That, if I remember right, was carbon tetrachloride.

I have used that in six by six areas, contained area, in the back of these trucks, that
today if I had to try to even get in that hole I
couldn't make it. But to get in there, and then take
a five gallon bucket of this stuff and clean the
contacts, clean out the brake areas, to get those
wheel motors off so that you could get in and take the
pinion and the sun gear out of there, so you could
take the rest of the wheel motor apart, that was a
common practice.

I rolled out of that hole too many times
and getting sick to my stomach, light-headed, and I
just decided, myself, I have to find out more about
it. So I went and started asking the electricians,
what really is this stuff? It is good stuff, but what
the heck is it?

Well, we start digging. And yes, it is a
cancer causer. They no longer have it out there. But
what my point being is, again, it was not put out on
that mine site to be used to the type of a situation
we were using it.

So when there is a chemical brought out to
a property, there is going to be, and I'm sure in a
lot of cases it is definitely abused. So the
warnings, and the labels for a can of what we would
call, and you could probably go to Wal-Mart and buy
contact cleaner. Well, that is a little spray can,
but I have seen it being used and put in the air over
20 gallons of it, in probably less than 15, 20
minutes.

And not just exposing the person that was
using it, but 25 other people working in the area. It
was a very big-time practice. I don't know the long
term effects of this. I know it is -- it wasn't very
smart on my part, and it definitely wasn't very smart
on Decker Coal's management part to see this practice
and to continue to let it go.

So there are a couple of points here. Is
there going to be abuse, or a possibility of abuse of
chemicals? Yes. If somebody can find some chemical
that will do something, and they don't really have the
knowledge of how harmful this can be.

At the same time we, as workers, a lot of
time depend on our management people to know what is
good or bad for us, or they should have been told from
their supervisor, or whoever purchased this, that it
should be safe.

So there is a sort of a blind trust put in
here to the system. Now, I guess since I grew up a
little bit, and hopefully got a little smarter, I find
out from digging into this, there is sometimes people
out there, that are in management, that do know these
things.

But then it becomes a portion of what is best for the bottom line, do they always look out for the betterment and the health and safety of their employees?

(Whereupon, the above-entitled matter went off the record at 10:20 a.m. and went back on the record at 11:40 a.m.)

MODERATOR TEASTER: We are now set up to continue the Hearing on HAZCOM. For those that are here, who would like to sit in on it, we would like to start back. We have everything set up on a temporary basis.

We will go back on the record now. We have had a power failure, we will try to get through with the speaker that was speaking at the time of the power failure.

And if that works we will continue to take testimony, if not we will delay, after this speaker, we will return to the auditorium.

But we do want to try this and see how it works. Larry Huestis will continue on with his testimony. He was testifying at the time of the power failure.

MR. HUESTIS: I was testifying on using
the carbon tetrachloride as a solvent degreaser.

One of the points I wanted to make sure that the Panel understood is that once the company, or once somebody came to have the knowledge that this isn't good stuff, that we had been abusing it, and to even take it out in a bulk form, you know, there is no more MSDS sheets left at Decker Coal.

Once the chemical is gone, the MSDS sheets are gone. And another thing on the use of, and I guess I would say some possibilities of abuse of, these different chemicals, is that the management people at Decker Coal, the foremen, and even the safety people that, and purchasing agents, I think it was very well known what kind of abuse was being used with this chemical.

And, you know, they didn't have the training to recognize that hazard. I don't blame them, I believe they were lacking the knowledge that it could be that hazardous and cancerous.

But that is my own personal experience with, I guess I would say, the chemicals, the lack of knowledge on them, the abuse of them, and those -- that chemical was used like that. It was mixed with solvents at the same time.

So when you get solvents mixed with that,
you know, what other kind of forms of hazards have you created?

The other things I would like to testify on, and I maybe ask the Panel to ask some of the questions to me that were asked of other members that were up here.

Because, again, I work for the Mine Workers, I do safety inspections to the surface mines in the west. And I just wanted to go over a couple of things that I've experienced doing those types of inspections.

There was a question asked about how available MSDS sheets are. And I will give you a couple of examples. Peabody Coal, the Big Sky mine, I was doing an inspection there.

And as I was inspecting the shop, they had just received a 55 gallon barrel of antifreeze. And it was marked caterpillar. And then it had the, it was called coolant, and then it had the trade, or the numbers, Caterpillar numbers.

They just received it in, and they told me that Caterpillar went to their own type coolants, a new coolant. And I said, do you have the MSDS sheets on it? And they said yes.

I said, I would like to look at it. So we
had to leave the shop, go over to the safety supervisor's office. He had about four books of MSDS sheets, three ring binders, some of them up to six inches thick. And he said, it should be in here somewhere.

So we start looking. We can't find it. We can find some antifreeze, but it wasn't, the numbers didn't match, it wasn't Caterpillar antifreeze, it might have been Prestone.

So he says, well, let's just forget about looking in the books. I will get on my computer. So he gets on his computer, he gets into the Peabody database. He can't seem to find it.

So we go to a different place on the internet, looking for the information, Caterpillar. Finally he says, well, if we don't have it here, we should have it in the warehouse.

We go to the warehouse, we can't find it. So we end up calling a Caterpillar dealership, and they faxed it to us. So I started asking questions and concerns for our members, come on company, this is a little bit ridiculous.

If we just had somebody get a bunch of this splashed in their face, their eyes, how are they going to get to your office way over here, another
building up two flights of steps?

And I said, when we were talking, you mentioned this room gets locked up at 4:30 in the afternoon. And he says, yes, I guess I never thought about the other shifts not being able to get that. But he says, they do have that access, or the information in the warehouse.

I says, we didn't find it. And so I said, are they going to be able to get a hold of Caterpillar, run through the same process as we did, and if Caterpillar is closed, what are these people supposed to do?

You know, it is -- I think there is a misconception out there that when you say the companies have the MSDS sheets, they do? In probably most cases try to find that information, there is not a company that sets their books up the same, whether it is getting alphabetized by the trade name, the chemical names, that is not the total answer on how these chemicals are being treated at the job site.

So once you go out and really ask, and push, you have to push to get this information from the company. You have to be consistent. That we got faxed to us, and it probably took two and a half hours.
Another incident was with PNM Coal. We heard, my union brother Larry Lee talking about, and I can't remember the chemical name, but the dust control chemical.

He was -- I can't remember on their bulk tank if it just said danger, or if it had the actual chemical in it. But it is, that tank was probably at least a 3,000 gallon tank that they brought in from the bulk trucks, pumped into the tank, put into the water trucks, mixed with the water.

Well, as I started asking questions about that, and some of our members, that they had been using these chemicals for a couple of years. They had a favorite little fishing pond. All the fish are dead.

And they are telling our members this stuff is safe. So I started pushing again. Well, let's see the MSDS sheets on these different chemicals. We left that place four hours later, I still did not get that information.

So when you think, and when you are asking our members, have you asked for MSDS sheet, a lot of times they ask and then they will get it for you, and we went all the way around to four different offices that day at PNM, and still did not receive that
information.

And I have a lot of papers thrown at me and says, I think this is it. I says, why doesn't it say exactly the chemical? You know, are we talking the same thing, or is it one that you used three weeks ago?

Nobody could answer those questions. So it is -- the system that is in place right now, it is not working very well. So don't hinge your decisions on that we've got a good system.

You've got a system, to me, that is not enforced. It is a system that does not work. And I think that you hear from industry, as we've got them here, all they have to do is ask.

I have been with members when they have asked. And I have heard foremen say, it is around here somewhere, you are just trying to screw around and not go to work, you are trying to use this information, to know if it is safe, so you don't do it.

And then at the same time the other response is, damn it, it has been safe, we have been using this stuff for the last two years. Well, you have new people coming in that may be from a truck driver into the shop as a laborer, and then he is
being exposed to these chemicals that he doesn't know what has been there for two years, what came in last week, what is good, what is bad, how much stuff, protective clothing he has to use.

I mean, I've seen it from battery acid. And then do a safety inspection, seeing the way different people use bulk battery acid to fill batteries. No eye protection, no clothing protection, nothing.

And doing the safety inspection, with the safety company people, maybe the shop foreman will come around the corner see this. I say, hey buddy, we've got to have some better protection gear. Don't you understand how you should be handling this stuff?

Then right away the foreman will say, we've told them. And I've got the individual and I say, what kind of training you've got? Well, I've just been in here for two weeks, I didn't know that this wasn't anything more than water.

So there is the loopholes in the training. When you get hazardous training in your annual refresher course, they show you some films on chemical burns, different things like that, what kind of, what can your lungs look like.

But what is taking place here, they are
not saying this chemical that we use at this mine can
do this. They give the chemical name, people don't
connect it. Whether it is this cleaning solvent, or
anything.

So there is a big gap in the annual
refresher. These are the things you've got on the
books now. They are not working the way I believe a
lot of people in MSHA, I mean, it is different from
what you guys are believing in the action, and what is
taking place in the field.

Everybody knows what starting fluid is,
what its purpose is. But I don't know how many cans
of starting fluid I found in vehicles in the
summertime, in the cab, on the back of a truck, by the
cases.

Well, it doesn't take a genius to figure
out they are not using this starting fluid to start a
piece of equipment in July. You ask the foreman, you
ask the company safety person, why are you guys even
letting this out of the warehouse? You know it is
being abused for a cleaner.

And I get the response, oh no, it isn't.
Well, before I leave there I found two or three
mechanics using it for a cleaner. It is things that
are, I think, some companies will tell you we are
doing our best to get that under control.

I tell you what, if a company wants that under control they can control it. They don't need to check that stuff out. They can give training.

I go to the mechanics and say, have you ever seen this stuff blow up? Do you know what is going to happen if this is in your cab and it blows? You are going to die. Didn't know that.

So there is a -- even now it is training, training, training, and the companies will hide behind that. That true message is not getting out because the company doesn't feel that it is to their best betterment to get it out.

So that in the Navajo Nation, Peabody Coal, Black Mesa, not Black Mesa, I'm sorry, the Consol Mine, we talk about these chemicals being used on the roads.

Now, if you go to Cante Mine, it is a total different situation because this is the only mine I've ever been out where the haul road is a county road. You can be going down the haul road, following a 200 ton truck, and it is following a one ton pickup with a bunch of hay on it, and four kids riding on top of the haystack.

And here is the dust coming off of these
trucks. If they just watered it now we've got a liquid mud that is splashing upside the truck, the hay, and the kids.

I mean, we don't know what is in all these chemicals. But I know it killed fish over in, and even management said yes, it killed the fish over at PNM, outside of Window Rock, Arizona.

So there is chemicals out there that are being abused, the companies are not furnishing the MSDS sheets so that they do what the law is intended it.

So if I get some of this stuff in my eyes I can turn around and find a quick remedy of how I'm supposed to take care of it. If I've got to look for three hours, whatever damage is done, is done.

And if my co-workers, and this is not -- really, I think you need to talk to some of your agents, and I think they will tell you that when they go to look for the MSDS sheets, look and see how much dust are on the cover of those. They are not being used.

The foreman, the company people, and this is who our members rely on, is this stuff safe? And if you push it then you are labeled as a troublemaker. And these are union mines, guys.
Now, I know what kind of intimidation is used in the non-union operations. You can just multiply it by a lot of numbers.

And this is, again, you are doing laws for union, non-union people. We want the non-union people protected. But I know that the fear and intimidation for standing up for your safety rights, I've talked to too many non-union people.

They are told, I open my mouth, I can look for a job. That intimidation, even though there is laws against it, it takes place day, after day, after day.

In the big city of Gillette, Wyoming, where there is a lot of them. And a lot of big name companies. These companies know how to run a safe operation. I'm telling you, they have chose not to, in a lot of cases. They will cut the corners.

And I guess I will stop my testimony there, and be more than glad to answer any questions.

MODERATOR TEASTER: Larry, just to clarify, it is not our intent, and hopefully we are not doing that, that what we have out there in place is acceptable.

What we are trying, to get some information from those that have had some experience,
some commenters are making the statements that miners
would not use these MSDSs, if they were available.

And what we are trying to do is to get
some information as to whether or not that is the
case. It may be accurate in some cases, it may not be
in others. But that is why we are asking the
question, is that in the fact the way it is, or is it
partially right, or never right? That kind of stuff.

It is not in any way justify what we are
doing as being acceptable. Now, these voluminous
MSDSs that you identified, and couldn't locate the one
you were looking for, do you know if there was more
MSDSs for chemicals that were not at the mine, or was
all of those chemicals at that mine?

MR. HUESTIS: No, at the particular one
that I'm thinking about, the Peabody Mine at Big Sky,
in that incident we found, and I even asked that
question, how many of these MSDS sheets are
representing chemicals that are no longer even on the
mine site?

He said, they are scattered in and out of
here. So this particular safety department they said,
we will go through this every once in a while and
clean them out. But to my knowledge, and from how he
answered that question to me is, yes, there were MSDS
sheets that were there, that were chemicals that were probably more likely not on the mine site.

And I guess my point being, in talking to you about the MSDS sheets, and the members, our members trying to get those MSDS sheets, again you know, I think with the Rule coming, if we can get the Rule in, I think we can finally get some -- a little bit more serious to the coal companies, and treat this better, and the training that will be available, that our members and other miners will turn around and not be intimidated, but to really understand the true dangers of misusing, abusing, or grabbing a spray can of something that they don't know what it is, and spraying it on a piece of hot metal to cool it down, instead of a glass of water.

It is -- their training, hopefully the training will raise in quality so that they will bring it to what these chemicals really, and the harm that are being used today, but the training will start to connect the dots, connecting it with this can can produce this.

And at the same time, hopefully, we will bring up the knowledge of the safety departments within the coal companies, and their purchasing agents, that they will get safer chemicals, and what
their knowledge, it will come down so that everybody
starts paying a lot closer attention to it.

So I'm hoping that my testimony here
pertains to some of the things that are wrong in the
past, and where decisions to try to improve things, is
that we've got some problems over here that still
have, need a lot of improvement.

But the Rule, itself, will hopefully cure
some of that, and the need for the Rule. You know, it
is way past due, way past due.

MODERATOR TEASTER: Larry, in your
experience and training with Part 48, are you aware of
any training that took place where the MSDSs were used
as part of the training?

MR. HUESTIS: Yes, personally for me I
can't remember years ago at Decker they did. And they
said you can find them at the warehouse. That is
about the training, right there. Here they are, this
is what they look like, you can find them in the
triple ring binder, and they should be over in the
north corner. That is your training.

MODERATOR TEASTER: No discussion on the
specific hazards?

MR. HUESTIS: No, no discussion from this
is an MSDS sheet of a can of WD40, her is what you can
experience if you abuse it, if you are using it too much. You should not use it for this, this is what it is bought for, intended to use as.

That sort of training for this type of chemical, no. It is, here is the MSDS sheet for a can of WD-40. It just happened to be the one the safety guy brought out of a book.

But they didn't get into the hazards of it. You know, that particular sheet they probably read it over, said, this is what it can do.

MS. JONES: And you feel that they were meeting the requirements of Part 48 by what they were doing?

MR. HUESTIS: I think they were meeting the minimum requirements.

MS. JONES: And it was too general, is that what you are saying?

MR. HUESTIS: Very much too general. And at the same time, like I mentioned, showing a video. That is a generic video. And it didn't tie it to the particular different chemicals that were used at that mine site.

So, yes, it is a general meeting the minimum requirement of the law. And at the same time I think part of the problem is, and has been, that the
safety people of these companies are not educated
about the seriousness of these chemicals.

MS. JONES: We heard a number of
arguments, primarily earlier this week, that this was
just redundant to what was already on the books, as
far as regulations.

Would you care to comment on that?

MR. HUESTIS: I don't think it is
redundant at all. It is -- I think it needs to be
done. There is, I'm thinking with the HAZCOM Rule,
and how to communicate these hazards as a part of
itself, will get these coal companies, and the
industry as a whole, to understand how serious it is.

Until that gets through, they are going to
skirt by the minimum, the very bottom minimum, on your
training. So part of the whole rulemaking process,
the content of the process, you know, and I'm not
pleased with everything I read in it, because I don't
believe it has enough penalties to it for these
companies.

They can skate by too easy, yet. But at
least by the Rule itself, will bring up the
seriousness of the chemicals for everybody.

MR. SNASHALL: Larry, you mentioned that,
about annual refresher training, and deficiencies,
your view, of annual refresher training.

Would those remarks also extend to task
training when miners get task training in particular
jobs, they are supposed to be trained on the health
and safety aspects of those jobs; have the companies
included, in relation to the health and safety aspect
training, have they included hazard chemical training
as well?

MR. HUESTIS: From my own personal
experience, and again working at Decker Coal for ten
years as a mechanic, I have never been given a task
training on how to use solvent, or when I'm working on
something, how to use starting fluids, what to do with
these cans of things that you could probably buy at
Wal-Mart at the job site.

Any other -- I cannot think of any
chemical that we had come in there that I was told
this is how you use this chemical. Now, Caterpillar
uses a lot of different types of epoxies for seals,
and stuff like that. I have never received training
on that.

And those, you know, all I can say,
speaking from my experience, as far as my own personal
task training, the answer is if there has been, it has
been so very little, I can't remember it.
MR. SNASHALL: Thank you.

MODERATOR TEASTER: Thank you, Larry.

MR. HUESTIS: Thank you.

MODERATOR TEASTER: Can we go off for just a minute?

(Whereupon, the above-entitled matter went off the record at 12:06 p.m. and went back on the record at 12:07 p.m.)

MODERATOR TEASTER: Back on. Our next speaker is going to be Andrew Laferty.

MR. LAFERTY: My name is Andrew Laferty, I work for Bluestone Industries at a prep plant in Keystone, West Virginia. I'm a union safety committeeman. I have 33 years of experience of being underground, the rest at the plant.

I've been, since I've been at the plant I have worked with every chemical that is around the plant. I was a filter operator for roughly seven years. When I first started, nobody told me these chemicals are going to hurt you. All I was told was how to mix them into the system.

I asked one of my foremen one time, I said, well this hurt you if you get it on you? He said, it is not supposed to. We had another chemical there that we used, you mixed with water, it had an

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odor to it, or it would burn you, burn your eyes if you breathe it very long.

He said it was basically potato starch, it shouldn't hurt you. We have absolutely no training on these chemicals, at all. They just -- anybody that goes into these jobs, all you are told is how to mix them.

We run different grades of coal, sometimes two or three times each shift. The man that is in charge of this has to go change these chemicals back and forth, add or subtract whatever he needs.

They never trained, and the eight hour refresher we have each year, they show you a little bit about chemical burns, but most of it is nothing that we actually work with. They just -- nobody is told what is going to happen if you put too much of this in.

They just say if you don't put enough our coal is not going to be right. Don't worry if you put too much, if it spills, because we have -- below our cleaning plant that catch all of our water, our runoff.

Sometimes there is a lot of rainwater, and this goes into a stream, a public stream. They don't -- one time we had a -- we had this large coal pile,
and the dust went right in this little town. The coal
dust was bad, so they brought a chemical in, in a
black barrel. It had a corrosive sticker on it, it
had some numbers stamped on it.

They said put four, put 20 gallons of this
into 2,400 gallons of water, and we will spray it on
the coal pile. The machine we used was broken, it
didn't work right. Nobody said it would hurt you, or
wouldn't hurt you.

We had to wear, well all we had were rags,
we didn't even have a mask, we had to wear this over
our face. And when we finished we were all,
everybody, anybody that used this machine was soaking
wet. You had to go change your clothes.

It would dry and it would become very
sticky. We had people, right now, that on these jobs,
they don't know -- well, they abuse it, I guess would
be the word. They put too many chemicals in.

Sometimes, I've moved now, I'm a dryer
attendant, and supposedly we have been told this is an
alcohol diesel fuel mixture that we use to float our
coal.

Sometimes when I do my dryer checks, we
have a heat dryer, I'm afraid to open the little
inspection door for fear that there might be an
explosion, because there are so many of these chemicals in the system.

    You can smell them just out walking around anywhere. We definitely need some kind of a law, or something, that would enforce some training. None of us are trained, we have never been trained on any of these.

    I'm really surprised that somebody hasn't gotten seriously hurt with it. I, one time myself, got something on me at work. I don't know what it was, it caused a rash on the upper part of my body. I was in -- I have been in two different states to three different skin specialists, and they just give me whatever they've got. Sometimes it takes care of it, sometimes it doesn't. It goes away, it comes back.

    But a couple of years ago we have two large storage containers. Well, we actually have three. But sometimes somebody fails to keep records, and they run out.

    So the chemical company will bring in two or three barrels, whatever is needed, probably, to do until the next day. We get chemicals in chlorine buckets. They are not chlorine, it is some form of a liquid.
The barrels come in and they have a flammable sticker on them, or a corrosive sticker on them. You open the barrel, if it smells like what you used yesterday, go ahead and put some in the system.

Another guy and myself had to move a couple of these barrels one evening. And somebody had opened one, and hadn't closed it, which we were at fault for not checking it. But when we moved it some of this liquid came out and got on us.

Well, it had a terrible odor, and both of us got it on our hands, and we got rash, and burning. The other guy asked the superintendent for a data sheet, and he says, it is around here somewhere, I will find it for you.

Well, the next day he gave me this data sheet, he gave me four papers supposedly on this particular chemical that we got on us. And it was four pages of the same page. And it told us nothing about what to do about it. If we were chemists or something we could have probably understood what that paper read.

But we had no idea of what we were even looking at. And if the laws don't pass, they need to be enforced real well. I don't know, but as far as I've been told, you know, you can request these sheets...
from where we work.

But like the one I requested, I got it the next day, and it still didn't tell me anything we needed to know about it. And we need a good law, and we need to get enforcement of that law to keep people, make things a little bit safer for people.

Because I, myself, have had chemicals on just about every part of my body. And some of them are okay, some of them cause problems, some of them don't.

But we just do our jobs, and I've had comments made to me, personally, that I brought it to the attention of some of our inspectors, and a couple of days later I have had comments made to me, you need to learn to appreciate your job a little more.

So most people that we work with don't say much, you just go on and do what you are doing, and not worry about it. There is no enforcement at all with our chemicals at the place that I work, at all.

MODERATOR TEASTER: Some of the barrels were identified as flammable. Was there not any label identifying what the --

MR. LAFERTY: It had something stamped on it, but --

MODERATOR TEASTER: But I'm talking about
information that would identify what the chemicals were.

MR. LAFERTY: When they bring us chemicals they have, I think some of them Saturday, as a matter of fact, they have some ten gallon plastic buckets, and the only thing on the outside of this buckets is chlorine tablets.

Well, I took the top off of one of these, and it has this chemical in it. I assume it was what we call flocculent, but as far --

MODERATOR TEASTER: It was different than what was identified on the label?

MR. LAFERTY: Oh, yes, it said chlorine tablets, but it was a liquid, a white thick looking liquid. We also -- we use muriatic acid to clean some cables on our aerial tram that we have.

Well, when we get ready to do this, if you -- I guess if you wanted a pair of safety glasses they would probably give you those. But nobody says, they just say be careful.

We put this acid in a five gallon bucket, we put this cable down in the acid, the end of the cable that we are going to use, and we take a cutting torch and stick down in this acid, and aerate it to clean this steel cable.
Well, when we are done with that one we put it in another bucket with vinegar and soda to neutralize the acid. And nobody really says, they just say be careful. I guess that is enough. So far it has been.

But we take -- when they finish with them, they carry them back in this one little location that they store, and just stick the lid on them, and they are probably there today. We used them three or four weeks ago. Next time we need them they will still be there. It is just a plain white bucket. And muriatic acid is really dangerous.

MODERATOR TEASTER: How many miners --

MR. LAFERTY: There were 31. Two weeks ago they had a small cut-off, laid off six of us, six of the younger men. I had -- when I signed off of that job, and took a new one, the boy that got the floater job was 24 years old.

A week or two into the job he came to me one night, in the bathhouse, and he said I got that, he said I got that alcohol on my face and hands tonight, it burnt me. But will it hurt me? And I had to look at him and say, Scott, I don't know. They told me it wouldn't hurt me. That is all I could tell him.
MODERATOR TEASTER: You have any idea of how many injuries that have occurred at the mine, say, in the last two or three years, as far as reportable injuries?

MR. LAFERTY: Most people it is usually their hands or their face. Most people put something on it, go on about your business. Nothing is ever really said about it.

We've -- I can't really -- we have several men that have to wear gloves when they work, latex gloves. As a matter of fact I used to wear them myself when I done this job, because there is so much that we are around, your hands stay irritated.

Some of the guys their hands bleed, they peel, and they are just -- they are in really bad shape. But it is just that nobody really says it is an accident on the job, they just don't -- I've got severe dermatitis, or something, you know?

Nobody really ever tried to collect any, to my knowledge, the safety committee job, I've only been on it a couple of years. Prior to that I just done my job and don't make waves, do your thing.

MR. PHUC: You mentioned intimidation by the mine operators. Can you comment on the number of injuries that went unreported, that people just didn't
report it because of the fear of their --

MR. LAFERTY: I would imagine every man
that has done that job has had a chemical on his
person. And these guys, you just -- you know, you
just do your job and go on. I mean, that is it. You
might talk about it in the bathhouse to some of your
buddies, or something. I got something on me today,
my hands are all itchy and burning.

We, you know, we are a union job, but we
are still really restricted, I guess you would call
it, to what we can speak out about. I'm sure I will
be in trouble over this when I get home. That is
okay, that is fine with me.

MODERATOR TEASTER: Okay, Andrew, thank
you very much.

MR. LAFERTY: You are welcome.

MODERATOR TEASTER: Our next speaker is
Wayne Conaway, from United Mine Workers.

(Whereupon, the above-entitled matter
went off the record at 12:22 and went
back on the record at 1:00 p.m.)

MODERATOR TEASTER: We will now continue
with the afternoon session.

Our first speaker is Wayne Conaway, with
United Mine Workers.
MR. CONAWAY: My name is Wayne Conaway, I've been an underground miner for 25 years, local 9909, safety committee person, Consol employee.

Half of my working career, so far, has been trying to get something on this hazard communication. And that is a long time. Congress required MSHA that our health and safety be first priority. They said that 25 years ago.

So I think 14 years doesn't, in my mind, constitute first priority. I've had a friend pass away, just as recently as six months ago, 46 years old, he told me within a couple weeks of his passing away, he said there is no question in my mind what is killing me.

He says, from all the times I had to work on the long wall in that emulsion. He said, of course it is not there now, because they did finally find out it was bad. 46 years old, it is a little bit too late.

And I'm kind of glad that I was able to hear a few other testimonies before I was able to speak, because after listening to some of the questions you've been asking, as far as Part 48, and after viewing the video yesterday, it seems to me that you've already pretty much come up with something that
all mine operators can do as a minimum is show this
video, in your Part 48, and that is going to apply
with the law.

Gentlemen, ladies, that is not going to be
enough. There are way too many things that we have to
look at when it comes to hazard communication.

You have disposals, clean-up, spill
containment, evacuations. The MSDS, first aid
handling that type of thing, PPE, and there is just
not enough time in the Part 48s.

And I don't know if you really know for
sure, or not, because I -- ever since I've been in
Part 48 classes I've never, ever seen an MSHA
inspector monitoring it to see if everything is
actually in that criteria, in general.

Because I think if you had actually had
anyone -- and I've talked to a few people, and no one
has ever seen an inspector at a Part 48 course. And
that would probably also be changed, you know, if it
was really looked at hard, let alone trying to put
this in on top of it.

The people that are, that you are relying
on to feed us information and training, they do not
have it. Just to give you a good example, last
February we got a new safety supervisor.
He was 25 years old, he had worked two years underground with the engineering department as a surveyor. In February they contacted him and said you are the new safety supervisor. He has absolutely no idea about general safety, let alone hazard communication.

Just on general safety matters he has to come to me, or to someone else. So I can only imagine what it is going to be like when he has to deal with any type of chemicals.

We've talked a lot about MSDS sheets. They are on the mine site, usually inaccessible. Day shift people, you know, if you want to go in and find them yes, they are there, but you are going to have to find them on your own.

The door is locked on the other two shifts. The majority, and I strongly say majority of the people, have no idea what an MSDS sheet is, or how to actually obtain the information that is on it. They have to regurgitate it, it is just not there.

Luckily I have an education in that, to where I kind of oversee some things, you know, that are top priority. Because this has been kind of a passion with me for quite a few years. Because I actually worked underground for 20 years before I went
to get a degree in safety and environmental engineering.

So I know that this is a problem. We have people, another very good example that upset me greatly, I was laid off for a period of about a year. I come back, I notice these small containers of foam sealant that they use to seal stoppings, and what not.

Well, if you've all read the back of the box, it told you right then and there exactly, you must use a respirator, without question. Because all the cancer causing agents in it.

I asked the company, I said, do you have respirators for these people that have been using these things? Well, no. I said, I suggest you get some before anything else has been used. They said, okay, we will get some.

About three days later they said we got the respirators, we are going to start using that again. I said, I would like to see the respirator. They brought out charcoal filters for respirable dust, instead of an organic filter for that mask.

If they can't handle something that small, and you guys don't enforce it, do the job that they actually required you to do, the companies are going...
to do just as normal, very minimal.

Because what really upsets me is Wal-Mart employees understand HAZCOM much more than coal miners. And it is embarrassing to me, and it should be embarrassing to you.

It seems like every year things keep getting easier for the coal companies, by regulations, but it is always at our expense. We need to get back to basics. Treat us as your first priority.

And I think if you do that you will find out that we have to get this thing through, because there is too many people dying and we don't need it.

Are there any questions?

MODERATOR TEASTER: What kind of background and/or training do you think an individual would need to present chemical hazard training at a mine?

MR. CONAWAY: As far as overall background, each person, as a rule, will have to work with a specific chemical or maybe chemicals in one area. Because it is usually not that diversified where your chemicals are spread all over.

You know, you use one chemical for one application. The people that is using those applicated chemicals for that area, they need to know,
like I said, as far as if they spill it how to clean it up, how it should be disposed of. There is going to be first aid which will be accountable for different types of situations.

You know, you just can't treat each chemical burn, or whatever, the same way. Putting a fire out with a chemical spill, you cannot put it out the same way. You are going to have a certain way of emergency response, do we have to get fire trucks.

You know, just a general program. You need to enforce an actual program, not just say I want you guys to be able to do -- each operator to do this, or do that. They need to come up with a specific program.

Because, like I said, just a few odds and ends is not going to work, not going to get it. And we really need to make the coal companies be accountable.

Because it seems like, to me, every time we are giving them such a minimal obligation to do anything, that that is exactly what they are sliding by on. And no one is really backing it up, and checking on it, to see if they are actually doing what they say they are doing.

MINTER: Do you have a feel for
the number of chemicals that is used at your
operation?

MR. CONAWAY: Being as I work underground,
no. Because the bulk of the chemicals are at the prep
plant. But I have a person that will be speaking,
that works at my mine, that does work outside, and he
may be able to give you more information on that.

MODERATOR TEASTER: Do you have a feel for
the number of, and kinds of injuries that is occurring
at your operation?

MR. CONAWAY: Sadly to say more so tumors,
cancers, than injuries. A gentleman, probably, could
have passed away today, I'm not sure. I spoke to him
a week ago, he cannot even get out of his bed now.

They all seem to be in a field
mechanically, as a rule, where they are around
petroleum products.

MODERATOR TEASTER: Thank you, Wayne.

Our next speaker is Terry Richardson, from
United Mine Workers.

MR. RICHARDSON: Good afternoon. I'm a
representative from District 2, local 1998, do mostly
surface construction.

I'm here on behalf of my union brothers
and sisters to recommend the removal of the language
that allows operators to classify only those chemicals
used under normal circumstances, or foreseeable
emergencies, as hazardous.

The fact is most situations could be
construed to fall under two categories, abnormal
conditions, and unforeseen emergencies.

Understanding that basic premise operators
could effectively claim the Rule did not apply to any
given situation. Taking this necessary action will
greatly enhance the Rule's ability to effectively
protect miners.

The lack of prescriptive language will
allow operators to avoid notifying workers of the
presence of a hazard, and still be in compliance.
Also the reference to non-routine tasks must be
eliminated in the Rule.

Miners need, and have the right to be made
more aware of the presence of chemicals at the mine,
regardless of the frequency of their use. I'm
currently serving as safety committeeman for our local
union, and for the employees of the company that I
work for.

I'm also grievance man for these men.
Frankly I feel we as minors have been grieved. Ladies
and gentlemen, I have been working around chemicals,
and chemical plants for quite a while, and dealt with
OSHA's HAZCOM standards.

And I can't understand why in 14 years you
haven't implemented a plan of your own. We all have
a responsibility to these miners to ensure a safe and
healthy environment for them to work in.

So I think we ought to quit with the
bureaucratic bias, and get this Rule into effect now.

MODERATOR TEASTER: Thank you, Terry.

MR. RICHARDSON: Thank you.

MODERATOR TEASTER: Our next speaker is
Bob Morris, United Mine Workers.

MR. MORRIS: Good afternoon, Mr.
Moderator, and Panel members. My name is Bob Morris,
I'm currently serving as a mine safety committeeman at
Leverage Mine, District 31, Consolidation Coal
Company.

I have 27 years working in the mine. The
last 12 years I've been employed in the surface in the
leverage preparation plant. Wayne Conaway alluded to
me speaking about certain chemicals, and I will do
that later on in the presentation.

Since 1989, I will just preface my remarks
with some background, we have been debating the Rule
based upon the standard that OSHA currently uses.
On October 3rd, 2000, MSHA was supposed to issue their Interim Final Rule, and it was supposed to go into force by October 3rd, 2001. On August 28th, 2001, MSHA stayed the issuance of the Rule, this would have implemented the Final Rule effective June 2002. By staying this Interim Final Rule MSHA has opened the door to more needless comment and debate. We have had 14 years to debate this issue. And it seems like they've opened the door strictly to hear the operator's side of the question, to talk about a Rule to protect the working miner.

If in the past 14 years the operators couldn't have come up with questions, and presented their side, there is something really wrong, they don't have a side, here.

MSHA failed to implement the Rule to provide the miners with basic protection. The Interim Final Rule was scheduled to be placed into full force by August 3rd, 2001, it did not go far enough in my opinion, to protect the working miners, but at least it was a step in the right direction.

It had several shortcomings, and I'm going to try to outline them, briefly. First, it failed to notify and identify miners exposed to carcinogenic chemicals.
Operators were not required, secondly, to satisfy the miners that they were being exposed to certain hazards, they did not have to notify them.

MSDS labels are available on some chemicals, some chemicals are not. We use a myriad of chemicals on the preparation plant, and you can ask me about each one, I will go over some of them, the major ones used.

We've -- the new Rule did not require the mine operator to be the responsible party for training and compliance with the Rule. By reopening the Rule to debate, it is my opinion that the Agency announced plans to address a list of the mine operator's objections.

The mine operators have had 14 years to list their objections, and if they haven't done so, that is their problem. Mine operators, fourth, another point I wanted to make, the mine operators cannot be the party allowed to make the determination on what is or is not a hazard. That is the same as asking the fox to guard the henhouse.

Because most of the people that I have worked for in the 27 years, especially on the last 12 years on the preparation plant, have no more idea how to read an MSDS label, or how to interpret it, or how
to train anybody in the proper use of the chemical that they are using.

MSHA was mandated by Congress, under the Act, as a regulatory agency, and in my opinion we are becoming an advisory agency to the mining industry.

MSHA's has abdicated its primary role, and that was protecting the most precious resource in the mining industry, and that being the miner.

I will give you several examples. Wayne alluded to some individuals that had become sick as a result of working with chemicals, I'm going to give you specific names.

First was Mike Renick. Mike passed away about six months ago. He left a wife and two children. Mike worked on the long wall system back when the long walls were first being brought on the site by Consolidation Coal Company at Four States Mine.

They used an oil that was called solcenic oil. I don't know if any of you are familiar with it. Initially when we started using solcenic oil on the long wall sections, there was no warning labels on the cans, they came in five gallon cans, it had an ID number on the can, and the people that worked maintenance routinely would use it to wash grease off
their hands at the end of the shift.

And after five or six years of using this chemical on the property, the warning labels appeared on it that it was a cancer causing agent, and it was absorbed through the skin.

Mike died approximately six months ago from a brain tumor. His oncologist stated, categorically, that Mike was exposed to some chemical that was commonly used in the oil fields. And I don't know what the exact use in the oil fields would be.

Secondly, the other individual, he is currently, he is a real good friend of mine, his name is Chuck Sommers. Chuck got sick approximately 18 months ago, he had a brain tumor, exactly the same type of tumor that Mike had.

His doctor, he had the same oncologist, and he told Chuck that it was highly unusual to see this type of tumor. He said, again, he cited that this was a tumor that they only see among people who work in oil fields.

And Chuck has worked for the past 15 years on the preparation plant. And I will cite three other instances. One was Leonard Myers. Leonard was working one day, we use a, it is called stone hard. It is a powder chemical that you mix, and it is used
as a liner in chutes, and various other things on the preparation plants.

Leonard had to get down inside of what is called a three way jig distributor. It is a small type vessel, to do the work that he was doing. He was in there approximately 8 hours. When he came out his eyes were almost swollen completely shut from the fumes off of it.

A lot of the work that we do in the plant is typically in confined spaces, and where you can't get away from the fumes, specially the chemical that you are using is producing any kind of fumes, you cannot get away from it, you can't escape it.

Another friend of mine worked underground, John Sliger. We had -- he passed away in 1986. John was a bigger man than me, weighed probably 260. When he died he weighed 89 pounds.

He was exposed to a chemical that we used on the coarse coal slurry system that we had underground at Leverage at the time, it was called chromate. Chromate was used to increase the wearing properties of the inside, on the inside of the pipes in the slurry system.

This chromate came in 55 gallon drums, and what you had to do, you had to add it into a hopper
that fed into the piping, into the slurry. And you always end up getting it on you.

The big barrels never carried a warning label on them anywhere. After about four or five years of using it, then the labels started to appear, that it was absorbed, it was a chemical that was, that you could not have on your skin, you were supposed to wear protective clothing to even handle it. John died in 1986, like I said, he was down to 89 pounds.

Last I will refer to my own self. I have worked as an electrician on the plant for the last almost 12 years now. And just before we shut down here recently, I was working as a plant operator.

Well, I had several occasions, one as an electrician, my electrical foreman had sent me, we had a train load-out station, and where the conduit came down through the metal floor of the building, it was rusting and deteriorating. And to try to buy us some more time for having to completely redo it, one morning I went to work, he gave me a gallon can of paint, and a paintbrush, and he said, I want you to go down and sand, brush that off as good as you can, to get the dirt from around it, and then I want you to paint this on it.

Well, this building was approximately 20
feet by 20 feet. And there was no way, there was one
door that you could open on it, that was the only
ventilation I could get in the building.

I used it for about two hours, to complete
the job that I was supposed to do. By the time that
I finished, I started getting real light-headed,
dizzy, went outside to sit down in the fresh air, it
was wintertime.

I got back up to the plant, and for a week
after that it was just like I had a chemical cold.
And so the foreman, I asked him, what was that stuff
that I was using, Barry? And he said it is PVC paint.
He said there is nothing wrong with using it.

I said, you know, I told him what had
happened to me, and everything, and he said there is
another can of it. This can had no warning label on
it, brand new can. They had another can in our
storage area. I went and got it, and it said minimal
exposure to this chemical, to only be used in well
ventilated areas, minimal exposure could cause severe
brain damage.

And this, like I said, this is just one
other example. Then another time they had, I don't
know if any of you have any prep plant background. We
had what they call a densitometer. And they are
mounted on the outside of the pipes, in the plant, coming off the heavy media pumps, which in turn pump to heavy media vessels.

And essentially what it does, it measures the density of the material going through the pipe. There are signs up that say, caution radioactive material.

The foreman sent me and another mechanic to help two gentlemen who came down there from a firm in Pittsburgh, to work on this pipe. And there were chemical, and it says radioactive element.

Here I am, I am wearing a t-shirt, and a pair of bib overalls, my buddy is dressed just about like me. These two guys, I noticed they didn't have any tools, and I asked the foreman, don't they need any tools to work with? Well, he told us what we needed to get.

He said, meet them up on the second floor, and you will have to give them a hand for a couple of hours. And the guy, when they come walking in, they had on suits with hoods on them, and it looked like a visor that they could see through.

And I asked the guy, I said, what are those suits for? He said, because we are working around this material. And I said, those aren't lead
lined suits, are they? And he said, yes, they are.
And I said, me and my buddy, are we at any risk here?
And I said, he told me, he said, no we do it every
day. This is not that much exposure for you.

And I asked him, I said, how do you
measure what amount of exposure level we have here?
I said, do you have a geiger counter? He said, yes.
He pulled out, it pegged the geiger counter. And so
this is another example, this is a chemical, a
radioactive chemical.

Then just mechanics routinely used, like
I used the PVC paint as an electrician. I will go
over some of the chemicals that we use in the plant.

We use an antifreeze at the train load out
station. And what they do, they put it in suspension,
spray it into the rail cars before they load the coal
in the wintertime, and they call that freeze release
treating the cars.

And this chemical, I mean, it is an
antifreeze, probably a methyl alcohol based, and I'm
not sure what it is. I've never seen a data sheet on
it.

We use a reagent in the fine coal
processing part of our plant. It is called a frother,
it is used in conjunction with diesel fuel, and pumped
in by pumps, into large tanks. And what it basically
does, it recovers the fine coal particles, puts them
in a suspension, and then goes through a filtering
system, and on to the belt line. It is also toxic.

We no longer use the chromate, but it was
used at our mine in times past. We use an agent
called flocculent. And it is used in the water
system, it goes to our thickener. And I don't even
know what the properties are on it, I've never seen a
data sheet on it.

Then underground, from time to time, they
use a substance called rock lock. And they drill in
the top, and inject this to bind the coal strata
together when they are having problems with the coal
at the top.

It is called a methyl sico cyanate. I'm
sure most of you have heard of it. And I've never,
ever heard anybody tell the people when it was being
used in a section, or long wall panel, that they
shouldn't be downwind from this. It does go into a
 suspension in the air.

Wayne spoke about the foam sealant that we
use. Leverage mine had a fire in 1999, and we went
back into the mine, we did a lot of temporary
stoppings, where we sprayed this foam material on the
stoppings as a sealant.

And, like he said, they did not provide the people with the proper respirators, they used it with open faced, with nothing on.

And Wayne spoke about the Part 48. I have been through Part 48 training approximately, due to the number of layoffs that we have had at Leverage Mine, probably 32 times.

I have never yet heard any mention of hazardous materials, or hazardous chemicals in the workplace, not one time.

Another problem too, that you encounter, is that chemical suppliers, even if you had an MSDS sheet on the chemical. Consol is just like any other company, the bottom line is what drives this country, and everybody knows that.

They have to try to stay as competitive as possible. So from time to time they shift suppliers. The chemicals may be similar, but not the same.

So you couldn't go by what the data sheet that you had on that particular chemical when they changed it to another supplier.

Leverage Mine, we have a thermal dryer. We use a number of chemicals there, that aren't common. We use a caustic system. I don't know if --
if any of you have any knowledge of this, what I'm talking about.

And it is to dry, we had a problem with the Clean Air Act, with the quality of what was coming out of the thermal dryer. It is a coal-fired dryer. And they went to a caustic system there, and they use another chemical that they spray on the coal once it comes through the dryer, and goes onto the belt line.

And there is a data sheet, it is on a tank about 60 feet tall, and it is about 20 feet up. I can't see it, I can barely see the paper here, without glasses.

Lastly we routinely use a substance called Electro Clean. And it is used, mostly it is the electricians are the ones that use it. A lot of mechanics will get a hold of it, and they will use it as a degreaser.

And for a year, at Leverage Mine it was banned, it wasn't allowed on the property. And when we came back to work this time, we came back July 21st of 1990, I take that back, July 21st of the year 2000, we came back, it was back again and being used on a regular basis.

And it clearly states on the can that it is a carcinogenic. I will conclude with that, I will
answer any questions that you have.

MODERATOR TEASTER: Thank you, Bob. Bob,
this PVC paint that you used, how long ago was that?

MR. MORRIS: Two years.

MODERATOR TEASTER: Two years. And that
container had no label identify any --

MR. MORRIS: The first one that they gave
me had no label at all on it.

MODERATOR TEASTER: The --

MR. MORRIS: They just buy it in bulk.
They might ship in 20 gallons of it, if they are
anticipating a lot of work.

MODERATOR TEASTER: So they took that from
a bigger container and put it in a small one?

MR. MORRIS: No, it comes in a gallon can.
That particular can had no label on it, that is what
I'm saying.

MODERATOR TEASTER: The miners that you
referenced, the one that passed away in '86, was he
actively employed at the time of his death?

MR. MORRIS: Yes.

MODERATOR TEASTER: Do you know whether
that was reported as a --

MR. MORRIS: There was a lawsuit filed.
I don't know what the disposition of the litigation
It was filed by his wife against Consolidation Coal Company, against the manufacturer that made the chromate.

MODERATOR TEASTER: What I'm trying to get at here is, the operator is required to file a Part 50 report of an occupational illness, or injury, if they were employed at the time, in case of an occupational illness, if it was diagnosed, or an award or compensation was made, they have to file a report under Part 50, to the Agency.

And I was just wanting to know if there is any way that maybe, if they did file that information, that information would be available to us, and would be quite useful for us if we could back and review it.

MR. MORRIS: I don't know if there was a Part 50 form filed. John's wife filed the lawsuit following his death. I don't think they had started anything on it prior to that.

MODERATOR TEASTER: The other two miners that you referenced, were they actively employed just immediately prior to the --

MR. MORRIS: Mike Renick had been off approximately two years, after he became ill. And I think he lived maybe two and a half years total. And it was -- I have never talked to his wife.
Mike came by my home one morning, we were close friends, we worked together as electricians, underground, before I went outside. He came by my home one morning, rang the doorbell, I just go out of bed.

I went to answer the door, and I heard a voice, I didn't even know who it was. His head was swollen so large, you know, from the -- he had undergone chemotherapy three or four times. And he needed me to fill out some paperwork so that he could try to get his pension.

And Chuck Summers, I saw Chuck about three weeks ago, he has been sick probably close to two years right now. And he has no use of the left side of his body. He is blind on the left side, he lost his sight on the left side.

And then, let me see, who else was it? There is another one in there, I think that I missed, John Vincent. John is off, John was a person that never drank alcohol in his life. Right now he is on a liver transplant list.

John was a mechanic, worked on the long wall, was one of these guys that worked with solcenic oil. And I'm sure there are others out there that we don't even know about.
I know that Robinson Ruaon Mine, I think they had 20 plus people off, right now, that are dying with cancer. In fact we had asked NIOSH to do a study at our mine and at Robinson Roan.

Dennis O'Dell, the international safety rep in district 31 was taking care of that. I don't know where that ended up at. And I know several of those people have passed away.

I don't know any of these individuals by name, they work at a different mine. It is Consolidation Coal Company, also. And I'm not citing Consol, you know, any more than any other operator.

I mean, it is a business. And, you know, and I'm not -- I would be the last one to say that I want to do something punitive to the employer that I work for, because that is my livelihood.

But what I'm saying is that MSHA needs to take a hard look, you know, before they promulgate another Act, here, this is a serious issue, and it has been for a long time.

And the sad part is, you know, from the time that somebody might be exposed to the chemical hazard, and to the time the symptoms show up, it might be ten years, you know?

A cancer doesn't just form and grow in a
matter of a couple of days after an exposure to a chemical agent. And these people, I would say that there are a lot of people that have died, through the years, that have been exposed to chemicals, and we've basically had no protection in the workplace.

For some odd reason the coal industry in West Virginia, I will cite West Virginia because I'm from here. The coal industry in West Virginia was exempt from the standards. All the other industries in the states were covered but us.

And all we are asking MSHA to do is to give us some protection. Give us at least what OSHA does for the rest of the workers in this country.

MS. JONES: I would like to ask just one more little detail. You were talking about the use of methyl iso cyanate. Could you describe, in a little more detail, how that is used, and how the exposures happen there, with that?

MR. MORRIS: It is injected, they drill into the top, the top strata, inject it under pressure. It is almost like a resin, and it is injected under pressure. And what it does, it goes out into the various layers of the strata, they will all come together.

Hence, I guess, that is where they got the
name rock lock. But in doing that it also, I don't know what the word is that I'm looking for here, it becomes airborne. The fumes off of it.

Alabama had a severe problem with it several years back, where they had some miners -- one exposure, they had to cease working, their lungs were gone. And I'm saying if we are using chemicals like this, then we need to make the people that are doing the work aware of it.

You can't, you know, most miners aren't going to go into the superintendent's office, that is where they keep all the things at the prep plant, and say, I want to see an MSDS data sheet, I want to know what I'm working with here. They are just not going to do it.

The mine operator is going to have to make it a part of our training that we have a right to know what we are using, and we have a right to ask to be protected.

MODERATOR TEASTER: I think you may have alluded to this earlier, and just didn't by name. But is West Virginia miners covered under Right to Know?

MR. MORRIS: We are not covered like the other industries in the state. I mean, I worked on a plant for two or three years, and I handled various
1 chemicals, you know, even diesel fuel is dangerous
2 when it is absorbed through the skin into the blood
3 stream.
4
5 MR. SNASHALL: We have had some comment to
6 the effect that miners, if they are working with
7 chemical solvents, they should wear gloves, and if
8 something has fumes, that they should have
9 ventilation, and there is a generic instruction, based
10 on common sense, that people should operate on.
11
12 Do you have any reaction to that?
13
14 MR. MORRIS: You are saying that --
15
16 MR. SNASHALL: In other words that --
17
18 MR. MORRIS: -- the miners should --
19
20 MR. SNASHALL: -- there is common sense.
21
22 MR. MORRIS: Just common sense that I
23 should know that I'm working with a chemical, and I
24 should -- I don't know, that is putting it back on the
25 miner to provide his own protection.
26
27 You know, I mean, that is not something
28 that we have the leeway to do.
29
30 MR. SNASHALL: Do you have any sense that
31 people, if they are, for example if you are painting,
32 and I was a painter at one point, okay?
33
34 MR. MORRIS: Okay.
35
36 MR. SNASHALL: So you, one of the things
is you have, you don't paint in a confined space, generally. Or you look for some ventilation.

The point of the, I guess of the comment we've had before, is that a lot of this stuff can be picked up by common sense precautions, it doesn't need a lot of detail.

Do you have any reaction to that? Or is a significant amount of exposure subtle, and really is beyond what people can reasonably expect to know quickly, that something may be wrong, or could happen to them?

MR. MORRIS: Well, I think a lot of the time, you know, just like a mechanic on a plant may use that PVC paint. He may use it today, and may never use it again for a year. Then somebody like an electrician may use it every day.

I mean, I've painted for years, and I would have never dreamed, I've never used a paint that would have done what that did to me. I would have had no reason.

You know, there is an implied feeling on the part of the workers that, you know, my employers shouldn't be exposing me to something that is going to kill me. I think that is a reasonable assumption.

Maybe not in the legal sense, but in a
moral sense. You know, I should reasonably be able to expect to go home at the end of the day, to my family, and not have to worry about what I may have been exposed to, either through my skin, through breathing it.

You know, we deal in an atmosphere where we deal with a lot of dust, anyway. A miner is exposed, at best, to a dust hazard, and to silica hazard. And why should you have to assume that when you go on a job site, that something that is done maybe two or three times in your whole mining career, could potentially cause, you know, fatal consequence 20 years down the road.

I mean, I never -- I think I have an obligation, I'm not bashful when it comes to using something now. But I learned the hard way.

MR. FEEHAN: Do you know of, or can you tell us, the percentage of unreported injuries that are chemically related, do you have a sense of that, Bob?

MR. MORRIS: No. And I will tell you for one reason why. At our mine, and I'm sure it is the same at other Consol operations, at Peabody, or PNM, or wherever, they do not want -- they discourage you even turning in a normal accident. I mean browbeat
you.

If somebody gets hurt at our mine, the superintendent will be calling them in the next hour. You know, it is your fault, you were the employee, you were doing something wrong, or you wouldn't have been hurt. It is no different with a chemical.

I think just about anybody in the room here, I can't speak for every company, and I wouldn't try to, but I would say that, you know, they are basically the same, they operate the same.

MODERATOR TEASTER: Bob, we appreciate you sharing your testimony, and your story. And we do sympathize with the families that lost their loved ones, and we appreciate you coming forward.

MR. MORRIS: All right, thank you.

MODERATOR TEASTER: Our next speaker is Charles Miller, United Mine Workers.

MR. MILLER: I'm Charles Miller, I work for Consol, I'm a union member, and I have been for 32 years, and I'm a safety committeeman at that local.

There are a few comments I would like to make, and then if you have any questions, you could ask me.

I would like to see MSHA make a rule on this HAZCOM, so that it is actually made for
everybody. The people who work there, the people who
know what is going on, and no grey areas.

    I find that through all these years of
seeing what happened to people, and hearing all these
things, that something has to be done, and not ten
years from now, because of all these exposures we've
had now.

    And I think to eliminate these operators
from making all these determinations, this rule has to
be done now, as soon as possible. It is a shame that
it has taken so many years now to resolve this
problem.

    And I don't think we should have to wait
any longer for other people to get sick and say, I
can't work today, or I can't go tomorrow, because I've
got cancer now, or I got burnt too bad.

    I don't think any of this should happen to
us, or you, or anybody else, just from the chemicals
that actually I don't think, in my opinion, should
even be there.

    If that stuff is going to hurt our people,
we shouldn't be using it. They should find some way
to train, or whatever, to eliminate all that kind of
stuff.

    I mean, they were trying to do that with
dust control, and with noise, things like that, that people are trying to get control of. I mean, it shouldn't take all these years, back in the '40s and killed a lot of people, well I think we should have done this, I think we should have made some changes in this law.

I mean, I don't want to go home and tell my kids, I'm so sick I can't work no more. You know, I don't want to do that. And I don't want other people to have to go through that, or some of the stories you hear.

As MSHA has, for a long time now, turned its back on us, through Congressional mandates to protect all these miners, I think that MSHA is on the back road for that. I think you should have been out on a bandwagon and told these companies, this is what we are going to do, and this is the law, and this is how it has to be. No loopholes, no grey areas, nothing.

Then I have a few other things I want to talk about. The reasons why I'm talking about this for our miners' sake, is that under your Federal Register you had stated, and expressed concern that you had not had sufficient time to fully analyze the Interim Final Rule, to develop and submit meaningful
comments, and you cannot -- and it cannot compare to the thousands of miners who continue to suffer the effects of exposure to hazardous substances.

And then by your own admission there have been, from 1990, through 1999, there have been an excess of 2,000 chemical burns, about half of which were lost time injuries.

And in some other things, there were 400 poisonings among this all these chemicals. And then MSHA has decided to turn a deaf ear on the miners of the nation. I believe that MSHA has given the operators plenty of time to ensure compliance with these rules.

The miners believe that MSHA has caved in to the pressures of the operators involving the administration at the expense of these miners. It is time that MSHA has given the miners the benefits of HAZCOM.

And I personally think that when all this is done, and you try to do the right thing, that you --

MODERATOR TEASTER: Charles, just for a point of clarification, in my opening statement I said that the industry had made allegations that they had not had time to analyze the Interim Final Rule, and
have enough time to analyze it so they could submit meaningful comments.

It wasn't that we said that, that they didn't have time to do it. That was something that the operators had submitted in their comments, as far as going forward with --

MR. MILLER: But they are the ones that use the chemicals, not you or I.

MODERATOR TEASTER: Right.

MR. MILLER: I mean, they know what they are using, and what they want to use.

Then I heard other comments about, people are saying that these companies know what is in these chemicals, and they are not affording the information. Then I heard you brought up Part 48.

If you sat through one of those classes, in an 8 hour period, for all the things that is in that mandate now, under Part 48, you don't get to all the things that could hurt you.

They will give you some warnings and tell you, or give you a little short film, and tell you that is what that is.

In the 32 years of all these trainings that I've had, on different things, they never ever hit at all these different things that can happen to
you, that don't go under an unsupported roof, or if it
gets too dusty, get some water, things like that.

But you are talking about something else
that you can get through your skin, you know, what is
the proper stuff, what do you use to make this stuff
not hurt you.

MODERATOR TEASTER: Well, the intent of
the Interim Final Rule is so the operator can identify
what hazards that you could potentially be exposed to,
and then share that information to you, through some
training program, and make this information available
through labeling, and through the MSDSs, as well as
the training.

So the whole thing, that is the purpose so
they would be able to do that.

MR. PHUC: Would you be able to provide a
data, the injury data that you just mentioned?

MR. MILLER: On the accidents?

MR. PHUC: Yes.

MR. MILLER: I didn't write that down, I
think --

MODERATOR TEASTER: I think he just took
their own data.

MR. PHUC: Okay.

MR. MILLER: I read that through the MSHA
register, it had that.

MR. PHUC: Okay, I was just wondering
where you got that data from.

MR. FEEHAN: Do you have an idea of how
many injuries are unreported?

MR. MILLER: At my mine?

MR. FEEHAN: Chemically related injuries.

MR. MILLER: I had one.

MR. FEEHAN: Did you?

MR. MILLER: Yes. I have a burn on my
back. Actually it looks like a skin rash, but it is
a burn. And it burnt for a while, now it is just a
big scar.

I know a person that hasn't been working,
he got solcenic oil in his blood system, and he is
ruined, he hasn't worked for two years now.

MR. FEEHAN: That has not been reported?

MR. MILLER: I don't think it has.

MODERATOR TEASTER: Why would you not
report that, if it was an injury that --

MR. MILLER: Well, it didn't come on until
like four or five days afterwards, this rash that I
have. I mean I couldn't say that happened at work.
Do you know what I mean? Because they wouldn't accept
that as an accident, then. But it come on me
afterwards.

MODERATOR TEASTER: Okay. Would you come to the podium and identify yourself for the record, and we can get you in?

MR. MORRIS: I am Bob Morris, I was up here previously. Probably one of the reasons why, you know you asked him why he wouldn't report an accident like that, you only have like 24 hours to report an accident before you leave mine property.

So a lot of people they will get hurt, burned or whatever, and they will say, it is not going to amount to anything. Two or three days later it may come as a problem, but you can't go back and back date it, and claim that it is a loss time injury, or whatever.

It happens constantly, believe me.

MR. MILLER: We have a lot of people complain about itching, and they will use rubber gloves, and some of the things that they have, and still get the stuff on their skin, they itch and everything else.

MS. JONES: I just wanted to go back to a point that you made early on about trying to eliminate hazards in mining, and perhaps substituting less hazardous chemicals for -- making a substitution.
Do you feel, or are you of the opinion that the hazard communication standard, which would provide the knowledge to both the mine operator, and the miner, might lead to substitutions like that?

MR. MILLER: I think if they could find something else that would be better, that would be less harmful to you, yes I think it would be a good idea.

MR. SNASHALL: You mentioned annual refresher, and this I've asked before, with another speaker. Have you been task trained in the health aspects of the task which would include exposure to chemicals?

MR. MILLER: The only thing that they showed us in the last few years was a little film for about eight minutes, ten minutes, on some of the things you do.

But, you know, it is not like if you looked at the film, and you didn't know anything about it, you wouldn't know what to do. That is the kind of films that they show you, because they don't have enough time in an 8 hour period to teach all the things they have to teach.

MR. SNASHALL: But before, if you were to be assigned a new task, there is, separate from the
eight hours?

MR. MILLER: I've already asked questions, and they don't know, they don't know what to tell you. That is the kind of answer they will tell you, I don't know. Then they will make a call and try to find out from somebody else. That is what happens.

MODERATOR TEASTER: Charles, do you know what kind of chemical you got on your back? Did you know when you got a chemical?

MR. MILLER: I didn't realize anything that it was, until afterward. It was, like I said, a week.

MODERATOR TEASTER: And you have no idea what chemical you were working with?

MR. MILLER: They have this milk oil, they call it. It is fire resistant oil, it is a white oil that I think is 80 or 90 percent water, and ten percent some kind of petroleum product.

MODERATOR TEASTER: Water emulsion?

MR. MILLER: Yes.

MODERATOR TEASTER: Thank you Charles, appreciate it.

Our next speaker is Craig Irwin from United Mine Workers, Local 93.

MR. IRWIN: How are you doing, my name is
Scott Irwin, Local 93, I'm on development of mining. I have been working in the mining industry for 21 years, started out with a truck dump operator, grease truck, grader, dozers, went up to the slate for 13 years, now I'm back on the strip on a dozer.

I have various experience with all these things, with the chemicals that we have, when I was at the Temple, not very much, but the men that we work with, my buddy back there gave me a few notes on a few of the chemicals, I didn't know what they was.

You say you take the common sense approach to these things. All of us have common sense. But when we are being led to believe that there is no danger, we believe there is no danger.

When we are told by the authority, or the people that we work for, that there is no danger, we assume there is no danger. I am here today to say this HAZCOM rule needs to be effective, it needs to be implemented immediately, and enforced just as rigorously as you possibly can.

The film we seen yesterday, my experience since we've been union, we went union in '93, I never had any of this training. You talk about Part 48 training, I see in the Code where it doesn't have any hazmat training in it.
You've got four hours of first aid, you've got ground control plans, you've got the safe operation of trucks and haulage. You get your definition of where you are going in the mine, and stuff.

And I notice this year we had a fatality, one of our foremen, and that took up most of our annual retraining. I think training is an important part.

Before I ever came up here to the Academy, there is a lot of things that I did, that I didn't know that I was supposed to not do. The Academy has helped me really well, and I think training is a continuous thing that we need to learn, and to improve upon.

Because, as you said, your experience with your painting career, yes, you are aware of these things. But I'm not aware of that. I buy something at the store I assume that it is safe for me to use.

Sometimes I read the thing, sometimes I don't. But we've had four, three people that has died in our plant, and as far as I know it has not been reported as job related.

I think that some of our widows are trying to prove that it was job related. But we've had two
with cancer, they are dead, one with leukemia, dead.
We have another one that is not working out with a brain tumor.

That is four people out of approximately 42 people that has got these things. The 13 years experience I had up on the slate dump, they call it magnetite, the slurry impoundment.

And these are some of the things that go into the slurry impoundment. The perk, the ionic, ammonia, caustic soda, soda ashes, and cationic. What kind of chemical is in there mixed together, is creating in that sediment pond?

And that sediment pond, we pump it into the front, the slurry drop out, the water go back to the back, they pump it off, it goes into the other sediment ponds, then they treat it with something. I don't know what it is, it is another chemical.

And also when it come back down, they pump it back to the temple to reuse that water, they rehandle that water. We are washing floors down, we are washing the ceilings down, and also it is treated for us to take our showers in.

A lot of the guys down at work, another man that is retired experienced great rashes on his body. And several times the health department has
came and give us a water advisory when they came to
check the water, that it was not up to standard.

So we has to stay on top of these things.
If you don't have a law, or a rule in effect, that
says specifically that you are going to train your
men, my company is not going to train me.

And I am a firm believer, and I am so glad
that I have had opportunity with the UMWA, to be in
classes, to be trained. And when you go back to your
men, and you try to explain the things that we learn
here at the Academy, they think that you are just
carrying on.

I don't know what it is, I guess it is the
human factor. That they think, well you just think
you've got a little knowledge, and we don't need to do
this.

A lot of people go in with masks. I know
one incident one time, we had an ammonia tank to
burst, rupture, whatever it was. Some of our men
almost didn't get out of the tipple.

And my understanding of this, right now,
this is second-hand, I don't know if you are going to
take it or not, but I'm going to tell it to you
anyway, the two masks we got is our floc man, is our
chemical men, the ones that mixes stuff up to put it
out to the tanks to do the sediment, this, that, and the other.

Well, you have two masks. When the ammonia came in, they provided two masks, and them two guys got it locked up in their locker. I mean, what good is that going to do me if something or another, if my piece of equipment tore up, they have the right to temporary assignment to do any job that I'm capable of doing.

But do they give me everything? They said, yes, this control puts it up, this control puts it down. But what else -- sometimes we don't look beyond ourselves, we look for something down the road that is going to hurt us.

But that thing is right beside of us is going to hurt. I heard one testimony talked about the starting fluid. That is bad stuff. And when I get in my cab I make sure it is out of my cab. But it is back in the next day.

You tell the men but somehow or another it is not getting done. Me, personally, I don't direct that workforce. If you give a regulation and a rule for the company to enforce these things, I think it would go a whole lot better.

And this is human. I had a lot of
inspectors tell me, and I find it to be true, I am my own worst enemy. I say, well, I can get in there and I can paint that in a couple of minutes, and I won't be exposed long.

Well, I can make one more trip, I have a hydraulic leak, but I can make one trip, it would be good enough to do another. So that is where we need continuous training, eight hour annual refresher is not enough, my friend.

Because it is short, it is sweet, and sometimes, like I said, with the seriousness of the accident, we had a foreman killed, sometimes a topic like that will take over the annual retraining.

And I'm sure they try to do the best they can, but I think that the thing is continuous education is what we need, and I sort of like one of the things that MSHA did a few years ago, it was called CAPs, compliance assistance program.

He showed our operators a lot of things they were doing wrong. They was filling out books wrong, they was doing a lot of things that they wasn't supposed to be doing, a lot of things was corrected.

But somehow or another it don't trickle down to the workforce, some way or another. And like I said, I'm finished, I don't know what else to say.
I say let's implement the Rule, let's get it on there.
You are protecting other people, other industry, protect me, I'm my own worst enemy. Help me, I need help.

MODERATOR TEASTER: Thank you, Craig. Just a clarification. The existing Part 46 and Part 48, part 46 for those of you that may not know, is a training requirement for the aggregate industry. It is a separate training regulation just for that segment of the industry.

But both of them have a requirement that just says that they will train the miners in the hazards to which they are exposed. And we get some comments that says that that training is where they cover this chemical hazards training, is where the hazards that the miners are exposed to.

I just say that to clarify, because there is no specific requirement in there that says that you have to do this or that. But just the general subject of hazards. At least that is my understanding of it.

MR. IRWIN: It is not happening.

MODERATOR TEASTER: I think we are starting to get that picture.

MS. JONES: I just want to clarify one
thing. When you were going through the components of
the material that is used in your settlement ponds,
what was the first component that you mentioned?

MR. IRWIN: Perk, P-E-R-K, perk. Magnetite was what -- I tell you, that is another
little story, too.

Three of us worked up there 13 year. I'm
glad you reminded me of that. Phil Opana has had
about 18 inches of his guts took out because he had
Chrones disease, and colitis. Gary Munsy is busted.
These are all the guys I worked with for 13 years. I
have been diagnosed with arthritis colitis.

And I don't know if that is industry or
not, but three out of four working in the same area,
I don't know what that is. And, like I said, all that
stuff is gathered together at one time.

And when I was at the tipple, it wasn't
nothing, if a vessel got stopped up the boss said get
it cleaned out, it wasn't nothing for me to jump in,
up to my waist, getting that cleaned out.

Did I asses all the hazard? Maybe I
didn't, maybe I don't have common sense like a regular
man does. But I assumed there was no danger there.
And I guess you know what that made me, when I
assumed, don't you?
I'm finished. You get me started on something else I will talk all day.

MR. FEEHAN: The perk, do you know what the, what that actually is, is it perchlorethylene, is that what you are --

MS. JONES: That is what I was wondering, is that what it is?

MR. IRWIN: Yes.

MR. FEEHAN: Yes. Do you know of unreported injuries, chemically related injuries?

MR. IRWIN: Myself personally, no. That is why I tell my people to report everything that comes to. I even instruct them to go out if they have to. That way you have a record.

Because these guys going home, like they said earlier, we think we are doing the company a favor, but we are just hurting ourselves. And we need MSHA to help us, we need training.

MODERATOR TEASTER: Craig, we thank you.

Our next speaker is John, and I can't make this out real clearly, but it looks like Early, it is from UMAW local 2300.

MR. ELY: My name is John Ely, United Mine Workers of America, health and safety committee, Local 2,300, Cumberland Mine, Pennsylvania.
I have 25 years working underground. I guess I will just start out reading what I've written here, and then I will take some questions, and maybe elaborate a little bit.

Common sense is something that is important, and should have already been put into place. Many people are currently being exposed to, due to the lack of urgency to get this Rule into place.

To me a hazardous chemical is a hazardous chemical. They are dangerous by their very nature. The dose is very important, just as a drug is important to be taken in its proper dose.

As we all know, an overdose of anything can be fatal. In our particular mine we use a particular chemical which contains carcinogenics, which they spoke about earlier, which is the glue into the roof.

I think that is a common thing in the mine industry today. Our employees are exposed to this on a regular basis, not only when pumping it into the roof, but during the handling of the 55 gallon drums, that could be from the folks outside when they are loaded, to the men underground, as it is taken to the section.
We requested MSHA to come in and do a test in an airborne state. They used dust pumps, they didn't really even have the proper equipment to test that for us. And that is one other issue, I think, that MSHA needs to beef up on, is maybe some testing equipment. So they really couldn't give us an accurate statement as to what was in the air.

On this training issue, I say training is done only to appease the law. If additional training is needed, let's force the operator to do so. Very little, if any, hazard training is done in our annual retraining.

One of my suggestions would be to standardize the MSDS sheets. I don't think that was in your film that you had, that actually mentioned that the MSDS sheets were not a standardized type of a format, you know?

And much like the papers we fill out, like if we fire a boss, or whatever type sheets you might have, it would make it much easier to look down there and see exactly what the hazards were, maybe what the treatment for a burn, or something like that.

I think that is very important to standardize those sheets. And like I talked to a gentleman, in one of our many breaks, we were talking
about as far as the training, we didn't even know what these gentlemen were talking about.

It has become so redundant over the years, I've had like probably 25 to 26 classes of this retraining, and I really believe in my own heart that the company does the minimum to say that they've done it.

And there are some cases where you actually need more. Right now we've got the diesel regulations in Pennsylvania, which are the best in the country. And even at that, we don't like them.

We are forcing our people, we have to actually force the company to train people to run the diesels. I mean, we can't even get them to do it.

And everything is done to the minimum. And I have oftentimes thought that. And training, I've often time used our mind at work, we are not the dummer work force, but we are more ignorant than we were in the past, because we are not being exposed to training.

New equipment coming in, hazards, this type of thing. I mean, it kind of give you a blanket statement, yes you have hazards in the mine. But we need to have more specifics. We are not really as dumb as some people might think we are.
Actually the mining industry is a proud industry, and United Mine Workers is a proud group of men that really just want what is fair for all of us. And someone mentioned earlier, I mean, what we do directly affects the non-union miners, too. I mean, they are still human. We still have to look out for everyone's best interest.

So actually we are kind of like the sacred lamb, I think, for a lot of them at times, to bring these issues to light.

As Mr. Trout asked you earlier, please put yourselves in our shoes, and make a decision based on the facts, they are very evident. I'm sure some of these things are maybe new to you folks, that you've heard today, and I would hope that you would take those in consideration.

And one last comment, as I heard you say in the opening remarks, several times, that the Rule could put a burden on the operator, at some point in time. You did say that, right?

MODERATOR TEASTER: That is what the operators are saying.

MR. ELY: Right. I know you didn't say it, but you are saying what the operator said.

MODERATOR TEASTER: Correct.
MR. ELY: Well, I would like to go on the record and make the comment that I will guarantee you, without a good rule put in place, our miners and our families will have a greater burden than the operator ever dreamed of. Thank you.

MODERATOR TEASTER: Any questions?

MR. PHUC: You mentioned that we should standardize the MSDS sheets?

MR. ELY: Yes, sir.

MR. PHUC: And what is the reasoning behind that?

MR. ELY: Well, you know, usually when someone gets hurt, or they are exposed, it is like an emergency type situation. And I could add that maybe making them readily available.

Because someone mentioned before, maybe after the midnight shift the doors might be locked, that type of thing.

You need to go in where you can open up, and on the first line it is going to say the chemical, the second line is going to say the reaction, the third line is going to say the treatment, maybe the emergency phone numbers.

I'm sure you've dealt with a lot of paperwork, and it is much easier to be able to go down
and read, and have an idea of what is on the first page, second page, or third page.

I have read a lot of them, and every one of them is different.

MR. PHUC: Right.

MR. ELY: I mean, it is just a suggestion. But I think that anything is standardized that is that important.

MR. PHUC: But the few that you have seen, are they -- I mean, how is the language, is it easily understandable?

MR. ELY: Yes, you can read it, but you have to search through it to find out what exactly you are looking for, and was it easily understandable. I would say yes, but at the same time I think it needs to be put in layman's terms.

I mean, I'm not a chemist, I'm pretty impressed with some of these guys the way they can say these things. I don't even attempt to do that.

But, you know, I need to know exactly what it is going to do to me, you know? But I think, when I say standardized, I basically mean the format, you know, one through ten, this, this, and this type of a thing. That way you can look at it and -- do you know what I'm saying?
MR. PHUC: Okay.

MODERATOR TEASTER: John, does the mine operator have MSDSs at the mine?

MR. ELY: Yes, sir, they do, for the biggest part.

MODERATOR TEASTER: And have you reviewed any of those?

MR. ELY: Yes, we have.

MODERATOR TEASTER: Are they in a relatively sequential order of some kind, that you can go find what you want with relative ease?

MR. ELY: I don't know if they would be in a sequential order. However, they are available in a binder type book, it is in the safety department.

But, once again, they are primarily going to be locked up in the afternoon to midnight shift. I think they do need to be made really accessible, more so.

And, like I said, when you look through it, it is not like a Cabellos book, where you have the bows, and the rifles, and the clothing in the back. Do you know what I'm saying? It is like, you've got everything all over the place.

Like you might have one chemical here for the prep plant, and you might have one over here for
aerosol cans. It is just real unorganized. And, like you said, if someone got burnt, and you are trying to find something real quick, it is going to add to the mess, you know, trying to find it.

I think you know what I'm trying to say. I'm not exactly sure how to do it.

MODERATOR TEASTER: Under what circumstances do you go look at the MSDSs?

MR. ELY: We had a situation a while back where they are adding a chemical to our water supply, I believe it is called Polo, it smells like orange. It is a wetting agent that they put in our water.

We looked over it for that. And, once again, the information was sketchy, at best. And we have been trying to get more information on that. That was the last instance I can remember looking at it.

And we do use the foam to spray over casks, and seals underground. And we are constantly fighting for respirators for the folks for that, and the right type of respirator.

Once again we have the same problem, they want to buy the cheapest thing on the market. Once again, they are going to appease the law and say yes, we have respirators. It is an age old fight.
But that is the last time I can recall looking at them.

MODERATOR TEASTER: The chemicals that you use, and this goes specifically to this chemical that has this orange, or citric type ingredient, does it have a label on it?

MR. ELY: Yes, it does. But it is hard to get, because they put that in outside, up above our prep plant, in our yard. And it comes in huge barrels. And it is very --

MODERATOR TEASTER: So it just goes into the water system, as it goes underground?

MR. ELY: The entire water system, yes. Not directly handled. And it is diluted drastically. I don't know what it is. It is a very, very small amount. But you can smell it.

And we've looked at it, and it does -- like I said, it is sketchy, at best. And, once again, you are not dealing with a brain surgeon here, you know?

I mean, I try to do my best, but I can't read some of that stuff. And that is another thing. I think it needs to be written so the average guy can read it. I'm doing my best but sometimes it is hard.

We are doing it in our best interest, you
know, but it is hard to keep up with.

MODERATOR TEASTER: Based on your knowledge does the miners themselves request to look at those MSDSs?

MR. ELY: Yes, they do. In this particular case they have, and they continue to do so. I have yet to convince them that it is not going to kill them somewhere down the line, to be honest with you.

I mean, it is still a concern in our mind. And we have to get that under control. I mean, it is still an issue, I will put it that way.

MR. FEEHAN: I am going to ask the same question.

MR. ELY: Okay, I will give you the same answer.

MR. FEEHAN: Do you know of unreported chemically related injuries, and can you quantify it?

MR. ELY: I can't really say of any unreported chemically related injuries, I can't. I would like to think that we have none, because I just don't think we do at this point.

MODERATOR TEASTER: John, we appreciate it.

MR. ELY: Sure, thank you for your time.
MODERATOR TEASTER: Let's go off the record, Ed.

(Whereupon, the above-entitled matter went off the record at 2:14 p.m. and went back on the record at 2:38 p.m.)

MODERATOR TEASTER: Our next speaker is Dwayne Barton, he is a coal miner.

MR. BARTON: Thank you. In opening I would like to thank the Panel for allowing me the time to speak here to you today.

My name is Dwayne Barton, and I work for New Brunswick Coal Limited. I come from the East Coast of Canada. There I serve on the safety committee, and I'm a recording secretary for the local union. I've been a mine worker for 24 years.

I've just recently been reelected to my second term on Village Council. I've had the opportunity and the honor to come down here for the past ten years, to learn in this great facility that you have here in the United States of America.

And behind me all these Americans are my friends, they have been my friends for a long time.

The other night at supper there was a discussion going on about a Hearing here today, the one that you are having here today. And I said to
someone, what is the Hearing about? They said, hazmat.

I said, what is hazmat? They said, that is a system that they are trying to put into place for -- to deal with hazardous chemicals in the worksite. I said, you are pulling my leg. They said, no, no. I said, you don't have that in place yet?

In Canada we have been under the WHMIS program for the past 20 years. WHMIS, which is spelled W-H-M-I-S, is the workplace hazardous materials information system.

It is a system that deals with everything that is made in Canada, and shipped out to companies. The company is responsible for providing -- the manufacturer is responsible for providing the companies with the information on everything they ship us.

They have to tell us, first of all, what is in the product, what the name of the product is; what are the possible harmful effects from the product; what protective safety equipment do we need to use this product, and what could we do if an accident happens while using this product. Plus a 1-800 number that we can get information that we are not sure of.
I hope what I'm saying here this afternoon will help you in making your decision to protect the coal miners of the United States. And I hope the United States government does catch up to Canada in their program to protect them from chemicals.

I don't know what kind of a cost you can put on human life. I would like to say this, I hope I don't offend anybody. But on September 11th you guys suffered a terrible, terrible thing here in the United States. Six thousand people lost their lives in the blink of an eye.

That is a terrible thing. And because it all happened at once it received world-wide news, and should have. We should be aware that there are terrorists out there.

But in the 20 years that the Canadians have been protected by WHMIS, there is a good possibility that 6,000 Americans died from using chemicals on the work site. And I think it is time that the United States government put their program into place, and protected the lives of the miners here in the United States of America. Thank you.

(Applause.)

MODERATOR TEASTER: No questions.

MR. BARTON: Thank you.
MODERATOR TEASTER: Our next speaker is Danny Smith, United Mine Workers of America.

MR. SMITH: My name is Danny Smith, I've been a United Mine Workers of America member as an employee of U.S. Steel, number 50 mine, for 25 years.

I have seen much new technology come to the coal mines during those years, including the widespread use of chemicals. Today I'm here to speak on the hazard communication rule that we so desperately need in our industry today.

In today's business world the right to information is at a premium. However, in our industry, this obviously does not apply.

We, as a workforce, have been trying to obtain a fair hazard communication rule since November 2nd, 1987. Thus far this struggle has been very one-sided.

MSHA has had numerous opportunities to put this rule into effect. I would very much like to express my concern about just some of the language in our proposed rule, such as operator, or chemical manufacturers not being held responsible for inaccurate labeling and material safety data sheets.

We are being exposed to chemicals that we are not familiar with, nor do we know what toxic
effects they may have on our health, or on the environment.

We also need to know specifically what first aid treatment to administer to ourselves, or our coworkers, in case of exposure to these chemicals.

This problem of not knowing these chemicals, or their ill effects, will only grow as technology advances, and we are introduced to new chemicals regularly in our workplace.

I have been in two information gathering type meetings with MSHA in the past three months. I have been quoted some of Mr. Lorenski's, the assistant secretary's goals for our industry for the next four years.

He would like to have a 15 percent decrease in accidents and fatalities in each year, during this time frame. We need this rule in order to eliminate, or greatly reduce, the risk of injuries or deaths relating to chemical exposure.

I have seen my employer apply for, and receive, changes to MSHA regulations and plans, very routinely. MSHA representatives always seem very receptive to the employer's ideas.

It concerns me greatly that employees cannot receive needed information about the hazards
that we are exposed to daily.

In closing, I would like to say that ours is the only industry in West Virginia that this crucial information is being withheld from. This has been a hot and cold issue for almost 14 years, and continues to be so.

If we aren't truly working to prevent injuries and deaths, by enacting this rule, once and for all, then I feel the matter should be completely dropped, without the pretense of later consideration, and being shoved back on a back shelf, as has been the practice thus far.

Thank you for your time and patience in hearing my concerns.

MODERATOR TEASTER: Thank you, Danny. Danny, are you aware of any injuries that resulted from chemical --

MR. BARTON: No, sir, honestly I can't say I've -- I can't honestly say that I have ever heard of any at our mines.

MODERATOR TEASTER: How many miners do you have?

MR. BARTON: Close to 500.

MODERATOR TEASTER: 500.

MR. BARTON: I'm an underground employee.
and I've considered for years moving into our preparation plant. But after hearing what my union brothers and sisters are telling me about the chemicals there, you know, I'm kind of hesitant to go there now.

And I've been a safety committeeman for only three months, and I've already experienced one opportunity to deal with hazardous chemicals in that we were at our plant, on a different problem one day, and one of the mechanics came up to me and asked me about a particular chemical that they used. And I think it was the one that somebody said it was Floc, and he said he had asked for an MSDS sheet for it.

And it had been three days and the employee had not afforded him that sheet. So myself as a safety committeeman, and another safety committeeman, went to the company's safety person and asked for this. And they said they did not have it on the premises, but they would afford him one.

So two days later they came up with the sheet, the fellow called us and told us he had received the sheet on it. But, you know, I can relate to a lot of the chemicals that they are talking about using underground, as I don't know the exact name of the chemicals, but the type that they glue the top
with.

And we have sealed part of our mines off, and they use a chemical similar to this when they build the seals to put around it, to stop any leakage through our seals, when we seal part of the mines off.

And as far as the Part 48 training, I've had it for 24 years, and I can't remember any relations, you know, referring to the hazardous chemicals.

MODERATOR TEASTER: Thank you, Danny.

MR. BARTON: Thank you.

MODERATOR TEASTER: Our next speaker is Daniel Bradley, United Mine Workers.

MR. BRADLEY: That is David Bradley. My name is David Bradley, and I work for Peabody Coal Company in Boone County, West Virginia, and I'm a prep plant utility man on the day shift.

In our prep plant we have stationary tanks that we have floc, frother, kerosene, and other chemicals I'm really not sure of, to be honest.

These are marked as hazardous chemicals, but as far as any kind of data sheets, the data sheets and MSDS sheets are over our heads to really get anything out of.

I mean, you can look at it, and I'm not a
chemist like everybody else. They will use big words that we don't know what they are. Most of the people that use it, the fine coal circuit operators, know what they do, and what they are used for.

But to me they are not labeled right, and they need to be labeled in a safer manner. And I think everybody should be trained on exactly what we have, and what it will do.

Besides that I have a little story to tell about our supervisor asked me, like I said I'm a utility man, which I'm all over the plant, do different things. And he asked me to take the bobcat with the forks and go up and remove a 55 gallon drum, he said it is the only drum sitting there, behind the coal lab, and take it up to an old haul road that we use, where we have abandoned equipment, a junkyard basically.

So I got the bobcat and took it up there, and he said be real careful with it. It had never been opened, it wasn't labeled, nothing on it. And I noticed the bottom of the drum, it was on a wooden pallet, I noticed the bottom of the drum was rusted, it wasn't leaking, I made sure of that, because I didn't know what it was.

And I took it up to the haul road, and set
it out in the middle of a field, and I brought it back. And when I came back I was curious, it was quite a trip. So I went up and asked the coal lab man what it was, and he said he thought it was perc, which I didn't have any idea at the time what perc was.

So he started explaining to me exactly what perc was. And I went to my supervisor and asked him for MSDS sheet on it, and he pulled it out, which I didn't look at it, he didn't hand it to me to look at. He pulled it out, and he pronounced a name this long, you know?

And he said it is used to float coal. But after today, and I've talked to several people that is more knowledgeable on this than what I am, it is pretty bad stuff. And I've handled it several times like that.

And about a week or two after I had moved that we had a state mine inspector come on the property. So somehow he found out about the 55 gallon drum. I can't tell you where from.

But he managed to go up there and look at it, and ordered it to be taken to the warehouse, in a fenced off area that we have there, that we store different things.

So it was there, never was labeled, and
probably a week later, I'm in the warehouse various
times during the day, and about a week later it
disappeared, never saw it again. I don't know where
it went.

But something like that needs to be, you
know, taken care of. If there is a hazardous chemical
on the property I think everybody should be aware of
what it does, aware of what chemicals are involved in
all the processes of the plants.

Not one person, not the person that is
handling the chemicals, per se, is the fine coal
circuit man. But I have to handle the chemicals
because of my job as a utility man. And everyone
should know about them, because they are all around
it, every day, 24 hours a day.

And that is pretty much it.

MODERATOR TEASTER: David, how long ago
was this?

MR. BRADLEY: This was, I would say,
probably six months ago, six to eight months ago.

MODERATOR TEASTER: And there was no label
on that drum?

MR. BRADLEY: No, no label. There was a
label that was on the drum, and it was probably four
inches square, that was paper, that was stuck on
there. And through the weather it had deteriorated, and you couldn't read it to see what it was, or whatever.

MODERATOR TEASTER: And do you have any idea how long it had been there?

MR. BRADLEY: No, not exactly. The man at the coal lab that actually uses it, after I spoke with him, he told me it had been there a while. And he doesn't use it on a regular basis. But it was there. And, of course, the bottom was rusted, it wasn't leaking, but it showed signs of deterioration on the metal.

And he explained to me that since he used it, and he was probably the most knowledgeable person of it, I asked him what he did with it, and he said it was used to float coal.

And he said whenever he used it, he would use an apron that was made out of a rubber material with the arms, and they were just like a doctor's jacket, or whatever, that you slip your arms through, and ties up behind the neck, rubber gloves, and the apron comes down here to cover him there.

And he handles the material. And he said at one time, and it didn't happen at that particular site, that he had spilled some on his boot. And he
said he immediately went and washed it off of his work boot. And through the day, as he went on, he didn't change shoes, and didn't change socks. And when he got home in the evening, that the top layer of skin had been burned off of his foot like a blister, and he had ended up missing work.

But our coal samplers, our contractors, which I'm sure that, you know, like it didn't happen on that site, but it was just something that happened, and it was something I thought that should have been, you know, if it happened any time it is a terrible thing. And a chemical like that is -- it doesn't need to be around the mines and not labeled.

And set aside, you know, out beside a road where if you get it in the water table, it could get on anyone, and especially with the drum in that condition.

MS. JONES: Excuse me, did the fellow who had the rubber apron on, also have a respirator on?

MR. BRADLEY: Yes, yes, ma'am, he did. And in our 8 hour retraining classes that we have, we always take, they try to break it up to accommodate everyone on the job.

We have deep mines, prep plant, and we have a small strip job. And they try to cover
everything. The safety department does a real fine job there. And if you need any information they will give it to you.

And, to be honest with you, I didn't really know that the situation with the chemical, the laws and stuff, wasn't in effect, and wasn't covered by MSHA.

But I'm sure that anything that I need, that would be in a reasonable manner, they would probably do to help, you know?

But it is just like any other thing, companies aren't going to, and my company included, they are not going to do anything to spend a whole lot of money, I mean, in great amounts of money, to do anything unless there is a real hazard, which there is a long-term hazard, I'm sure, after listening to everyone today, there is a long-term hazard.

And the way we look at MSHA is when we see an MSHA mine inspector pull on-site it is like a knight in shining armor coming up. I mean, we really look up to MSHA. And if we have a problem that we can't get fixed, we can always go to that man, and if he writes it up, if it is a violation, or recommendation, that is one thing we can count on.

They are mostly stand-up people, and we
are hoping you all are going to be stand-up people on this. You know, we hope you are.

MR. PHUC: Excuse me, I have a question. Who usually conducts the part 48 training in your mine?

MR. BRADLEY: The safety department.

MR. PHUC: The safety department. So there is not like a contractor coming in?

MR. BRADLEY: No. As a matter of fact all the safety, the department, in our division they usually get together, and they have a real, it is a real informative 8 hour retraining. Like I said, they try to break it down, and try to cover the things.

But we usually on the hazard materials, it is usually a 45 minute to an hour, to each class, and it is covered, like for truck haulages an hour, hazard materials is an hour.

But as far as the hazard materials go, I have been there for 25 years, and the only thing that I can remember covered in an hour's time, is always wear rubber gloves, glasses, respirators.

And a lot of times, you know, just like everybody else, you can go to the supply house and they say, well, we don't have that kind of respirator,
you are going to have to use this one.

   And I know it is not, you might not be
exposed to it for about 15 or 20 minutes, but it is 15
or 20 minutes I don't want to be exposed to it. And
I will remove myself from the job if it comes to that,
now.

   And I'm sure that anybody with a little
bit of common sense, I'm sure they will too, now. And
should before.

   MR. PHUC: And how big is your mine?

   MR. BRADLEY: At the prep plant we
probably have 30 people. And I know at the deep
mines, altogether, probably over 100.

   MR. PHUC: Okay, thanks.

   MS. HUTCHISON: In your annual refresher
training do they cover dust and noise?

   MR. BRADLEY: Yes, ma'am.

   MS. HUTCHISON: Okay, so they do cover
that?

   MR. BRADLEY: Yes, ma'am.

   MS. HUTCHISON: And they cover hazardous
materials in general, just not specific ones?

   MR. BRADLEY: Right. They will cover
stuff like WD-40, stuff that, you know, that people
use every day, spray cans of paint, minor stuff like
that. And most of the people that are teaching the class, and this is one thing that concerns me more than anything, is the instructors at the class, I mean, are college educated people, they are well informed people.

But they don't have any idea what the chemicals at our prep plant are, and what they are used for. And to be honest, the people that actually use it, don't really know what it is, and what it is used for.

They know the names, and they have a, just a real small idea of what it is. But as far as being in-depth, they are just like everyone else. I think that is one of the reasons that the company, I think it is -- I don't want to say they are stupid.

But ignorance is the type of thing where you are not informed about it, and if it doesn't concern you, you don't worry about it. So nobody has ever brought it up.

MS. HUTCHISON: How do you train new miners about the chemical hazards, say you have a new employee come to your prep plant?

MR. BRADLEY: We haven't had a new employee there forever.

MS. HUTCHISON: Really?
MR. BRADLEY: Yes, as a matter of fact we have lost several. It is like everywhere else, there has been reduction in work force, and cut back. And unless they are actually put specifically on that job, as far as being task trained on hazardous materials, they are done a general task training job on the job itself.

But as far as the chemicals go, like I said, I don't think the supervisors even know, you know, exactly what is going on. And it is a sad thing that they don't.

I mean, if I was on a job like that, I would want to know. And now that I know what I know now, I will find out. I'll find out what it is. If I do have to go the manufacturer, because I will go to the safety department and get a list to find out.

MODERATOR TEASTER: Thank you, David.

MR. BRADLEY: You are welcome.

MODERATOR TEASTER: Our next speaker is Samuel Johnson, United Mine Workers.

MR. JOHNSON: Hello. My name is Samuel Johnson, I'm with the 1332 local, and I'm employed with the United Mine Workers. I'm with Peabody Coal in New Mexico.

What I understand, I like to bring up,
this about what we are talking about everything, you
know, the point of view how I see this whole thing.
We can be talking, and talking, and even trying to beg
you guys to, ask you guys to make a change.

But, you know, it is up to you as a panel
to decide what is good for us or not. I'm not well
educated, or I'm not a good speaker, or anything like
that. But just by reading what I've read, I feel I
understand, and I would like to bring it to a point
that what are we waiting for?

Like our senators and congressmen are
saying, what is -- we are going to have start thinking
the unthinkable, and start doing the unthinkable.

And our nation knows, it was brought up
that some unlabeled chemicals were going to be used in
these air crop spraying machines. It is -- this issue
is a big problem, which what do we, what does it take
to happen, to make us wonder? These things could
happen, a disaster. Are we waiting for a disaster to
happen?

I feel if we don't do anything today, or
in our time, I wouldn't be able to forgive myself
saying that I never did try to make a change. And all
I'm asking is we would like to make this change, to
prevent any type of disaster from happening, before it
is too late.

Let's not have this incident happen in our
time, that is what I'm asking. That is all. I'm not
asking for much of your time, that is just my concern,
from my point of view, where this whole thing is a
bigger issue than we are asking, unlabeled chemicals
coming to our nation from overseas, you know?

By the time we find out what it is, it is
too late. That is all.

MODERATOR TEASTER: Thank you, Sam.

Our next speaker is Tom Baker, United Mine
Workers.

MR. BAKER: My name is Tom Baker, I'm --
I worked 33 years in a surface mine in southeastern
Ohio. I'm on the safety committee, also the mine
committee.

A few things I wanted to touch on have
already been covered, so I will make it a little short
here, to keep things moving.

Under the current writing of the Rule mine
operators are required to prepare labels for any
hazardous chemical produced at the mine. However, the
Rule should also require the operator to place the
label on all containers that are used to store or
transport such material.
The UMWA is also very concerned with the Agency's decision to allow a three month delay in updating these labels. Operators must be aware of what substances that they are creating at the time of production. Delaying any labels, delaying any labeling update simply places miners at risk.

A few things. One thing in particular I want to talk about is the AMFO. AMFO was, a man by the name of the late Timothy McVeigh's weapon of choice in Oklahoma City. Most of the surface operations use this product. It is ammonium nitrate and fuel oil.

When detonated, or fired in anything but a perfect explosion, AMFO creates a hazardous gas, it is an orange cloud of smoke. It spread out wide, no matter where you are at. Where we work at we are surrounding by thousands of acres of reclaimed land.

This hazardous gas spreads out, it will stop engines from running in vehicles. You just can't hardly breathe it. We have MSDS on fuel oil, and ammonium nitrate, but there has been a lot of talk, even some talk of research on the gas that is produced. We have nothing, there is nothing yet.

I've been involved, I was involved with it for 22 years of my 33 that I worked out there. I
have a lung fungus myself, I can't directly attribute
that to working around ammonium nitrate.

People I have worked with have had
chemical burns from handling the nitrate, especially
in the summertime when it is hot, their hands and arms
burned, have gotten burnt. In some cases they've had
to take time off.

I guess talking about the poisonous gas,
we have created a chemical, or a chemical reaction.
I wanted to talk some about the prep plant, it has
been pretty well covered.

In my workplace we have three cancer
cases. One has passed away, one is on medical leave,
will never return, and one is now working with daily
medication.

The recycling of the water, the process of
cleaning the sludge, the byproduct of the clean coal,
those are the different phases, is treated, pumped up
on the hill to the impoundment, floats down to our
clean pond, so to speak, back to the prep plant, and
the water is reused.

The only thing we don't do with that
water, we don't drink it. That has already been
covered. But the solvents we use for cleaning, we mix
with oil and grease, we've created a chemical,
chemical reaction.

Used grease is stored in barrels, some of them are marked hazardous material, some are not marked at all, they are picked up by an outside contractor. There is nothing on the truck, any labeling or anything on the truck that hauls the grease away.

So short and sweet, that is what I want to talk about today. And I hope we can come up with something that everybody can live with. Help us miners working now, help our children, and the people that work in the mines later, if there is mines to work at in years to come. Thank you.

MODERATOR TEASTER: Thank you, Tom.

Tom, the three miners that you mentioned, that had contracted cancer, was there any connection back with those diseases, back to their occupation?

MR. BAKER: No, there wasn't. But they were all three --

MODERATOR TEASTER: Were they working at the time they were diagnosed with cancer?

MR. BAKER: Yes, they were. One is still working, one has passed away, and one --

MODERATOR TEASTER: One of the speakers earlier made a reference back that the doctor had said
that it was as a result of some handling of chemicals. Do you know if that was the case here?

MR. BAKER: That has never, I've never heard that with our people. It is the same as the floc, it is a magnetite. But I've never heard that it was directly connected with the chemical.

MODERATOR TEASTER: And were these three miners exposed to essentially the same type of chemical?

MR. BAKER: Exactly.

MODERATOR TEASTER: Over a prolonged period?

MR. BAKER: Ten to twenty years.

MS. HUTCHISON: The Interim Final Rule required that portable temporary transport containers for hazardous chemicals did not, or it stated that they did not have to be labeled if the person knew what was in them.

And I was just wondering, when you were talking about storage and transport containers, if you were talking about these single use, or the small transport containers that miners use when they take chemicals as part of their job, to use?

MR. BAKER: Are you talking about the used grease that I was referring to, that was picked up by
MS. HUTCHISON: No, I'm not, I'm talking about -- well, when you were speaking earlier, you were talking about labels, and that storage and transport containers need labels too, any labels that were produced at the mine.

And I was wondering about, say, the grease before it is used, unused grease, unlabeled hydraulic fluid, lubricants.

MR. BAKER: They are labeled what they are. As far as the hazards, no.

MS. HUTCHISON: So in your experience these chemicals are already labeled when they are taken to be used by the individual miner?

MR. BAKER: No. On the hazards? They are labeled hydraulic oil, bearing grease, motor oil. But they are not -- the information on the hazards of the material, no.

MS. HUTCHISON: Okay. So would it be sufficient, or adequate in your estimation, or experience, that if the container said -- I don't know, grease, or hydraulic fluid, that the miners would know the hazards without them being listed on the container?

MR. BAKER: Not really. It is something
you don't drink, or put on your face for makeup. No, as far as the -- and we do have MSDS sheets on these things.

But, like I said, you use a solvent to clean grease, or hydraulic oil, or something like that. Have we created another chemical, have we created a chemical reaction once we've cleaned this, the hydraulic oil or the grease, have we created something new here? That is what I was saying, more.

MS. HUTCHISON: Okay. Another question about storage and transport. The Interim Final Rule also does not require the labeling of storage containers for the mineral being mined, or milled, while it is on mine property.

Were you intending that those be labeled as well?

MR. BAKER: Yes.

MS. HUTCHISON: Like coal, or sand, or --

MR. BAKER: No, not -- I was thinking more, the fellow referred earlier to say that water treatments on the road coming in, stuff like that. What was put on the road, and it is worked into the air, it is airborne.

MS. HUTCHISON: So you weren't referring to the raw materials, you were referring to chemicals
that are produced by mixing other materials, or reactions?

MR. BAKER: Reactions, yes.

MS. HUTCHISON: Thank you.

MR. BAKER: Thank you.

MODERATOR TEASTER: Thank you, Tom.

Our next speaker is Mike Browning, United Mine Workers.

MR. BROWNING: Hello, I'm Mike Browning, I'm from Local 9177.

You stand around and think about some of these things these people said. I have sat here and listened to this today. If we reflect back every one of us knows people that has had cancer.

A number of us have known people that have had several different diseases. And I have heard questions up here today that several times, how come you have not filled out an accident report out on this?

Well, myself, I've experienced this myself. I had an eye problem. Both of my eyes were covering over. It looked like I had pink eye in both eyes. I went to my doctor and he told me, he said, one of his first questions to me were, what work environment are you in?
So, to me, that tells me he suspects that some kind of chemical is causing my problem. This went on for a three or four month period. I didn't know what was causing my problem.

He finally sent me to a specialist, and he checked my eyes, and he couldn't figure out what was causing the problem. So he sent me back to my doctor, and through time and effort I finally figured out what was causing my eye problem. It was a cleaner in an aerosol can.

It was a citrus orange all purpose cleaner. I quit using that cleaner. I'm a mobile equipment operator, and I was using it to clean the inside of my vehicle, my truck. When I quit using that product my eye problem went away.

And I've had another problem. I used to shower at the bathhouse. I broke out in a rash. They treat the water there. I can no longer shower at that bathhouse because the water breaks me out, because it is treated with chemicals.

I've heard all my union brothers and sisters say today, they have poured their hearts out here, these are things that -- it is tough teaching every one of us, and it has made us more aware of our environment around us.
We have been led into a false sense of security at our workplaces, that these chemicals will not hurt us. And when we don't fill out accident reports it was because we don't know what has caused the accident.

And by the time we figure it out, or find out what is causing it, it is too late, we have been exposed to these chemicals. I feel that is why we need these stiff regulations.

I have a friend right now that is dying of cancer. He has probably got three or four months to live. And he is one of my coworkers. All these chemicals that these guys have talked about today, I have been exposed to.

What is this going to do to me? When it shows up, what am I going to be able to do about it? If I would have had information on these chemicals, and knew the hazards of these chemicals, I could have protected myself.

But I didn't know the hazards, I don't know what is going on. That is why we need a new, stiff regulation to stop these chemicals.

I do mobile equipment work. Our plant is idle on Mondays, I do maintenance work on Mondays. I go in, I can't shower at the bathhouse. I go home, my
clothes are filthy.

My grandbabies come up to me. What am I doing to my babies? We are asking you all for help, and we want you to please help us in this, and get something done. Thank you.

MODERATOR TEASTER: Thank you, Mike. Mike, if we could, the chemical that you was using, the orange spray that cleaned the inside of your vehicle, did that have any type of label on it?

MR. BROWNING: It has labeling. I'm a coal miner, I don't understand the labeling on it. And even if I read it, it has a caution on it. I have a false sense of security, they are not going to hurt me, they are not going to give me something that is going to hurt me. But they are.

MODERATOR TEASTER: It only affected your eyes?

MR. BROWNING: They thought that I had glaucoma, they thought I was going blind, and it was the chemical.

MODERATOR TEASTER: But it only affected your eyes?

MR. BROWNING: Just my eyes.

MODERATOR TEASTER: Was there anything on there that mentioned about the potential damage or
irritation to the eyes?

MR. BROWNING: It is the same as all aerosol cans, use in a well ventilated area. You can open your doors on your truck, you clean your truck when you have time to clean it. If you are waiting on a load, you may be able to clean that truck.

That is part of our work order every day, clean your equipment. We will provide you with stuff to clean your equipment. Since then I've went to a furniture polish for mine, I won't use that stuff any more.

We use ammonia-based window cleaners in cabs of trucks, enclosed cabs. These cabs are to be sealed and kept sealed because of dust protection. But yet they are still telling us use this product to clean this. They don't care if they put us in a hazardous position, for the simple reason that there is nothing to make them to.

If we don't get a law, or something, we are going to kill ourselves slowly. We've got an opportunity here to do something, to change this. And if we don't change it, like some of the other guys said, we have failed.

I know you all are here working for us. Every one of us are safety committeeman, or mine...
committeeman. Everyone of us have got people that we are working for. We are here for basically the same goal, to help protect our coworkers, and fellow americans, and anybody else that it might help.

And I love my family as much as anybody does. And I hate to think that I was the cause of one of them getting a disease because I carried it home from work.

MODERATOR TEASTER: Yes, I appreciate that, and understand that, Mike. And we are trying to get as much information as we can to draft this rule, and draft something that is going to be helpful and meaningful.

And any questions that we ask is to clarify and to expand on. Just like I ask about the reading of this label, not to say it was your fault, I was just trying to find out, are these labels giving us the information that we need to protect ourselves?

MR. BROWNING: No.

MODERATOR TEASTER: I think it may be in concert with the labels, with the MSDS sheets, and the training, collectively, that we can get the information that we need.

MR. BROWNING: It is so bad that it's got to where if they got an empty container, and they need
a chemical, antifreeze is a common thing where we work, they will take a blue ink pen and write antifreeze on top of a can.

They will fill those cans up and store it, sometimes on the top of, over our bathhouse, or over the mine office. You go up those steps when you need antifreeze. If there is none, if somebody has used all the antifreeze in that area, they will grab one of the white buckets, write in there antifreeze on top of it, that is what you get.

It is -- it may be our fault because we have let it go for so long. And we are there trying to make a living. We are going to do what we can to support and feed our families.

But I don't want to be put in a hazardous situation to support my family, if I can keep from it.

MR. PHUC: Was your injury reported?

MR. BROWNING: No. That is what I thought I just explained. Instead of the company having to pay compensation, which I didn't miss any work with this, but it cost me a lot of my time, and it cost me a lot of my money, and a lot of travel expenses, that I had to pay for a chemical or a situation that they put me in.

And if we had a stringent law that would
tell me, and I've heard some stuff on these training classes, they try to cram so much into an 8 hour training class, there is no way we can go over this.

As I hear these other guys talk about they've not had any hazard training, we just hired a new guy where I work. I done the task training for some of the equipment he was running. And other employees, coworkers, done some more of his task training.

What was done was what I knew. I didn't know that I needed to task train him on hazardous conditions, because I wasn't aware of it. This trip to the Mine Academy, if I don't get nothing else out of it, has been worth it, because I have learned a little bit about hazardous materials, and their effects.

And I hope that there is no more delay on this, that we can get this law into effect, and get it settled, not only for our sakes, but for our kids' sakes, and our family, and our coworkers.

MODERATOR TEASTER: Thank you Mike.

MS. HUTCHISON: The hazard communication standard, for the most part, would not cover consumer products such as you described, a window cleaner, citrus orange, things like that that are used, just
like you would, in a normal household.

Our supposition was that the label on the container, as required by the consumer product safety commission, would contain enough information to help you protect yourself.

And since that does not seem to be the case, how would you suggest that we remedy that situation? I want to, first of all, affirm that it is very true that many people think that a consumer product is safe just because they sell it in little cans, and it has a label.

There are some extremely toxic chemicals in these little consumer products that are all around the mines. And -- but this hazard communication standard does not address them unless they are used in greater quantity, or more frequently than a normal household use.

MR. BROWNING: We work in a dusty environment, and these containers are used every shift, by each individual employee that drives that truck. That is a whole lot more than what you do in a house.

And as far as these chemicals, I think anything that may harm me, or anyone else, should be listed as hazardous. We talked about glue earlier, I
think you said that was exempt from this policy. They had made, a couple of Mondays ago, they glued ceramic in ceramic chutes for the coal to keep from wearing the chutes out. We was having a problem at our plant with those chutes stopping up. They had me take a hammer and break the ceramic out of there. Then I had to take a cutting torch and cut through the glue, with the torch, and the metal. What kind of gas did I create? I don't know, because we have no sheets on it.

And I've heard you say that you want to exempt certain things from this. This is where I say that any chemical that is a potential hazard should be covered under this agreement.

This is a common practice, I'm sure many of my coworkers have done the same thing. We are creating gases, we have no idea. Then after I cut it out, I took a welding rod, and welded over the rest of the area, and it heated the rest of the glue up around that area.

And this was all on a 12 hour shift. I probably spent 10 hours in that chute, welding in that, whatever fumes may have come off of there. I want to be able to see what that is going to do to me before I'm put in that environment.
That is why I think any hazardous chemical
that is used in a mining operation, or anywhere,
should be listed as hazard, not exempt anything from
it.

MODERATOR TEASTER: Thank you, Mike.

MR. BROWNING: Thank you all for your
patience.

MODERATOR TEASTER: Our next speaker is
Edward Yevincy of the UMWA.

MR. YEVINCY: Good afternoon. My name is
Edward Yevincy, local 2470. I have been employed in
the mining industry for 22 years. My employer is
Peabody Coal Company. The operation is Canton 9
preparation plant.

My concerns are dealing with MSDS sheets.
The company keeps the MSDS sheets on some of the
chemicals they use. I'm not sure about all the
chemicals they use.

This information is kept in the safety
supervisor's office, and that is not made readily
available to us at certain times of the day. I was
informed of this because I'm the chairman of the
safety committee.

They told me they keep this information
here, so they informed me, because I'm the chairman.
I don't know if the rest of the employees are aware of where the MSDS sheets are located.

The company also changes distributors of the chemicals. Sometimes they can get it through a different company at a cheaper price, so they change distributors. I don't know if the chemical composition is made up the same as the previous chemical we had.

And they also use the same MSDS sheets with the new chemical that came with the old chemicals.

Another problem is that some of the employees I work with can't read. And the company has made no effort to read these MSDS sheets to these people that can't read, that have to use them.

Myself I think that every new chemical in the preparation plant, and every existing chemical that has an MSDS sheet, should be read to the employees, and made readily available to all employees.

Thank you.

MODERATOR TEASTER: Ed, you said that the operators should read these MSDSs to folks that can't read.

MR. YEVINCY: Yes.
MODERATOR TEASTER: Are the other folks, are the other miners reading them?

MR. YEVINCY: Some may be, not to my knowledge, very few has. The only reason I'm aware of them, like I said, is because I'm chairman of the safety committee. But I don't know that all of them are reading them.

And I know some of them have been set to use these chemicals, or products, and they can't read. So I know that the company people haven't went down there and read these off to them, what this contains, what cautions you are supposed to use.

MS. HUTCHISON: Have you personally read any MSDS sheets?

MR. YEVINCY: Yes.

MS. HUTCHISON: Do you find them difficult to understand?

MR. YEVINCY: Yes. Certain chemicals are difficult to understand, terminology I'm not familiar with, certain aspects of them, I don't understand them, you know? I pretty much can.

MS. HUTCHISON: Did you see the video that Richard showed yesterday?

MR. YEVINCY: No, I did not.

(Unmiked participant.)
MS. HUTCHISON: I was just wondering if that helped you understand what the terms on the MSDS meant.

MR. SNASHALL: Have you received, under part 48, training in hazardous chemicals?

MR. YEVINCY: I have been employed 22 years with Peabody and to my knowledge never in annual retraining have we went over anything to do with chemical hazards, other than radioactive material that we have located in our preparation plant.

MR. SNASHALL: And what about task training, has there been anything in the health aspects?

MR. YEVINCY: No, not on hazardous materials, no.

MODERATOR TEASTER: Just broaden that to any training. Have you had training in hazards associated with chemicals?

MR. YEVINCY: If it is any at all, it was very brief, and I can't recall any myself.

MODERATOR TEASTER: Okay. Thank you, Ed. Our next speaker, and the last one that is signed up is Tim Baker, from United Mine Workers.

MR. BAKER: I would like to thank you for having the hearing, and allowing the concerns of a
whole lot of miners be heard.

    I think there are some misconceptions here. And before I get into any major comments I would like to make a few brief comments on what I've heard.

    You know, we have continued, or you've continued to say how many times have you become aware of a chemical accident, and we have heard a few of those.

    But I think we are missing the point here. We will deal with a chemical accident, whether it is a spill, or whatever it is, and somebody is burnt, is one thing. The major point here also is that after working with this stuff for 20 years, what do I have.

    Latent effects are not an accident that happened today, they are not an accident that happened three times over the course of a career. They are what I breathe for 20 years.

    They are what my employer brought into a plant, told me I was going to use, and have to use to get a job done. And I have no idea what it is, I really have no idea what it is.

    So we need to look past this particular incident that occurred today, I need to know what happened from the careers of these guys, and for
myself.

   And I guess before I get too far along, I should introduce myself. I am Tim Baker, I'm the Deputy Administrator of Occupational Health and Safety for the United Mine Workers.

   Joe Main sends his apologies, he would have liked to have been here, but obviously other matters took him away.

   The other thing I think that we miss is, we talk a lot about common sense. For any of you who have worked in the mining industry, miners generally speaking aren't allowed to have a whole lot of common sense on the job site. Like it or not, it is a fact.

   You are told what to do, and when to do it, and how to do it, and there is not a whole lot of leeway here to say, gee, I wonder what effect that is going to have.

   You know, a lot of things happen in an 8, or 10, or 12 hour shift that you have to keep that production going. And, you know, we have tried for years to convince operators that they need to hire us from the neck up, as well as the neck down, but a lot of them still don't believe it. And that is a matter of fact.

   And I'm glad that we are finally seeing,
after 14 years, I'm glad somebody is finally seeing
that we are not getting hazard training, and haven't
been getting hazard training. And I have been in the
industry 25 years, and I can say, without a doubt, I
have never been trained.

In the 16 years I spent underground, I
was never trained on the hazards of any chemical. So
I don't think it should be a surprise. I don't think
it should be a surprise at all.

What I think I want to focus on now, I
want to read some comments that I have already
prepared, and I will try to make it brief. But I
think the issue is extremely important, and I think
that when you look at where we are at, from 1987, we
are no closer to a rule right now, than we were in
1987.

Because while we have this magic data out
there, of June of 2002, something tells me we had a
magic date of October 3rd, 2001. And I have to be
honest with you. I'm disgusted with this whole
process.

This process has been one of delay, and in
my opinion, one of some deceit. We were told what we
were going to get. We have never hidden the fact that
we weren't necessarily happy with the whole package.
That we believed that it needed to be stronger. That we building that the Interim Final Rule needed to have more projections.

We have never made that a secret. But we are also kind of realist. We said, you know, we will take what we can get at this point, and work for something better.

And now you jerked the rug out from under us again. Frankly I don't believe MSHA when they tell me that in June 2002 there is going to be a rule, I don't believe you.

And until that rule is in effect, I find it hard to establish any faith along those lines. We have guys out here, and if you look, this may be enough guys to run a typical prep plant in a 24 hour period.

These guys are handling chemicals day in and day out. With that number, with what we've seen, out of those 40 people you are going to have some anomalies that just don't occur in nature.

You are going to have people that have neurological damage that we can't explain. You are going to have an incident rate in Parkinson's disease, or Parkinson's syndrome, that is way past the national average.
You are going to have cancers that you don't normally see from prep plant workers. That is the only thing they have in common, they don't golf at the same golf course, and drink the same water all the time.

The commonality is where they work. And I think that we have procrastinated long enough, we have played the game long enough. And we, frankly, have appeased the operators long enough. It is time to get a Rule.

The history of HAZCOM does date back to November of 1987 when the President of the UMWA, and the United Steel Workers of America requested MSHA to promulgate a rule to protect miners from hazardous chemicals and compounds.

Presidents Trumka and Williams cited specific instances where miners were exposed to chemical compounds resulting in serious injuries and health effects. And highlighted a series of chemicals found at the mine site that could seriously impact miners health and safety.

In almost every instance miners were never aware of the substances they were handling, or the risk that those substances presented. The Agency did respond four years later -- I'm sorry, three years
later, in 1990, when it published a notice of proposed rulemaking.

Public hearings were subsequently held at three locations, miners, representatives and miners, operators and interested parties expressed their respective opinion on the need for the rule, and the scope.


The Agency sought input to the effect that regulatory mandates and executive orders. And I think that it is important to note that that is exactly what you asked for. That is all you asked for in 1999, what impact did these things have in the rule we are going to propose.

The record closed again, and the record closed in December 19th, 2000. We anticipated a rule in October of 2001. Nearly 14 years after the Agency had been petitioned by the Mine Workers, and the Steel Workers, they anticipated a rule would be designed to reduce exposure to hazardous chemicals and compounds.

Since that time the union has made efforts to prepare its membership for the application of this
rule. The UMWA was under the impression that while some operators were unhappy with the scope of the rule, they too were preparing to implement it.

Unfortunately that was not the case. Instead of addressing the issues contained in the standard, and adopting plans to protect miners from unnecessary exposures, some operators worked to delay the much needed safeguards.

Sadly MSHA made no real effort to resolve the issues through litigation. Their failure to make necessary efforts to implement a rule have once again left miners the victim.

Despite the objections of the original petitioning parties, and other interested groups, the Agency has given mine operators what they were unsuccessful in attaining in March of 1999, blocking projections from miners, and reopening the Rule for continued debate.

The Agency's granting of this request is totally contrary to the previous statement of October 3rd, 2000, when the Agency stated, substantive rulemaking issues, and regulatory alternatives have not changed since the close of the record in 1992. And the evidence in the rulemaking record is current. And those were the statements of Marvin Nichols.
Despite that fact the Agency has decided
to continue this rulemaking history, instead of making
history with a HAZCOM rule. The UMWA has, out of
necessity, participated in every aspect of this
process to date.

The union will continue to strongly
express the need to protect workers from chemical
exposures, and at the same time raise our objections
to delaying tactics.

The UMWA will continue to seek, through
whatever legal means available, to end this history of
operator denial. The procrastination concerning this
rule, on behalf of the nation's miners, and their
health and safety, is intolerable.

We have talked, for some time, and you
have heard a lot of people talk about the delays. And
I think that there is a lot of frustration in this
room. And maybe there is frustration on the Panel, I
don't know the feeling of how that works.

But there were two reasons, the Agency
gave two reasons for reopening this rule. And I have
to be honest with you, they are disingenuous, at best,
to suggest that one of the reasons being that
operators had not had sufficient time to prepare
comments, and review the Interim Final Rule before
comments were submitted in 1999, is absolutely ridiculous.

I would have thought, and I would have hoped it would have been a little bit more creative than that. But to suggest that they were not prepared? This thing started in 1987. They had plenty of time to get their act together.

Then to also suggest that the other reason for reopening the Rule was to make more clear to the operators what they had to do for compliance purposes. Again, what have they been doing, where have they been at?

They know what chemicals they are buying. They know what substances they are bringing to that property. This is a basic a right to know as anything else.

These individuals behind me work every day with these substances, and have no clue as to what they are. I mean, we've delayed it long enough.

And to open it on those two basis is really something that I look at and I think, you know what? Sometimes I can't read an MSDS sheet, and I will be honest with you, sometimes I don't understand that. But that struck me as we are being played off as stupid.
Do you honestly expect us to stand here and believe that that is a rational reason for reopening this rule, they didn't know what to do for compliance? Well, in my estimation, if they don't know what to do with compliance, you put the Rule in effect, and you send an inspector out, and you write them enough tickets, they will figure out what to do with compliance in a big hurry.

That is a reality, that is how the system works. I have said it before at hearings, and I will say it again. The reason this industry is not back in 1945, is because MSHA has promulgated rules that won't allow that to happen.

If they could get along without hanging curtains, if they could get along without much ventilation, and if they could get along without controlling methane, because there was no rule, and no inspector, and nobody to write a ticket, they would be doing the same thing today that they did in 1940, or in 1969, when Farmington exploded. They would be doing the same things.

My concern also about the Rule is the fact that I'm afraid that there is not enough teeth in this thing. I'm afraid that an operator has too many loopholes, and too many ways to escape. We have heard
people talk about, you know, routine and foreseen emergency, routine tasks, and foreseen emergencies.

You know, I can honestly, with very few exceptions, see how we can construe just about anything to be non-routine, and we can construe anything to be kind of an unforeseen emergency that occurred.

I think that that is a major loophole, I think we need to close that loop. We need to look at how we are going to get correct information on MSDS sheets.

And I think that is a pretty basic thing that we need to discuss. We have MSDS sheets that could arrive on mine property that are incorrect. And the Rule basically alludes to the fact that that could happen.

I mean, it says that you won't hold the operator responsible if the MSDS sheet is incorrect. And I just brought, you know, whatever it is onto the site, and now the MSDS sheets -- who are we going to hold responsible here? That is what I want to know.

I have 40 miners working at the prep plant, I have 400 of them underground. I have an MSDS sheet that is absolutely worthless. And the operator is not liable. And I guess I can basically understand
the logic when you say, he bought the product, he
didn't create it, right?

    I can understand that logic. On the other
hand somebody has to be held responsible, and MSHA
cannot do anything about the guy that manufactured
this stuff, you are not going to reach that far to get
them.

    What you have to do, whether it is
labeling, or MSDS sheets, whether the Agency likes it
or not, somebody is going to have to get written up.
And the only person that can be is the operator.

    I guarantee you, you write a ticket, and
he is not going to buy chemicals from somebody that
gives him a bad MSDS sheet. I mean, that is pretty
simple logic.

    So we need to -- we need to look at that.
Also when we begin to discuss what is hazardous, what
isn't hazardous, first of all let's cut the operator
out of this. I'm not so sure I want my operator,
where I used to work at R&P Coal and they are not in
business anymore, I'm not sure I want any of those
folks determining for me what is a hazard and what is
not.

    I want somebody out there that is with a
little bit of objectivity, just somebody that doesn't
necessarily have a pony in the race. It is just going
to tell me this is the hazard that you are facing.

    So we need to eliminate that. And we need
to be honest about what a hazardous chemical is. And
when you are dealing with this stuff, any chemical is
a hazard. I mean, medication, like somebody said
before, medication is a hazard, chemicals are a
hazard. It just depends on the dose.

    If you get the right dose you are cured,
no problem, it is great. If you get the wrong dose,
you are just as dead as anybody else would be.

    So when they bring it in, if it is a
chemical, it is a hazard. And it goes to all those
things like WD-40, and Windex, and all those other
things. Because you know what? At the mine we don't
use them the same way, and we don't use them in the
same quantity.

    You know, if you think about this
logically, when was the last time you went through
five gallons of WD-40 in your household? I probably
have a couple of cans I've had for a couple of years.
But you will go through five gallons in that shop, or
in that prep plant, or underground, in absolutely no
time at all.

    It may last a week, if you are lucky. So
we are using huge amounts. But Consumer Product
Safety Commission doesn't deal with the conditions
that I live with. They are not at the mine, they don't
understand what that product is being used for.

I'm dumping WD-40 on hot surfaces, I'm
creating vapors. We need to have some kind of
labeling, we need to have some kind of control over
what is going on.

And to be honest with you there is a lot
of folks out there that don't see a problem with doing
that, they've done it for years. They've never had
hazard training tell them not to. We need to look at
those things, we need to be realists about how those
things occur.

I think enough has been said, I guess,
about training the trainers. If I'm going to have
somebody train me on the hazards of chemicals, I want
to make sure they know what they are talking about.

I would imagine there may be a few health
and safety directors out there, for some of these
operations, that understand some of these things. But
by and large they are coal miners, too. They came
from the same place we came from, have a little more
training maybe here and there, but they are not going
to know what those chemicals are. They are not going
to understand how to explain them to you.

So they need to have training before they
give us training. Retraining, 8 hour retraining is a
sensitive issue. We need 8 hour retraining,
absolutely. I'm thinking maybe when we get all this
stuff heaped on top of it, we might look at 16 hours
of retraining, because we are dealing with ventilation
plans, we are dealing with roof control plans, we are
dealing with ground control plans, we are dealing with
first aid, we are dealing with all these issues.

And let's be realists about this. You
can't fit it in, in 8 hours. So we may need to
address those things.

Labeling of any container should be
required. I don't care if the 55 gallon drum, or a,
you know, two pint bucket you are going to carry
things around in. And the Rule says, you know, you
can have a portable container that doesn't have to be
labeled, provided you keep it with you at all times,
or you use it all by the end of the shift.

You have to be at the mine to understand
that that guy is not going to necessarily be able to
keep track of that, for that entire shift. I mean, if
I'm working over here on a dozer, and I have a bucket
of whatever chemical it may be, sitting beside me, and
I'm going to use it to wash this thing down, and that
drag line goes down, I know where I'm going, and I'm
not going to pick that bucket up to get it, because
the boss is going to come and get me and tell me, get
out there, the drag line is not running, we are not
loading coal, the heck with the dozer, okay?

I mean, and we are not going to pick it
up. I don't understand the -- and I don't understand
this, and maybe somebody can enlighten me. But I
don't understand what is the big deal of having a
label on a portable container. I don't understand
that. You use it for the same thing every time, and
instead of maybe having three portable containers that
you can switch out for 12 chemicals, buy 12 portable
containers, and put a sticker on it, folks. I mean,
it is not that tough.

We also believe that any chemicals that
leave the property should be labeled, should have an
MSDS sheet. Whatever they happen to create. And I'm
not talking raw coal, and I'm not talking sand. But
if there are chemicals in the soups that they make
there, that they have to get off-site, and it doesn't
necessarily go through a settling pond, anything that
they send out there that is a chemical hazard should
be labeled, anything downstream should have a label on
People should understand what we are producing out there, and sending to them. And we need, we truly need to look at that.

Briefly, I guess, we deal with some of the regulations of the EPA because you say that things that are regulated by the EPA aren't necessarily regulated here. And I would, without getting into great detail, I would suggest that somebody look into the application of biosolids on these reclamation projects.

And, you know, biosolids sludge is a big ticket item and Pennsylvania produces, you know, millions of tons, and I think New York produces millions of tons. And now we have our guys spreading this stuff on the fields for growing grass, growing crops, growing whatever they happen to be farming at the time.

There are heavy metals in this stuff, there is bacteria in this stuff. We need to look at what we are putting out there as far as a biohazard is concerned.

I could probably go on longer, but I think, to be honest with you, most of these guys have just about covered every issue. I would like to try
to tie things together, and let you know that while I can honestly say that there is nobody on this panel that I have animosity towards.

You are doing your job, and I think some of you do it well, and the others that I don't know I'm guessing you do it well. I think the Agency, as a whole, has frustrated us, on numerous occasions. And they frustrated us on this rule on more than one occasion, and they've delayed it.

And, let's be honest, we wouldn't have gotten the thing out in 1999 if we hadn't filed a lawsuit. We are just asking for a little help here.

If we could do this on our own, I would be honest with you, if we could do this on our own, we would do it. But we don't have that ability. We need something that is out there.

And, Lord knows, I deal mostly with coal operators, and I have not had one of them come to me and saying, Tim, we are the ones bitching about this. Because they would tell me straight up.

Now, I don't know what the aggregate industry is doing, but if it is not the coal industry, it has to be sand and gravel, and somebody else. They need just as much protection as these coal miners sitting behind me, they are going to deal with the
same stuff.

They have to get with the program at some point, and they just need to do that. We just need the Rule, it is as basic as that. We need the Rule. We are not happy with it, I've given suggestions on how to tighten it up.

I would ask you to take those suggestions back, because I would be honest with you, in the opening that you gave, Ernie, I didn't see one suggestion. I did not see one suggestion that the union made the last time it gave comments.

I have seen suggestions that the operator gave, but I didn't see any of ours. And I think that is a little disheartening. I think that it becomes clearer and clearer why the Rule is reopened, and we are disappointed with that fact.

And with that I will entertain any questions. I hope I haven't run on too long. But the issue has a life of its own in some respects.

MODERATOR TEASTER: Thank you, Tim. No, you have not run on too long. Just to clarify, my understanding of the Rule is, in the use of WD-40, when you use this thing, as you indicated, that that would clearly fall under the Rule, that that is certainly outside the use of a normal household
consumer type thing.

MR. BAKER: Well, and maybe I can -- and if that is true, that is fine. But maybe we can look at, and what you need to look at is the case for solcenic at this point. And I think somebody mentioned that before. You know it is an antifreeze that they use in the hydraulic jacks.

Now, that is not going to be regulated from the way I understand this rule. But I would suggest that you look at those situations where I have at least 20 cases of cancer, whether it is liver cancer, or kidney cancer.

Whatever those things are, I mean, we have a problem with this. And I'm not sure that it is the solcenic, per se. Now they are telling me that they have done a survey, they don't believe it is solcenic, but they believe it is the fungicide that they put in the solcenic.

To me, you know, you've lost me when you talk about solcenic, generally. But we need to look at those things. We are spilling a million and a half gallons of that stuff, underground every year, at that mine. And I have 20 cases of strange cancer, organ cancer.

Those things need to be regulated, those
things need to be tied up. And I could be wrong, but 
this is an antifreeze. We are talking all they are 
using it for is an antifreeze. The concentrations may 
be less than what you would normally use daily in your 
car, where you would be around if you put it in your 
car. But we are dumping a bunch of it. 

   So, you know, I just believe there are a 
lot of loopholes we need to tie up. 

MODERATOR TEASTER: Tim, one other 
question. What do you think the qualifications of the 
person providing the training on the chemical hazards 
should possess, background training? 

MR. BAKER: Well, you know, I would like 
to say I would like to have an engineer or somebody do 
it, you know, like a Dr. Weeks, or something. But we 
have to be realists about how we train those folks. 

   But I think that these companies could 
certainly get their safety inspectors, or trainers, or 
whoever they are going to have, because usually it is 
the safety inspector at the mine that runs the 
training. 

   Send them to a class with a Weeks, or a 
PhD, or somebody that understands chemicals, and at 
the same time, and Lord knows I'm fortunate to deal
with Jim, somebody that can explain it in real basic
terms, and real layman's terms, so they understand it,
and then bring that information back.

And I'm not faulting the guy at the mine.
I mean, he is doing his best, I'm sure, to get the
information out. But he -- listen, maybe he does
understand those 26 letter words, but I sure can't.
And we just need to get someone that does to explain
it to him simply, and we can go on with training.

And I think that could be, you know, if
you have a relationship with some of these folks, and
you bring a new chemical in, it wouldn't be a problem
for you to pick up the phone, as a safety guy, and
call the guy over there and say, what is this stuff,
and what do I need to know about it? And relay that
to your own workers.

MODERATOR TEASTER: Yes. I think it is
important, a lot of us have never learned those big
words, or exactly what all is contained in them. I
think the important things we know is how to use this
safely, and what effect that can have on us, what we
need to do to protect ourselves, rather than trying to
-- we may all fail that test if we have to pronounce
all them words when we come out of the training.
MR. BAKER: Yes, you know, that is certainly a major part of it. And, you know, understanding not only what it is, but being specific.

And I think somebody earlier mentioned petroleum distillates. That is a thousand different things. What is that? That could be any one of a thousand different compounds. You know, diesel fuel, what is it?

Having something like that on an MSDS sheet is generally useless. I mean, what do I do to control that? But having basic information that is easy for them to understand, and what they do if there is a spill, or what they do if there is an accident.

Basic layman's terms need to be out there, you know? I mean, if it just says call the fire department on the bottom, we know how to do that, you know what I mean? Don't touch, call the fire department. Not a long drawn out dissertation, like I'm giving now.

MODERATOR TEASTER: Thank you Tim.

MR. BAKER: I thank you very much. And we do very much appreciate speaking here. We appreciate your indulgence, and hope that you go away with an understanding of just what our level of concern is, thank you.
MS. HUTCHISON: Are you going to leave a copy of your statement?

MR. BAKER: No, I will submit a copy, and some of it will be contained in there, but this is the working draft, and I'm not going to leave that, okay?

MODERATOR TEASTER: That is fine.

MR. BAKER: Thank you.

(Applause.)

MODERATOR TEASTER: Is there anyone else that has not signed up, that would like to speak? You can come forward and identify yourself, we would appreciate it.

MR. STEMKOWSKI: Believe me, this is totally -- I want to apologize to Mr. Baker. I don't know anyone here but Mr. Baker, only by telephone, and a fellow I came from eastern Ohio with.

My name is Stan Stemkowski, I'm from Local 1506. I have 32 years mining experience with Consolidation Coal Company. I am on the safety committee, probably for the last six or seven years.

I wasn't going to say a word here today. I was asked yesterday, this week in class, if I would like to speak, and I was so timid, I said no. Never done this before.

But having sat here and listened to these
people, and I have seen that they are not as professional, probably as I am, at least I'm not afraid to get up here. I think they've all done a fantastic job.

But I could not go home without putting two cents' worth in here. If my wife was here, which she is back in the room she would probably say, oh, no.

But Part 48, I heard you talk about that. And I'm not versed at this, and believe me this is not rehearsed. In my 32 years with having gone to the annual retraining, and I have seen you people ask several people about that Part 48.

That annual retraining we've gotten it every year, faithfully, and I believe they've always tried their best. But as far as hazmat, and hazardous chemicals, I'm here to tell you we have gotten very little to none. And I mean that from the bottom of my heart.

And I can't speak for the other mines, but I've got 32 years at Consol, I started as a field mechanic, I worked as a regular mechanic, I've been a truck driver, I've been a certified welder, used a lot of chemicals, WD-40, on the shovel, I work on the silver spade, we probably go through a case of WD-40
a week.

Other spray cans of stuff I don't know the chemical ingredients. There is a cutter solvent that we use to wash off the nozzles of the spray guns that we put dope on the gearing, and stuff, I don't know what the chemical is in there. I have never been told the hazards of it, I've never been told to wear a mask when I use it, I've never even been told to use gloves.

Yes, common sense tells me to use gloves because it is messy, okay? Here is how strong that stuff is. I was wearing a hard hat, we always wear a hard hat, that is standard procedure. You don't go on Consol property without a hard hat, glasses, and gloves, and hard toes.

Those doggone, that can of stuff there is so strong, it gets on your glasses, it cleans it off good. Had a horrible hard hat, couldn't rub it off, couldn't wash it with regular solvent. I thought it cuts that grease off that nozzle, that doggone thing, I'm going to use it on there.

So I sprayed it on my hard hat and it cleaned it beautifully. I said, this is the stuff to clean it with. After one week my hard hat fell totally apart. I'm standing here to tell you that.
Now, it had stress cracks in it, I grant you. But I've cleaned it with a lot of things before, other type cleaners, and I don't know what it did. But after sitting and listening to those people, stuff like this, and I was not forewarned how -- I grant you, there is a label on the can, you know, caution this, caution that. But I never dreamt that it was that strong that it would do something like that.

And I'm thinking, if it is going to ruin my hard hat, what is it going to do to me? Nobody ever said, Stan be careful with that stuff. I don't think I could add much more, other than what these people put in.

Like I've said, they have done their homework. Some of them are just like me, they come up here out of their heart, and that is where I'm speaking to you people, out of my heart. Never heard of this law coming into effect, or this ruling, until I come down here.

This is the first year I've been to the Academy. Believe me, I've learned a lot this week, especially about how things work here. And I will say one more thing.

Being on the safety committee for the last six or seven years, every time an MSHA man shows up,
that is like the police, buddy, we are going to go in, and we are going to inspect this place, and Consol does respect what they have to say, and we get their attention.

So therefore I respect if you people come down and help us to get some compliance for this sort of thing. I don't know what is involved in the procedure, or whatever.

And, once again, I want to apologize to Mr. Baker. What, another speaker? I was supposed to finish here. But I just felt my heart, I had to come up here and put my two cents' worth in.

If there is any questions that I could answer for you, I don't know what I could, but I will try.

MODERATOR TEASTER: We appreciate you coming up. I'm sure Tim don't mind you coming up.

We appreciate all the comments that we received here today. Hopefully they are going to be all taking into consideration when we draft this final rule, and we are going to come out a rule that is going to do the job that it is intended to do.

The record, I will remind you, does close on October 17th of this year. We encourage all of you that would like to submit comments, to submit them to
the Agency. They will be included with the comments that we got on the record here today, and they will all be taken into consideration in drafting the final rule.

We have five other public Hearings that will be held on this rule. Four of them will be next week. One will be in Dallas on Tuesday, and on the same date there will be one in Salt Lake City. And then on Thursday of next week there will be two held, one in Reno, Nevada, and the other one in Birmingham, Alabama.

The following week I think it is on the 10th of October, it will be the seventh and final Hearing on this Interim Final Rule. And we welcome you to attend, to participate in any of those Hearings that are remaining.

And, again, any comments you've got, please submit them to us, and they will be given due consideration.

And with that we will close the record. And thanks, all of you, for coming.

(Whereupon, at 4:10 p.m. the above-entitled matter was concluded.)