BEFORE THE U.S. DEPARTMENT OF LABOR
MINE SAFETY AND HEALTH ADMINISTRATION

In the Matter of: SAFETY PROGRAM FOR SURFACE MOBILE EQUIPMENT

Room 7W204 & 7W206
201 12th Street
Arlington, Virginia

Wednesday, January 11, 2022

The parties convened, pursuant to the notice, at 10:00 a.m.

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MS. MCCONNELL: Good morning. My name is Sheila McConnell. I'm with the Office of the Assistant Secretary for MSHA. On behalf of Jeanette Galanis, Acting Assistant Secretary of Labor for Mine Safety & Health, I'd like to welcome all of you here today and thank you for your participation in this virtual public hearing.

This hearing is being held to gather information about a proposed rule titled "Safety Program for Surface Mobile Equipment." I will be moderating the hearing. Before we begin, I want to inform you of the following. Your videos have been turned off. Your audios have been muted. After a brief explanation of the proposed rule, we will open the floor for comments.

First, let me begin with a little background of the safety program for surface mobile equipment proposed rule. At the surface mines and at surface areas of underground mines, a wide range of mobile and powered haulage equipment is in use. Examples of such equipment are bulldozers, front-end loaders, skid steers, and haul trucks. Accidents involving mobile and powered haulage equipment are a leading cause of
fatalities in the mining industry. At U.S. mines with six or more miners, between 2003 and 2018, 109 fatalities and 1,543 non-fatal injuries were caused by hazards related to working near or operating mobile and powered haulage equipment. To reduce the number of injuries and fatalities involving mobile and powered haulage equipment, MSHA has over the years launched several actions, including providing guidance, technical assistance, developing training materials, and gathering information from the public and mine stakeholders.

Last July 20th, for example, MSHA hosted National Stand Down for Safety Day, and this focused on powered haulage accidents and vehicle rollovers to help educate miners, save lives, and prevent injuries.

On June 22, 2018, MSHA published a Request For Information titled "Safety Improvement Technologies for Mobile Equipment at Surface Mines and for Belt Conveyors at Surface and Underground Mines."

This RFI focused on technologies for reducing accidents involving mobile equipment at surface mines and surface areas of underground mines, as well as belt conveyors at surface and underground mines.

Also, in August and September 2018, MSHA held six stakeholder meetings and one webinar to
collect stakeholder input. Last year, on September 9th, MSHA published a proposed rule entitled "Safety Program for Surface Mobile Equipment." The proposed rule is based on the information gathered from the stakeholders who comment on the 2018 Request For Information and a review of best practices and guidance on safety programs.

The proposed rule require that mine operators employing six or more miners develop and implement a written safety program for surface mobile equipment used at their mines to eliminate or mitigate safety hazards and reduce accidents, injuries, and fatalities.

Since each mine has a unique environment, MSHA is proposing to allow each mine operator the flexibility to devise a safety program that addresses its specific types of surface mobile equipment in mining conditions and operations. The safety program should be designed so that it promotes and supports a safety culture at the mine.

Here are some specifics of the proposed rule. The proposed rule in its entirety is available at MSHA.gov or on Regulations.gov.

Under the proposed rule, as noted, mine operators employing six or more miners would be
required to develop a written safety program for
surface mobile equipment. Although mine operators
with five or fewer miners would not be required to
have a written safety program, MSHA would encourage
these operators to have a safety program. For those
smaller miners, mines, for those smaller mines, the
Agency would also provide assistance in the
development and improvement of safety programs. MSHA
would also encourage its state grantees to focus on
providing training to address the hazards and risks
involving surface mobile equipment and small mining
operations.

The term "surface mobile equipment" is
defined as wheeled, skid-mounted, track-mounted, or
rail-mounted equipment capable of moving or being
moved and any powered equipment that transports
people, equipment, or materials at surface mines and
the surface areas of underground mines, excluding belt
conveyors.

After reviewing the comments and information
submitted through the Request For Information, MSHA
has concluded for now that the safety issues
surrounding the operation of belt conveyors can be
better addressed through best practices, guidance, and
training rather than through rulemaking. Therefore,
belt conveyors are not covered by this proposed rule.

A written safety program for surface mobile equipment would require to include four types of actions that mine operators must take to reduce accidents, injuries, and fatalities and to improve miner safety. The four types of actions are as follow.

First, identify and analyzing hazards and risks related to the movement and operation of surface mobile equipment. Specifically, the proposal would require mine operators to identify, collect, and review information about hazards at their mine and then to address their mining conditions and implement the measures to eliminate, prevent, or mitigate hazards.

Second, developing and maintaining procedures and schedules for routine maintenance and non-routine repairs for surface mobile equipment. Operators must comply with MSHA's existing requirements for maintenance and repair.

Third, evaluating currently available and newly emerging technologies that enhance safety and determining whether to adopt them.

Fourth, training miners and other persons at the mine necessary to perform work to identify and
address hazards related to surface mobile equipment. This training could be met through training provided under existing requirements.

The proposed rule would require the responsible person to evaluate and update the written safety program at least annually or when accidents or injuries occur or as mining conditions or practices change or as surface mobile equipment changes and modifications are made. This requirement is to ensure that written safety programs remain relevant and up to date.

The term "responsible person" is defined as a person with the authority and the responsibility to evaluate and update a written safety program for surface mobile equipment. This individual should be able to communicate to the miners the operator's commitment to safety and the importance of miners' involvement in the program.

MSHA believes that designating a person with authority and responsibility to evaluate and update the safety program as necessary and would help ensure the successful development and maintenance of a safety program.

Under the proposed rule, mine operators are required to develop and implement a written safety
program within six months after the effective date of
the final rule. The proposed rule would also require
mine operators to designate a responsible person, as
described above, within six months after the effective
date of the final rule.

Finally, the proposed rule would require
that mine operators make available a copy of the
written safety program for inspection by authorized
representatives of the Secretary, miners and
representative miners, and also provide a copy upon
request.

The proposed rule is estimated to have a 10-
year total net benefit of $343,000,000 at a 7 percent
discount rate based on estimated benefits of
$471,000,000 and costs of $128,000,000. At a 7
percent discount rate, the estimated annualized net
benefit is 4 -- 45.6 million dollars.

MSHA invites comments on all aspects of the
proposed rule, including the Regulatory Impact
Analysis. MSHA recognizes that mine operations
are diverse with varying mining methods, mining
conditions and operations, types of mobile equipment,
mine commodities, and mine sizes. MSHA seeks data,
information that would allow the agency to develop
estimates that might better reflect these differing
conditions and further evaluate the economic feasibility of the proposal. MSHA also requests comments on innovative technologies and new and developing technologies that would enhance the benefits of the proposal.

Before we move further, I would please like to note that this call is being recorded. If you do not wish to have your call being to be recorded, then you should hang up now.

So now we're going to be opening up the floor for comments, starting with our pre-registered speakers. Once all the pre-registered speakers have spoken, we will open the floor to anyone else who wishes to speak.

A couple of points to note. If you have a copy of your testimony or presentation, you may submit, you may submit it to MSHA before the close of the comment period on February 11th through one of the methods identified in the address section of the hearing notice or the proposed rule. Also, if any participants here wish to submit comments on the proposed rule, please do so by February 11th using one of the methods just discussed.

Lastly, MSHA will make available a verbatim transcript of this hearing in approximately two weeks.

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(202) 628-4888
on our website, MSHA.gov, and at Regulations.gov. So
now let's get started.

Here are a list of pre-registered speakers
who will speak in the following order: (1) Chris
Hamilton, West Virginia Coal Association; (2) Edward
Massaquoi; (3) Elena Vasilyeva, Argus Media -- Argus
Media; Patrick Cagle, Alabama Mining Association; Brad
Davenport, Nyrstar; Thomas McLoughlin, Tri-State
Geologic & Mining Services; Chris Greissing,
Industrial Mineral Association, North America.

When my colleague, Joanna Moore, calls your
name, please unmute yourself. If you are joining by
Webex and if you wish, you may turn on your video
while you are speaking. If you are joining by phone,
please press star 6 to unmute yourself to speak.
Please first state and spell your name so that the
court reporter can have an accurate record.

With that, we'll open the call to Chris
Hamilton, West Virginia Coal Association.

(No response.)

MS. MCCONNELL: Chris Hamilton?
(No response.)

MS. MCCONNELL: Chris Hamilton, If we don’t,
I'm going to give you a couple more seconds here, and
If I don’t, if you don't announce yourself, then we're
going to move on to the next speaker.

(No response.)

MS. MCCONNELL: Okay. Moving on, Edward Massaquoi, Massaquoi.

(No response.)

MS. MCCONNELL: Is Edward Massaquoi signed in? No. I'll give Edward Massaquoi a few more seconds. We can't see him. Okay.

Moving on, Elena Vasilyeva, Argus Media.

(No response.)

MS. MCCONNELL: No?

Patrick Cagle, Alabama Mining Association, are you present?

MR. CAGLE: I am.

MS. MCCONNELL: Are you ready to speak?

MR. CAGLE: Yes, ma'am.

MS. MCCONNELL: Okay.

MR. CAGLE: Okay.

MS. MCCONNELL: Would you -- go ahead, sir.

MR. CAGLE: All right. I want to thank MSHA for offering this opportunity for us to provide comments and also for extending the deadline for comments to be submitted on this. We appreciate the work that MSHA's done on this and the goals of the program and just want to provide a few brief comments.
that I believe are important and probably mirror what other trade associations and mining stakeholders have shared.

First of all, you know, one of the things that we believe is important is that if a mine has a successful plan, you know, to avoid duplication where possible where a robust safety plan exists that has been successful, to incorporate that so that the focus is on the goals of promoting safety with less administrative burdens if a mine has a very robust safety plan. This has proven to be effective.

Next, we believe that contractors should be required to have their own written safety plan for mobile surface equipment. I think that, you know, this is going to be a challenging rule to comply with no matter what. But, for example, a company that provides, say, blasting services at mines around the country, it would be unreasonable and very burdensome if the schedule for their fleet of equipment had to be listed in each of their customer's written mine plans. It would just become logistically impossible, so I think it makes sense to consider that.

If that's the case, we would recommend that MSHA, if they decide to, you know, look at having a written safety plan for contractors, to open up a
comment period for that to make sure that those stakeholders have weighed in, you know, to consider things, you know, how that would change the rule.

Next, we agree with the idea of looking at and evaluating technology, but we believe there to be unintended consequences with requiring it, you know, potential liability from, you know, a perceived negligence. If you, you know, if you evaluate new technology and determine it's not feasible, what the basis was for that, we believe that it should be encouraged, but it really shouldn't be part of the rule because of the unintended consequences.

And the responsible person provision we believe is unnecessary because, you know, as we all know, companies, you know, are responsible for the actions of their employees. If MSHA decides to leave the remaining person there, we would request that more than one person be allowed to share that responsibility for continuity.

That summarizes the comments that we've already submitted, and I appreciate the opportunity to share them here. Thank you.

MS. MCCONNELL: I don't have any further questions, but thank you, Mr. Cagle, for testifying.

Next, Brad Davenport, Nyrstar.
MS. MCCONNELL: Mr. Davenport, would you like to speak? You can unmute yourself by pressing star 6.

(No response.)

MS. MCCONNELL: Okay. Mr. Davenport, do you wish to speak?

MR. DAVENPORT: I do.

MS. MCCONNELL: Okay. Great. Good to hear from you. First, could you please -- I don't think we did that with our previous speaker, but could you state your name and spell your name for the court reporter?

MR. DAVENPORT: Yes. I'm Brad Davenport, and I'm the safety superintendent for Nyrstar Tennessee Mines. We're a zinc mine in Tennessee, and we're an underground mine that has quite a few programs in place already for our mobile equipment and stuff. And if we are an underground mine, I'm just kind of wondering why we need to go through all the extra steps to have a specific plan for the surface when it's basically the same equipment, the same people doing the job, and it's making more administrative than we already have in place to handle. I just think that as we try and get more
technologically advanced we also make it more

MS. MCCONNELL: I can't hear him.

MR. DAVENPORT: Not so simple.

MS. MCCONNELL: Could you, Mr. Davenport, could you speak up just a bit or speak closer to your mic, because I'm having trouble hearing you.

MR. DAVENPORT: Okay. So let's try. Can you hear me now?

MS. MCCONNELL: I can hear you now.

MR. DAVENPORT: Okay. So one of the things that I was curious about is, if we're already an underground metal/nonmetal mine that has all the programs in place for the underground, why do we need to build a special program just for our surface area, which uses basically the same equipment, that uses the same procedures and policies that we have underground? Why have a separate procedure just for that?

MS. MCCONNELL: Does your --

MR. DAVENPORT: I mean, I think that we're starting to push the limits of how many people we need to keep on staff. And we're doing double work. And as we get into the technological side of things, we forget the KISS format in things, to keep it simple.

MS. MCCONNELL: Mm-hmm.

MR. DAVENPORT: And the more complex we make
it, the harder it is for our people to understand some of the concepts of the technology, and it's easier to break down and we're going away from the main concepts of mining. And, granted, I am all for keeping people safe. I've been in this business for 40-some years as safety and a miner. But I think that we push too hard sometimes on this, and I just wanted to make sure that when we do these that we take into consideration that some companies already have these type of procedures and policies already in place and that we shouldn't be required to recreate the wheel if those policies are already in place and that there should be some accommodation for the fact that we already have procedures in place for all our equipment.

And I think that's the main things I needed to say today was just don't get too far away from the basics of mining, that the more complicated we become the more injuries we have.

And I was also wanting to comment on the small mines. If you look at the -- if you look at a lot of the fatalgrams that we've been getting over the years, most of the fatals -- and I won't say all -- are in these small mom-and-pop mines that are smaller than what you're going to require to have the program, but yet us bigger programs that have multiple trainers
and we have multiple procedures are being asked to take and go above and beyond. But it's the smaller groups that are actually the ones getting people hurt. And I think that I'll stop there.

MS. MCCONNELL: Okay.

MR. DAVENPORT: I think that --

MS. MCCONNELL: Well, thank you for your comments. I guess the first thing I want to say is that if you have a safety program in place that already meets the requirements of this proposed rule, that would suffice. You wouldn't have to reduplicate or recreate another safety program.

So, for example, your safety program that you seem to have right now in place for your underground mines, if that covers your surface areas and it covers the surface mobile equipment as defined under this proposed rule and meets the other kind of actions that we have asked to be taken, then you should be already compliant. So I would think that MSHA does not want mine operators to do duplicate work if they already have a safety program in place.

MR. DAVENPORT: And I guess too I've been seeing where I looked through the standard, and are you going to send out, like, an example of what you want to see for a specific surface, you know?
MS. MCCONNELL: Yes. You know, as is MSHA's practice, after we publish a final rule, we communicate with the mining community through stakeholder meetings, providing guidance material, maybe possibly templates, and we will be working with all of you, all of you to ensure that you understand the requirements of the final rule when it's published.

MR. DAVENPORT: Okay. Because I find a lot of times that sometimes the rules are not understood by a lot of -- the new rules especially aren't understood by a lot of people, including some of the MSHA inspectors. I hate to say that, but we'll get two inspectors that have two different ideas as to how the standard is supposed to be interpreted.

MS. MCCONNELL: Right. And when I speak about compliance assistance, that does include ensuring that our inspectors are fully trained on the requirements of the final rule, so what you're talking about now hopefully would not happen.

MR. DAVENPORT: Okay. All right. Well, thank you very much.

MS. MCCONNELL: You're welcome, sir. Thank you for testifying today.

Our next speaker is Thomas McLoughlin, Tri Heritage Reporting Corporation (202) 628-4888
State Geologic & Mining Services.

(No response.)

MS. MCCONNELL: Mr. McLoughlin?

(No response.)

MS. MCCONNELL: Okay. We don't seem to have Mr. McLoughlin on the line today.

With that, our next speaker is Chris Greissing, Industrial Minerals Association, North America.

MR. GREISSING: Hey, good morning.

MS. MCCONNELL: Good morning, sir. Could you -- I've been negligent to remind everyone, but could you please say your name for the court reporter and spell it, as well as your association?


MS. MCCONNELL: Thank you.

MR. GREISSING: Good morning. My name's Chris Greissing, President of the Industrial Minerals Association, North America. On behalf of our member companies that extract and process a vital and beneficial group of raw materials used in many of the products we use in our everyday lives, I'd like to thank MSHA's leadership for agreeing to hold this
hearing in response to multiple requests from interested stakeholders, including the IMA.

With powered haulage fatalities again climbing to about half of all mining-related deaths last year, we recognize the impetus behind MSHA's proposed rule to require a written safety program for mobile and powered haulage equipment at surface mines and surface areas of underground mines, as published in the Federal Register on September 9th.

We also have done our part to communicate to our members MSHA's targeted inspection of mines that have high potential for powered haulage accidents, as well as your current "Save Time, Save Lives" public education campaign.

We very much appreciate MSHA holding this hearing as, even though we submitted extensive written comments on November 8th, we're continuing to hear from our members about additional questions and concerns that they have with the proposal, and this hearing provides us the appropriate venue for raising those additional concerns to you prior to the rule being finalized.

As has already been mentioned earlier today, a common issue that a number of our members have been bringing up to us in the last two months has been the
issue of how contractors are being addressed or, perhaps better stated, not being addressed in as thorough a manner as they probably should be. The draft rule states that the responsible person must communicate the goals of the safety program to all miners, including contractors. But, apart from that reference, we believe the draft does not place sufficient emphasis on contractors.

Through our producer member -- though our producer members strive to hold contractors working at their mine sites as accountable for safety and health as they do their own employees, contractor safety is a perennial challenge across the industry. As you know, contractors constitute about a quarter of the mining workforce in the country, yet fatalities among contractors persistently exceed that percentage in most years, often substantially.

As you know, the definition section of the Mine Act unambiguously defines an operator as any owner we see or other person who operates, controls, or supervises in coal or other mine or any independent contractor performing services or construction at such mine. And through administrations representing both parties, MSHA has maintained the firm position that contractors must be equally accountable as the
operators who hire them. We believe the fix could be quite simple, an explicit provision that contractors must have their own safety program for surface mobile equipment. Then, in the implementation of any final rule, MSHA could create a contractor-specific template to accommodate the fact that contractors typically operate across multiple, multiple, mining sites.

The other issue that we would like to raise is regarding the small mines exemption from the rule. This exemption would provide an exemption for a majority of the metal/non-metal mines in the U.S. The concern that our members have raised with us is that while all IMA member companies would exceed the threshold of five employees, as companies have reviewed the rule potential financial impact, it is becoming clear that our sector of the industry would be forced to absorb a disproportionate share of the compliance burden when compared to other mining sectors covered by this rule. This is because those covered by the rule, our members, would definitely fall on the smaller end of the scale, larger than the exempted mines but far smaller than the large operators when looking at mine size in terms of tonnage value, employees, and profit margins, which for some of these larger mines can be upwards of 25
percent or more in some instances, which allow them to
be able to absorb some of these new costs far easier
when compared to our sector.

By comparison, our members operate on very
slim margins, very often below 5 percent. Our
companies are still required to make significant
financial commitments to long-term projects. Like
most mining companies, in addition, our sector tends
to have higher post-extraction processing costs
relative to other sectors. Those factors have made it
difficult for our sector to remain competitive in a
global market and additional new costs are always a
concern.

We request that MSHA, when finalizing this
important rulemaking, recognize and is able to somehow
distinguish the companies like those in the industrial
mineral sector that exist in the space between the
smaller exempt mines and the much larger multinational
companies are currently being treated harsher under
the current proposal.

We request that MSHA look at ways to level
the playing field with regards to how our sector is
being treated. If this is something MSHA would
consider, I know we would be able to proactively make
suggestions prior to the comment period closing on how
to best accomplish this goal of creating a final rule
that is able to accomplish the true goal of keeping
the workforce as safe as possible while also being
fair and level across the entire industry.

We'd like to thank you again for this
opportunity to provide additional comments on this
important draft rule. We look forward to seeing the
final rule, and we stand ready to collaborate with
MSHA in reducing mobile equipment injuries and
fatalities as we have in the past through our alliance
with the agency. I'd be happy to answer any questions
that you might have.

MS. MCCONNELL: Thank you, Mr. Greissing. I
want, I don't have any questions. I do have a
request, and that is --

MR. GREISSING: Sure.

MS. MCCONNELL: -- you mentioned about
distinguishing between the sizes and coming up with --
and you have suggested ways with leveling the playing
field. And if you have recommendations, I would, I
encourage you to submit those for the record.

MR. GREISSING: Definitely will. Thank you
so much. Appreciate it.

MS. MCCONNELL: Thank you very much.

That is our last speaker who has pre-
registered. Now we will open the floor for those who
did not pre-register but wish to speak. If you are
participating in the Webex platform, please use the
Raise A Hand feature. If you are using a phone, press
star 6. Has anybody made a request?

(No response.)

MS. MCCONNELL: Okay.

MS. ABRAMS: Hello?

MS. MCCONNELL: Oh, hello. Okay. So. So

very good. So could you state your name and the

agency that you're with?

MS. ABRAMS: Sure. And sorry. That wasn't

me barking.

MS. MCCONNELL: That's fine.

MS. ABRAMS: This is Adele Abrams, and I'm

president of the Law Office of Adele L. Abrams, P.C.
in Beltsville, Maryland; Denver, Colorado; and
Charleston, West Virginia. And I'm testifying or
giving a statement in my own capacity and not on

behalf of any clients of mine.

I do want to say that we are members of the
Industrial Minerals Association, North America, and I
would like to endorse the comments that Chris
Greissing just gave on the record. I am a member of

their safety committee as well.
I just wanted to mention a couple of issues. I'm a certified mine safety professional and an associate safety professional, and then I became an attorney, so I work on MSHA matters, and I'm also an MSHA-approved trainer. So I'm looking at this really from both the safety professional perspective and the legal perspective.

And I just want to urge MSHA right out of the gate, please be judicious in the use of this standard and don't use it as an excuse to double-dip or play, you know, (inaudible) gotcha game. We've seen unfortunately some of that in the enforcement under the workplace exam standard where, if multiple violations are found, there's an assumption -- I'm sorry about the dog -- assumption that the workplace exam was inadequate and a further assumption that the past training on doing the workplace exam was inadequate. And so that can automatically add another significant or substantial citation on top of any basic ones that the company has gotten.

And looking into my crystal ball, I see a potential for there to be a similar outcome here where, if a piece of equipment or multiple pieces of equipment are found to have defects or perhaps the latest technology hasn't been utilized, then there
could be an assumption that their program or plan has not been adequate, that the responsible person has not done their job or the task training that's new, you know, forthcoming rule was not adequate.

And so, you know, when you're talking about nearly $275,000 as a potential penalty, you know, in a worst-case scenario potentially with an unwarrantable failure and a citate, and a fatality involved, adding on a task training and an inadequate program citation, you know, can, can, you know, bankrupt a company. Even with small operators having some exemption, a lot of the companies that I work with that are middle-sized that would be covered by this, you know, could be put out of business very easily in that kind of scenario.

You know, I would like to see in the rule clarification that if workers are already trained on mobile equipment that they don't have to have, you know, additional task training under this rule or some way that this could be covered under annual refresher training at the next cycle rather than again, you know, in a time of COVID adding additional training obligations when we're already trying to deal with some remote training.

And then I know that many of my clients will
be using hourly people to be the responsible person
for managing these programs because that's just, you
know, how things tend to be structured. And there are
corns again that if the program is found somehow to
be inadequate or inadequately implemented that these
hourly people who could -- miners who would be
implementing these programs in the role of responsible
person could have personal exposure under Section 110
of the Mine Act both civilly and criminally.

So those are some of the main concerns, and
I'll echo what several others have said about the
inclusion or exclusion of contractors. It gives me a
bit of pause thinking that a host mine operator is
going to have to do training on mobile equipment
programs for an incidental contractor who might be
there for a couple of days and have their own fleet
management system.

So some clarification there really I think
is warranted as well because, again, under the
Twentymile coal decision of the U.S. Court of Appeals
from back in, I guess, 2006, MSHA has unreviewable
discretion to fight the host mine operator, as well as
or instead of the contractor for the contractor's
equipment violations, and that's actually what was at
issue in the Twentymile coal case for things like
leaking oil pans on a contractor's truck. So, again,
I see the potential for things to go sideways.

In terms of enforcement where host mine
operators would be held responsible for equipment
defects on contractors' equipment that they really
have no way to proceed, you know, and tie rods, loose
tie rods seem to be a popular one this season. I've
had multiple cases this year for the first time in
quite a few years involving that, so, obviously, this
is something inspectors are looking at.

So I will leave it at that. I thank you for
the opportunity to present my statement, and, again,
I'm speaking just from my own perspective as somebody
in, you know, 35 years in the mining industry wearing
a number of different hats.

I guess also I'll echo that the technology
forcing aspect of the Mine Act is something that I
generally support, but we have a wave of new
technology in the mobile equipment area that has
really, you know, just come to fruition in the last,
you know, five, maybe 10 years or less, and we've seen
that some of these technologies end up not being all
that they were cut out to be. We've seen issues, you
know, going back historically with airbags causing
injuries and having to be redesigned. Now we're
seeing the electric cars, you know, and the autonomous operation and there being the potential for problems with that.

So I, I, would endorse encouraging the use of this technology but not mandating it. And, you know, proven technology is one thing, but things that are still in the optional category, you know, let's give those a little bit of time on the market to play out before we mandate their use and cite people for lack of it.

So thank you again. I'm happy to respond to any questions that the panel might have.

MS. MCCONNELL: Adele, thank you for speaking today. I don't have any questions, but it's good to hear from you.

MS. ABRAMS: And thank you for what you do at MSHA.

MS. MCCONNELL: Thank you too. And you're welcome.

Okay. So I don't have any additional questions or comments, but I would like to open the floor to anyone else who would like to speak. If you're not speaking, please make sure your phones are muted. Is there anyone who? If you're a part of Webex, you use the Raise A Hand feature. Or, if
you're using a phone, just press star 6.

(No response.)

MS. MCCONNELL: Again, I'm going to ask if there's anyone else who would like to speak or testify today. If you're part of the Webex platform, use the Raise A Hand feature or press star 6.

(No response.)

MS. MCCONNELL: Do we have any raised? No one raised their hands. I'm going to do it one more time. If there's anyone who would like to speak, please use the Raise A Hand feature or, if you are on the phone, press star 6.

(No response.)

MS. MCCONNELL: Nobody? Okay. Since we do not have any more speakers at this point, I would like to close the hearing. I want to thank everyone for participating in this virtual public hearing. Again, I remind you that your comments must be received by February 11th, 2022, by 11:59 p.m. Please take into consideration. We will take into consideration all of your comments, even those submitted by the November 8, 2021, comment period close date. With that, this hearing is now concluded.

(Whereupon, at 10:45 a.m., the hearing in the above-entitled matter adjourned.)
REPORTER'S CERTIFICATE

DOCKET NO.: N/A
CASE TITLE: Safety Program for Surface Mobile Equipment
HEARING DATE: January 11, 2022
LOCATION: Arlington, Virginia

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the U.S. Department of Labor, Mine Safety and Health Administration.

Date: January 11, 2022

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