Operator (Erika...: Welcome to the MSHA stakeholder conference call. At this time, all participants will be in a listen only mode. We will be conducting a question session after the presentation. I'll now turn the meeting over to your host. Assistant Secretary Williamson, you may begin.

Assistant Secret...: Good afternoon, and thanks everyone for joining what is our first stakeholder call for the year. We're getting started a little earlier this year, and already thinking about trying to set up times for the next ones. And I just have a few introductory remarks. Just to give you an idea of what we're going to walk through, I have some introductory remarks, and then we're going to do a review of fatalities, which we always do, and then continue with What we did in the last stakeholder meeting we had, was having a health update. And I should step back a second and just say that our review of fatals is going to be from Marcus Smith who does the review, and then we're going to have a health update from the Chief of Health, Greg Meagle. And then as always have time for questions and then some closing remarks.

I'll just go ahead and get started. The thing that I want to start out with, and it's something that we're very excited about and something that the agency has put a lot of hard work into for the past few months. And for those of you that don't know, we recently sent our proposed silica rule to the Office of Management and Budget to start the interagency review process. I don't know, I think we might have gotten questions on it, and I'm sure people will have questions, and as I said in the previous ones, when it's come up, still at this point, we cannot talk about what the content of it is or let you know. I mean that will be hopefully soon enough. But as it goes through this process, I thought it was just helpful to underscore the significance of this first step that the agency took.

And going as far back as the spring regulatory agenda in 1998, that was when a silica proposed rule first appeared on the agency's reg agenda. And at that point in time it was estimated that we'd have a proposed rule in by the end of December in '98, and fast forward. And the broader point is that every administration, no matter party or what have you, has had silica on the reg agenda in some form or another, whether it's an NPRM or some other form, over and over and over again, it's come on and off. And as we've been saying, and as I've communicated, at least going back as far as I started back in April, getting this proposed rule out has been a top priority for the agency, and working on it and getting it to a final rule will remain a top priority for this agency, but don't want to get that far ahead yet.

So really just wanted to share that we've sent it to OMB, it's in that inter-agency review process. I said I can't share the content of it at this point, but the last regulatory agenda that was published, our best estimate was issuing a proposed rule in April 2023. And like I said, it's out of our hands at this point as it goes through the review process. But what I can say is that I know that this rule is of interest to probably everyone on the call, to be honest. And we look forward to once we get the proposed rule out, to receiving and reviewing the substantive and thoughtful comments that we know that we'll get from this group and

others. So that's the first point I wanted to start with, is that we've sent our proposed silica rule to the office of management and budget.

The second thing I want to highlight and note is the agency has placed a mine on a pattern of violations for the first time in eight years. It did so at the end of 2022. And I guess the few things I want to say about that is one, if you're even in the discussion about getting put on a POV, that's not a good place to be in. That means your compliance history and certain metrics are above and beyond what would be your peer in mines. And so the other point that's related is there's no reason for any mine to ever be put on a POV, just to be honest, because we have a POV calculator on our website, and we have an SNS calculator on the website. So at any point in time, any mine operator can go on our website and mine operators know what their compliance history is.

I mean they know what citations and orders they're receiving out of the inspections, but even beyond that, we make it easy for them. You can go on our website at any point in time, use either one of these calculators, and find that out. The other thing that happens is that when the districts, or when we know that a mine may be approaching a POV, districts reach out and have discussions with the mine operator. And a big part of that discussion is the thing that I want to... the point that I want to emphasize and underline, as it relates to POV, which is it's very important that if a mine is even approaching, or just doesn't want to even get to a point of potentially approaching meeting the criteria that would satisfy a pattern of violations, it's imperative that mine operators work with the districts to develop a corrective action program.

Because one of the mitigating circumstances that can be considered if a mine comes up in the screening is not only the establishment of, what I'll call a CAP, it's a corrective action program, but you have to establish, you have to have a CAP in place, but also have demonstrated progress in terms of hitting the benchmarks and the different things under the CAP. So that's where getting a CAP in place is incredibly important, and the districts are there to work with mine operators to work through those and work through those plans. We have guidance and guidelines on our website. That is information that could be provided to any mine operator that is interested in developing a CAP and implementing one.

The last thing I'll just underscore on this point is that I said this too, and publicly, and if a mine does come up on the screening and we go through the process, I mean this is one of MSHA's tools in its toolbox. Congress put this provision in the mine act for a reason, and it's to address really problematic mines. And if a mine comes up in the screening, we'll use that authority that Congress gave us, as I think Congress intended for us to, to address that situation. But as I said, no mine should ever be on it, get put on a POV, with the calculators, and talking to the districts, and implementation of corrective action programs. But I wanted people to know that at the end of the year we did, MSHA did place a mine on a POV for the first time in eight years.

Third point I wanted to just mention real quick is I wanted to... And I don't want to spend a lot of time talking about this because Marcus is going to have a really good presentation for you and go into this more in depth, but I at least wanted to note that last year, there was a noticeable improvement in terms of the number of fatalities from the previous year. And that is something that is obviously good news, but there's also still a lot more work to do there. And we know that, and we know that we have to work with all of you all, but I just wanted to take a second to note that fact, and note that that reduction in fatalities came from a lot of hard work from a lot of people, industry, labor, grantees, others that are just involved in the industry, and of course our own MSHA employees and all the work that we do at MSHA. So it's a collective effort to address some of these things.

So without getting too in the weeds or saving some for Marcus, one of the things that did go down, and it was an area that we've talked about on these calls and focused on, was powered haulage. The powered haulage accident went down, but we also noticed machinery went up a bit. So as we think about... and Marcus will touch on some of these things a little bit more... as we think about moving into this year, and where we can all focus our efforts and try to reduce that number even more, and prevent not only fatal accidents, but just accidents in general. We still got a lot of work to do and we're going to be trying to think and identify and share best practices and areas that we're seeing. I mean we're still having to issue all this highlight one that we talked about at the last stakeholder meeting. We're still seeing and having to issue a lot of imminent danger orders for not wearing fall protection. And that's one of the things that if you have it, and you're appropriately wearing it can save your life, and it's those kind of things.

Real quick, and Greg will talk more about some of the health initiatives, but just wanted to let people know we're still focused on our silica enforcement initiative. That's still a big priority, especially as we're continuing to go through the rule making process, but we're also just more broadly focused on health, and that's consistent with the Miner Health Matters campaign that we rolled out last year. And we're going to continue not just looking at silica, but miner health more broadly, and being on the lookout for that. And it's enforcement, it's training, it's education, it's having discussions with groups like this. It's when I go out and speak, talking about the importance of maintaining awareness about one's health. All these different things fall under this big umbrella that is our Miner Health Matters campaign. I just wanted to continue to say health will continue to be a focus in 2023 for MSHA.

And lastly, wanted to just share very recently, and we put out a press release on it, but we've talked about the development of the miner safety and health app, and it's now available in Spanish. So that took some hard work from MSHA and other folks at the Department of Labor, but we're happy to report now that it's now available in Spanish, and it's available both on Apple and Android. So that's all the introductory remarks that I have, and... Oh, the other thing real quick too, I almost forgot this. MSHA now has a Facebook page. So I would encourage

you all to follow us on Facebook, in addition to Twitter, and other places, our website, and we'll be posting a lot of good information that's on there. And so please share that, and let people know that follow us on Facebook for good information. So without further ado, I'll turn it over to Marcus for a discussion about fatalities.

Marcus Smith: Thank you, Chris. As Chris said, my name is Marcus Smith and I'm the chief of accident investigations in the MSHA enforcement office. Today I'll be discussing fatalities that occurred after our last stakeholder meeting. Our last stakeholder meeting occurred on October the 20th of last year. There have been seven fatalities in this time period. The first fatality occurred on October the 22nd, and the seventh fatality occurred two days ago on January the 23rd. During this presentation I'm going to discuss stats, after that I will discuss three of the seven fatalities. And then as Chris mentioned during his introduction, I'm going to end my presentation with a focus on machinery accidents, as we have seen an upward trend as we look back over the previous years. So if you're following along in the presentation, I'm going now to slide two. This first slide, as the title says, deals with accident classifications, power college, we have two, and machinery we have two. And those two classifications have typically been the leading classifications as we look at fatal accidents. We also have one in hand tools, engulfment, and drowning.

Moving now to slide three, the number of mine employees, six of those fatalities occurred at mines that had 50 or more employees. One totality occurred at a mine that had 19 or less mine employees. On slide four, experience at the mine. And as we always talk about during the stakeholder calls, we really focus on experience at the mine, and experience at the activity, and especially focusing on those miners that have less experience. As you can see, we have three fatalities that occurred to miners that had greater than one year, but less than up to two years of experience at the mine. Three over 10 years, and greater than two up to four years, one fatality.

On slide five as I mentioned, experience at the activity. One year or less, one fatality up to two years, add two. So we have three that were two years or below. Greater than 10 years, three, and greater than two to four years, one fatality. And on slide six, mine employees and contractors. Six fatalities were employees of the mine operator, and one fatality involved a contractor. Moving now to slide seven. Now I'm going to discuss as I mentioned, three of the seven fatalities. I going to talk about one powered haulers fatality and two machinery fatalities. This first fatality we see on slide seven is the third fatality in this time period, and it occurred on December the sixth at the Castile Mine.

A miner died when the diesel tractor he was operating struck a pillar. The miner was thrown from the tractor, and was crushed under the rear tire of the tractor. There was actually two pillars involved in this fatality. There was a pillar that the vehicle struck. When the vehicle struck that first pillar, the miner who was driving the vehicle was either thrown or removed from the diesel tractor, and as

the tractor continued moving forward to strike the second pillar, he was pinned under a rear tire of the tractor.

The victim was not wearing a seatbelt, the seatbelt worked and was not latched at the time of the accident. We look at best practices to prevent this type of fatality, wear seat belts when operating mobile equipment, maintain control of equipment while it is in operation, and train miners in the safe performance of their assigned task. That's on slide eight. So moving now to slide nine, this is the fourth fatality in this time period, and it occurred on December the 16th in Texas and this is a machinery fatality classification. In this fatality, this contract mechanic was preparing this excavator for transportation and part of the process preparing for transportation is to remove the counterweight. This counterweight weighs several tons, and as he was working to remove the counterweight, the counterweight fell, and struck him. And in this fatality, the victim had one year and 13 weeks of experience, total mine experience, which includes experience at the mine and experience at the activity.

Moving now to slide 10, best practices to prevent this type of fatality is positioning in a manner to stay clear of hoisted loads or any overhead load, any load that can fall on a miner. Correct positioning is very important. Avoiding pinch points, that goes right along with that, when working on or near equipment or machinery. It's also important to follow safe work procedures, consistent with the design of equipment when working on or near such equipment. And a lot of times when we are doing these investigations, we take a look at the operator's manual, and how the operator states that certain work should be done on that equipment. And there are times when we find that those procedures are not followed. So that's something else that we can focus on, as we look at preventing these types of accidents, is to get the manual, read the manual, train on the manual, follow the manual, especially when it comes to activities that create specific hazards.

Moving on to slide 11, this is the fifth fatality and the time period. This occurred on January the fourth of this year in Tennessee. This again is a machinery fatality. In this fatality, the miner was fatally injured when he was positioned between the Pitman, if you look on the left picture on that slide, you'll see a Pitman assembly. He was positioned between the Pitman assembly and the crusher housing. So if you go to the right there, you'll see crusher housing, kind of where that arrow is. It's pointing to the crusher housing, but right where that tip of that arrow is about where the victim was standing. On the right picture you can see a belt that goes underneath that jaw crusher.

They had removed the toggle plate, and he put it on the belt, and he was standing on the toggle plate, and he was positioned in between the Pitman assembly and the crusher housing, and they were trying to remove that, the toggle bearing, which is also labeled on the left picture. While the miners were working to do that, the Pitman assembly moved to the right in the picture and crushed the victim, pinning the victim against the crusher housing. And in this

fatality the victim had one year and 50 weeks, almost two years of experience, total experience, which also includes mine and activity experience.

Going to slide 12 best practices, blocking components against motion. That's something that we've talked about several times in our stakeholder calls. Blocking against motion. Again, like I mentioned previously, positioning. Proper and safe positioning, away from pinch points. As I mentioned a few minutes ago, manufacturer's recommendations. Knowing them, following them, training on them, making sure that they are followed. And developing procedures for work if there's any confined space or anything of that nature. Developing procedures, processes, that keep everybody safe all the way through that work activity. So those are the three fatalities that I wanted to talk about. Moving to slide 13, I'm just going to focus a little bit on machinery fatalities. As Chris said, we've seen an upward trend. We're seeing an upward trend in machinery fatalities. And as it says on this slide, accidents are classified as machinery when they result from the action or motion of machinery, or from a failure of any component part of that machinery.

If we look at last year, we had 10 fatal machinery accidents. These accidents involved two bulldozers and two excavators, a continuous mining machine, a soil compactor, an auger conveyor, a crane, an electric shovel, and a drill. This was a 25% increase from the previous year, 2021. So moving to slide 14, we took a look, and we went back to 2018, and we looked at the number of fatal accidents we had in each of those calendar years. And as you can see, that graph on this slide, that represents an upward trend. So that's something that we need to send notice of, we need to be aware of, and work together to prevent these types of accidents.

Moving to slide 15 as a part of our review, we took a look at the types of equipment involved in the machinery fatalities, and identified the top five pieces of equipment. And as you can see there, plant equipment and excavators make up 50%, when we look at the top five. So plant equipment, those would be that equipment in a plant of some sort, like a crusher that we talked about, or a conveyor, auger conveyor, trailers or the truck trailers, cranes and bulldozers. Going to slide 16, part of our process when we conduct accident investigations, if you've had a chance to review fatal accident reports that are posted on MSHA.gov, you will note that towards the end of each fatal report, we talk about root causes. Part of our process that investigators perform as we look at the direct cause of the accident, then we ask why did that occur? What caused that to happen?

And that, from the direct cause, then when we answer those questions, that gives us our indirect causes. When we identify the indirect causes, we keep asking why. We keep asking what caused this to happen. And as we answer those questions, eventually we get down to the root causes of the accident. So once again, in this time period, 2018 through last year, we identified the top three root causes, and number one, training. As we've stated many times on the stakeholder calls, we look at experience at the mine, experience at the activity,

and when we look at those, you have a relation there to training. Making sure that miners are properly trained at the mine, the mine environment, the unique aspects of the things they will encounter at that mine. And then also the big one is task training, making sure miners are properly trained to perform the task that they're assigned to perform, that they know the safe work procedures, safety and health aspects of that task. Those are the things that are important.

And so as a root cause, number one, we identified that the mine operator did not provide adequate training and new miner training, you see that a lot. Task training as I just mentioned. Number two guards, the mine operator did not assure that guards were in place while the equipment was in operation. And number three, blocking equipment against hazardous motion, before performing repairs or maintenance. So the top three root causes, and we always talk about preventing these accidents and working together. So these are three root causes, the top three that we need to work together on and focus on. Training, adequate guards, guards in place, and blocking equipment against hazardous motion.

And onto the last slide in my presentation, slide 17, once we as an agency identify the root causes, then the next step is to meet with the mine operator to discuss corrective actions that can be put in place, that will be put in place to prevent this accident from occurring again. And what I want to focus on this slide is where we say in the bullets, implementing written procedures. Putting these procedures down in writing, coming up with these procedures, putting them down in writing, making sure that miners are trained, fully implementing them to institutionalize the things that are necessary to prevent these types of accidents.

So number one, implementing written procedures to assure the required training is provided and there are times when, as I said before, where the manufacturer's manual needed to be incorporated into the training. The training plan needs to be revised, that kind of thing, to incorporate that. Training miners to secure guards in place while equipment is in operation, and developing and implementing procedures, third bullet, written procedures again, to block equipment against hazardous motion. The way repairs or maintenance are performed is key, and identifying the moment and the time when that equipment must be blocked against hazardous motion is key, when maintenance and repairs are conducted and performed. So that ends my presentation. I guess I will turn it over to Greg.

Gregory Meikle: My name's Gregory Meikle, I'm with MSHA and I'm Chief Division of Health in Enforcement. And I wish today to continue our quarterly stakeholder meeting, and focus and continue to focus upon our initiative for miners' exposure to respirable quartz silicon dioxide. As we went over the last quarterly meeting, we had plotted, and we have a pie chart here, that represents the percentages of each one of the occupations in fiscal year 2021 that were overexposed to silica during that fiscal year. And we see, and as I said last quarterly stakeholder meeting, those miners that are performing occupational work, that is at a high

risk of over exposure, when you look at the breakdown of the over exposures year by year, those occupations that are at the highest risk are those that are most overexposed.

So in fiscal year 2021, we had four coal mines, the continuous mining machine operator and high wall drill, bulldozer, shuttle car, roof boulders, long wall occupations, those were the occupational over exposures for that fiscal year. Last quarter, we went over the first three quarters of fiscal year 2022, and we've completed that. And again the continuous mining machine operator, the haul wall drill operator, roof boulder operator, bulldozer operator, shuttle car operator, long wall operators, they are again in those occupations that are most overexposed or most often overexposed to silica at our nation's coal mines. And when we went over this last quarter, we were focused upon, okay, these are things that are published and have been connected back to the abatements of those samples that we just done an occupational breakdown on.

And we find that most often the abatements of each one of these citations are through the implementational correction of already existing controls, that are published as best practices in the mining industry for coal, and for metal and nonmetal. So these best practices, we have a link here at the bottom that would take you to NASHA's site, and we've listed a couple of these, four of those occupations that are most often overexposed to quartz. And metal and nonmetal in fiscal year or calendar year 2021, is what this is listed as. We have the laborer cleanup, crusher operator, utility, stone cutter, dry screening, bagger. We have these, and if you go back, you can go back... These are the most often overexposed because they're at the highest risk of overexposure, and our sampling program has born that out. In calendar year 2022, there was some repositioning of the order, but the numbers didn't deviate far. Stone cutters, crush operators, baggers, utility laborers, truck drivers, kiln, we see these occupations repeat.

And as with the best practices in coal, we also have a best practices that has been published for the metal and nonmetal mining industry, and we have listed two of the best practices most often utilized to prevent and to correct overexposures, and abate the conditions and practices we found when issuing citations. And we went over some of that last quarter, but they remain and I went over those to set up what we want to focus on. And I want to use it as an example to all of us to look at and consider. When it comes to environmental cabs or enclosures, since our last quarterly meeting we can go over five examples of overexposures on miners that were in what were being protected by environmental enclosures. So on the first one, the most recent one, our sampling was on December 20th, 2022. A high wall drill operator was overexposed, and the respirable dust concentration of that overexposure was 0.5 milligram per cubic meter on respirable coal mine dust.

That dust was 25% quartz, and had a concentration of 127 micrograms per cubic meter of respirable quartz. In the abatement and termination of the citation, a revision of the surface mine respirable dust control plan now includes a boot

cleaner, cleaning schedule for the cab, and other practices limiting the entry and exit, that is opening the door and windows, in specified areas and activities. So of course in the parking area of the equipment would be another situation. That's where you'd enter and exit. But while in the pit and the other mining equipment is active, and that respirable dust is being generated by the equipment, that's now limited in the respirable dust control plan for this particular mine and this particular occupation. On December 8th, 2022, a front end loader operator was overexposed, and that exposure was a 0.55 milligram per cubic meter respirable coal mine dust which had 23% quartz equating to a concentration of 128 micrograms per cubic meter respirable quartz.

And we saw that this piece of equipment that should have been protected because it had an environmental cab, had some problems. They had the front bottom glass steel was missing. It left an eight-inch gap opening to the outside environment for the length of that glass. And there was also unsecured access panels in the floorboard, which also left the cab open to outside environments. Now the cab was corrected in its flaws, and that led to the abatement of the conditions that led to the citation. On December 7th, 2022 there was an excavator operator that had a respirable dust sample of 0.75 milligrams per cubic meter and that sample had 46, almost 47% quartz. That concentration equates to 352 micrograms per cubic meter of quartz. The operator implemented a surface mine respirable dust control plan, which included similar provisions, a boot cleaner, cleaning schedule for the cab, other practices limiting the entry and exit of the machinery, or the environmental cab in specific areas and activities of the mine. And that was what was utilized in order to abate the conditions and practices for the issuance of that citation and overexposure.

On December 6th, 2022 there was a bulldozer operator overexposed at 0.762 milligrams per cubic meter, an 18% quartz concentration, and a 141 microgram per cubic meter respirable course concentration. There was a respirable dust control plan established, maintenance and cleaning of the equipment was included on the scheduling for that environmental cab. On December 1st, 2022 there was another excavator operator that was overexposed, and the respirable mine dust concentration was 1.09 milligrams per cubic meter, with a 14% quartz, and a concentration of 156 micrograms per cubic meter. It was stated in the body that the excavator was almost new and no defects were found. However, he noted that the operator was a heavy smoker, and ran the shift with the door open during the shift, and noted that he spoke to him about this, and noted visible dust that day.

In other words, the activities and areas of the mine that that excavator was being operated, there was visible dust there with the door and possibly the window open. In the abatement of the conditions and practices, there was again a surface mine respirable dust control plan, including a cleaning schedule for the cab, and limiting the practices of entry and exit and opening the door in specified areas and activities of the mine. In the metal and nonmetal mining since our last stakeholder meeting, there has been two over exposures. One on December 15th, 2022. It was a ball mill operator, and the exposure was a 1.82

milligram per cubic meter respirable dust sample, containing 20% quartz, and that equated to a concentration of 368 micrograms per cubic meter.

And this was cristobalite, which has a more toxic effect. This citation is still outstanding, but additional controls and time spent in the enclosure will be key to the abatement. So that ball mill operator needs to stay in the enclosure more often, because going out in the environment where the concentration is higher has been identified as the root cause of the problem for the overexposure. On October 27th, our front end loader operator had a concentration of respirable dust of 1.45 milligrams per cubic meter with 28% quartz, a concentration of 417 micrograms per cubic meter on respirable quart. In abatement of the conditions and practices, the mine operator installed a new door kit, a new seal kit around the door, sealed other holes in the environmental cab, cleaned the air conditioning system and filter, and a plan with a schedule for maintenance was implemented to abate the violation.

That's a lot to say, but there's a common theme here. The controls were in place, the problem was utilizing those controls and maintaining those controls, and these are real instances that we have to point to over the last quarter. These are the things we can prevent without much cost to the mine operator, and with just a little diligence we can make these go away, and we won't have to talk to them, whether before or after. And with our silicon initiative we're focusing on this, because this is the toxic material that is overexposure in miners, and is causing disease. Ms. Williamson has already informed that this quarterly conference, stakeholder meeting, the efforts that we have in place, and ongoing to go to rulemaking and develop a new standard for our miners' exposure to silica, respirable silica.

And we can go over now the best practices in a little bit more detail, and we hope to have an alert on the best practices for these environmental cabs and environmental enclosures soon on our website. But going over that, if there's a properly designed and maintained cab and environmental enclosure, it can greatly reduce. We see that, we just went over that. It can prevent and it can evade the conditions that caused measurable overexposures and high overexposures. So maintaining the cab's integrity minimizes outside contaminants from entering the cab by providing positive pressure. And for those of you that are familiar with mining and the equipment, you know what I'm talking about. When we have pressure on the inside, air goes out and not in. So the outside environment that have our mining activities and which generate the respirable dust that contains quartz, it stays out. The filtration of that system has to be maintained also. So maintain, replace the seals, gaskets around the doors and windows and any other openings we see, cracks and structure around the cab. All of that plays its role in making sure that that cab remains pressurized.

So maintain the cab, maintain the systems that we have in place, put them in place if they're not in place. Next slide will show some other practices. And so we see that other key considerations can be utilized to help to reduce

overexposures. Some of the equipment on the inside, to maintain them, that means to set forth a schedule for cleaning. Miners get in and out of their vehicles with boots, and mud, and that's the stuff that when it dries out, and the picture at the bottom left, that's your HVAC, that's your heater there. And when that is turned on in the wintertime, it's going to dry out that mud that's on your boots that's dragged into the equipment, and then the fan is going to help as there's vibration, and the movement of the boots, and the miner inside the cab, to liberate it into the environment that the miner is breathing.

So that has to be cleaned up, and it has to be done methodically, and on the schedule to maintain and to prevent overexposures. But it's not only the cleaning of the inside of the cab, but the system that is pressurizing the air that's going into that environment, or recirculating in that environment has to be maintained too. So you have to replace those filters. And I know I'm talking to people who already know that, but we're reminding everybody that we have to be diligent about this. These are overexposures that ought not happen. So I know we don't want to do that, because it ends in abatement of a citation, and we want to prevent that. But better yet, not just the abatement of the citation, it's the exposure to the miners, and this is accumulative over their mining career. So we've got to do this in order to get ahead of what will happen after the exposures come to fruition and that's the development of disease.

Another part that we want to emphasize on, in order to implement and to put in place the controls necessary to prevent over exposure, we have to know where there are overexposures. And in the metal and nonmetal mining industry, there has been since our last meeting, several inquiries that came to my attention, and I wanted them to share that with the entire group. So in metal and nonmetal mining we have two regulations, they say essentially the same thing. It's incumbent upon the mine operator to conduct surveys frequently enough to determine the adequacy of the controlled measures in place to protect miners. And the exposure monitoring is what I'm talking about, we need to do it in enough frequency and in the places necessary to make sure the miners are being protected, with the controls necessary to maintain the compliance. Now some ask me, okay, what's an acceptable method?

Well we don't do endorsements, but we've shown a picture of the sampling train that MSHA uses. Now we would encourage you to do what is best for your mine, but if you want to replicate ours, we would be perfectly okay with that. So we've got a sampling train that includes a Dorr-Oliver 10 millimeter cyclone assembly, and we use a constant flow dust pump, and a 37 millimeter respirable dust cassette, and we use a gravimetric champion method. There are some instruments out there that are direct read that you can utilize. We even use those instruments as compliance monitoring in the coal mine industry for respirable coal mine dust. If you want to know your quartz concentration, I know of no instrument direct read that can differentiate on mineral content.

So in order for you to know what the percentage of quartz and your quartz exposures are, the gravimetric sampling method, or this is the method that we

use and the method you can use in order to determine, okay, where do I need additional controls? Where do I need controls? Where do I need to revise my controls, because they're not adequate? And we would encourage and somebody might ask, okay well how often and where and all of that. That would be a case by case. And if you need to discuss those things, please feel free to call me. My contact is on our webpage, and also you can see it here on the last slide. So I think at this point in our presentation we're going to go to questions for our...

Jeanette Galani...: Hi everyone, this is Jeanette Galanis, deputy assistant secretary. I'm going to hand it over to Pat Sylvie who will start the question and answer process with answering some of the questions that came in beforehand to us.

Pat Sylvie: Thank you, Jeanette. And what I'm going to try to do, people who know me, I know some people on the call, I talk fast so I'm going to try not to be redundant, and I'm going to try to group some of these questions. At first, I was going to call out the questions by last name, but I'm not going to do that. What I'm going to do is, I'm going to talk about the questions that dealt with... And I don't want to call out people by name, but I want to, the questions that dealt with an update of the silica rule, and in a word I'd like to say to you all, you heard Chris give that update at the beginning of his talk.

Some of them, some of the questions dealt with specific updates on the respirable silica rule, as well as updates on any regulatory activity that MSHA has, as well as updates on any stress limit. So I take that to be a question of asking for an update on the silica rule. So on that, you heard him say that that was at OMB, you all who follow rulemaking, and I know there are attorneys probably on the call, and lobbyists, and people various, and people who follow rulemaking, you know during that process, and I'm not telling you anything you don't know, you can ask for a 12866 meeting, and I'm sure some of you will do that. We will probably listen, some of us will probably listen to you. At a minimum, our Spanish director who is Arami Noe, or some of her staff. And I'm going to repeat, I am going to repeat one thing that Chris said. I wrote it down. You people who know me know I write notes.

He said We look forward to your substantive and thoughtful comments. So I reiterate that, that's a bit of humor y'all. Substantive and thoughtful comments and those who follow rulemaking know exactly what I'm talking about. The next comments that I'm going to put together are going to be a combination of the ones that dealt with an uptick, as your comment goes, in the fatal events, and what are some of the solutions that we have. And some there mention power haulage, as well as seat belts, as well as, and I'm lumping this all together so I can discuss it in one answer, as well as here, the proposed power haulage standard. And really it's the surface mobile equipment rule, just to be clear, as it addresses power haulage issues, you are right. But it's the surface mobile rule, as well as I said seat belts, didn't I, and the increase in power haulage they talked about. Let me see, it was one other thing I mentioned seatbelts, I'm trying to knock all these together.

So to talk about that, the surface mobile safety program, to be honest, I mean that's what it is. That rule is here in final rule. The next iteration would be a final rule that is at MSHA, and we hope to, I should know, to be able to tell you what the date is. But in the fall agenda, if I'm not mistaken, the date for that was... Romes telling me July, July of 2023. Now as I sit here today, that appears to me to be fairly ambitious, but we are going to try to make that date, because I think that is very important. Because as you heard Chris say, and as you heard Marcus say, we did see some improvement, and significant... I don't like to even talk about that either. But we saw significant improvement in powered haulage accidents and fatalities, and I think that was through the combined efforts of all.

So as a segue, another question says what are we going to do with the uptick in machinery accidents, like we did in powered haulage? And I would say there that we are going to target, just like we did in powered haulage, and Marcus talked a little bit about that. We are going to turn our focus to where we are seeing the increase, because we don't have unlimited resources, as you all know, and we are going to target our resources. Now we see somewhat of an increase in machinery, personal protective equipment, lack thereof. And I'm lumping things together like falls, personal protective equipment, dealing with electrical hazards, dealing with burns, dealing with drowning, and a whole laundry list of personal protective equipment. And what happens there, you have to have it available and you have to have miners trained to use it. It's got to be there and miners have to be trained on how to use it.

So that's a two-part component. So we are going to turn our focus to that, both educational policy and development, as well as our enforcement staff. And our inspectors are inspectors, but they also do compliance assistance too, to the operators and the miners. So it's going to be a three pronged approach as we go out and try to focus on these types of fatalities, and accidents, and injuries, much like we did with powered haulage. And not to specifically not answer the issue that the person raised on seat belts, I would hope they actually would be proposed as standard. And just so you know, on any question dealing with why aren't we proposing a standard, I have to punt on that because that's a policy decision, and that has to go on the regulatory agenda. The regulatory agenda goes down to the Department of Labor to be approved, and then to OMB.

So I can't give you, we can't give you, an answer on that today. We appreciate that you brought those issues to our attention, and we will look at that, particularly from the standpoint that you have attention to that. But on seat belts, we have been using that as a best practice for as long as I've been here and that's been a long time. But I would hope that the surface mobile equipment final rule, and that would be the next iteration, would also help there. Because the way the proposed rule was constructed, each operator could address his or her program to address power haulage issues at their mine. And I would think, this is me thinking, that seat belts could be part of that. So that's that one. And it was a couple more I missed, I was trying to write things down here. Oh, just after, and I know most of you probably know this now, ask what do we do in '22, and what can you look forward to in 23?

One thing we already did, and I'm sure you didn't look forward to that, was we raised the penalties to deal with inflation. But because of the debt collection act, we have to do that, debt collection improvement act as amended by something, something, something, some loan thing. We have to do that every year. And so we did that, and just as an example, if I'm not mistaken, the flagrant, which against is the highest penalty, went up in excess of 300 and something thousand dollars. And the regular formula, the highest amount for the regular formula penalty went to 80, had to be 80 something thousand. I don't know exactly what it was. The reason I say it had to be 80 something thousand, is because before that it was 79,000. So that had to be 80,000. And before the inflation, I should have had that in front of me, the flagrant was 291K. So I'm thinking that went to about 306, if not above 306. I know some of you will probably give me the answer when we open it up for questions.

So the question that had to do with a gentleman from dolomite, the question had to do with the dust limit. I interpreted that to be silica. Let me see, did I miss any? I don't think I missed any of the ones that I intended to group together. And so next we had some that talked about training, and basically the same ones that talked about annual refresher training, and how do we that and the declaration deal, particularly with the declaration on COVID. And it's my understanding that the emergency declaration on COVID hasn't been lifted yet. It's still ongoing. And so I would say on those, to be honest, without getting into a real specific conversation today, if you have specific issues on those, contact your district managers or your regional persons for educational policy and development. Although we have Brian Gepard here, unless you want to give a different answer than I just gave.

Brian Gepard: Nope. Perfect.

Pat Sylvie: Or we have Mr. Lawrence, who is over EPD, unless you want to give a different answer than that. And a couple of these you would note, I didn't answer. Did we have the final favor out on Coburg? Is that out? No? Okay, somebody asked was the final favor report out on [inaudible 01:06:56]. That was accepted and I'm told, I'm looking around the room and the answer's no. But suffice you to know, we put a lot of time and attention in the fatal investigation report, as you saw invited in some of Marcus's presentation. So we try to get those out as quickly as we can, but in as thoughtful a manner, as accurately as we can and in a thoughtful manner as we can. I know sometimes it takes longer than we care for it to take, but we want you to know that we put... And I think that's... I think I went over all of them, and now I guess you can open them up.

Jeanette Galani...: Why don't we open it up for a few minutes for questions?

Pat Sylvie: Yeah.

Jeanette Galani...: Thank you.

Operator (Erika...: If you would like to ask a question, please press star zero on your telephone keypad now. An operator will take your name and place you into the queue in the order received. Once again, to ask a question, please press star zero on your phone now. One moment while we gather our questions. Our first question comes from Matt Stewart. Please state your question.

Matt Stewart: Hi, this is Matt Stewart with Vanderbilt Minerals. Thanks, Chris, Jeanette, and Pat for taking time today to cover things with us. Brian, it's nice to hear you in the background as well. So Pat and Chris, when we met at the Alliance meeting, the Essential Minerals Alliance meeting in, I think it was back in May, we had talked about the administration's concern over customer haul trucks and the potential for injuries among that group. In light of the power haulage initiative, has the administration seen any ongoing concerns there? Can you touch briefly on what your thoughts are on customer haul trucks?

Pat Sylvie: Well, and I think we hit on it early on that in... And I'm giving you calendar year now. From calendar year '21, and when we start giving statistics, I hesitate all the time in doing that. But from calendar year '21 to calendar year '22, we saw powered haulage accidents, fatal, I'm talking fatal now, go from 17 in '21 to four in '22. Yes, to four in '22, a significant improvement. And as Chris said, we don't give all the credit to us. We give the credit to the industry, to labor, to us working, to all of us working together.

And obviously some of that reduction included a lessening of accidents with respect to customer truck drivers. And I would say that some of that had to do with our initiatives on power haulage, as well as our enhanced enforcement program. But what I would just like to say to everybody on this call, that we approve of those of you who made this an initiative at your site, who experienced customer truck drivers. We appreciate the emphasis and the focus that you placed on it. So we appreciate you making it a priority as well as we have.

Matt Stewart: Good. But we shouldn't put our card down. I guess we all need to keep up from this fight. But it's good to hear that you've seen at least a lack of additional injuries. I hate to pat myself, or anybody else have them pat themselves on the back in this regard, but thanks for the update. Appreciate it.

Jeanette Galani...: Okay.

Operator (Erika...: Once again, if you'd like to ask a question, please press star zero on your phone now. At this time you have no further questions.

Jeanette Galani...: Okay, great. Everyone, thank you so much for joining us. We will definitely try, in the future, there is a question here if we could try it and advance the schedule dates. We will definitely try to do that. We appreciate that and we'll try to do that and throw out dates. But thank you once again everyone, and we will talk to you next quarter.

Pat Sylvie: Thank you everybody. Thank you for your time.

Operator (Erika...: This concludes today's meeting. Have a great day.