

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

Assistant Secre...: Thank you. Good afternoon everyone. I'm going to take a few minutes and just walk us through the agenda real quick and then turn it over and we'll quickly just jump into the presentation. I'm going to do a few introductory remarks and then followed by... We're going to do a review of fatalities since the last stakeholder meeting, which we normally do, which will be led by Marcus Smith and then one of the areas we're going to cover during that discussion relates to fall protection and then we're going to have a presentation specific to fall protection from Ben Gandy from technical support at MSHA. Then we're going to do something a little different this time and Greg Meikle from the MSHA Enforcement Health Division is also going to do a presentation on health hazards.

And then I'm going to take a few minutes just to talk about some health initiatives and some different things that we've been doing, and then as always, we're going to reserve time for questions. I just want to take a couple minutes at the top and I'll just say thank you to everyone that's on the line and look forward to the discussion today and the questions and just a couple things I wanted to cover real quick. First, just as a reminder, the presentation that we're going through today for both the fatality review, fall protection and the health hazards information is online so you can access it there and follow along.

A couple other things I just wanted to say real quick too is probably a lot of you know, it's October and at the end of the month on the 30th will be Mine Rescue Day, and I recently had the privilege and really enjoyed the opportunity to participate and attend both the national and the international Mine Rescue competition and it was a great experience for me. I took a lot away from both of those events and just really appreciate everyone, a lot of work both at MSHA and Industry and Labor and I met some people like state grantees. A lot of different people play a role in supporting Mine Rescue, so just really want to thank everyone that's on the line that does that, and I would be remiss if I also didn't note that our MSHA team did very well at the international competition and won first place.

We're very proud of them and not only do we have some pictures of them in our conference room that we're in today, but we've also recognized some of our previous MSHA mine rescue teams, including our previous International Mine Rescue Competition champion, so we have the pictures hanging up on the wall here, so we're very proud of both MSHA and everyone else's participation and support of Mine Rescue. I just wanted to say that at the beginning, and with that, I'll go ahead and turn things over to Marcus. Walk us through the review of the fatalities.

Marcus Smith:

Thank you, Chris. As Chris said, my name is Marcus Smith, I'm the Chief of Accident Investigations in the MSHA Office of Enforcement. Today I'm going to be talking about fatal accidents, like it's already been mentioned, that have occurred since the last stakeholder meeting. Last stakeholder meeting occurred on June the 28th of this year. We've had 10 fatal accidents since our last stakeholder meeting. In this time period, the first of those 10 fatalities occurred on July 21st and the last one occurred three days ago on October the 17th. In the presentation, I'm going to discuss some stats, go over some of the fatal accidents that occurred out of the 10, some of those fatal accidents. As Chris mentioned, we're going to focus on fall protection hazards, fall protection enforcement actions, because we want to highlight that in this stakeholder presentation.

So moving to slide two in the presentation, you'll see a pie chart that, at the heading, there's the accident classifications. You'll note that the top classification in this time period has been accidents classified as machinery accidents, 4 of the 10, and the once again, you see the slice of the pie there for slip or fall of person accident, that being one. That would be the fatality of that occurred just recently on October the 17th. Moving to slide three, we see this slide for a number of mine employees and we'll note here that half of the 10 fatalities occurred at mines that have 19 or less employees.

Now the next two slides, slides four and five, deal with experience at the mine and experience at the activity. We always like to really focus on these two metrics because it causes us to think about training, it causes us to think about making sure miners are properly trained before they are introduced into the mine environment or before they're assigned certain tasks at the mine. We always highlight especially one year or less, or as you can see here, if we look at two years or less on this slide, that accounts for half of the fatalities in this time period.

One year or less being four and we go to two years or less, that is 5 of the 10 fatalities. Training in the mine environment, 30 CFR parts 46, part 48, all of those things are very, very important to follow. Those standards are very prescriptive in terms of what miners need to receive to know and to understand the unique challenges at the mine and to be prepared to work in the mine environment. Moving to slide five, as I mentioned, experience at the activity, and one year or less, 3 of the 10, and two years or less, 4. Task training immediately comes to mind when we think about experience at the activity. We will need to make sure that miners are adequately and fully and properly task trained. Task trained.

Okay, we'll go move to slide number six. We see that this slide deals with mine employees and contractors and we've only had one contractor fatality in this time period. Most of the fatalities occurred to miners that were employees of the mine operator. Okay, so now on slide seven, I'm going to begin talking about a few of the 10 fatalities, and we selected these fatalities because we see the issues that come up in these fatalities quite often in various fatalities.

This first fatality that I'm going to talk about was classified as a machinery fatality. That was our top category in this time period. At Giant Cement in South Carolina on July the 21st, a miner received fatal injuries when his right arm became entangled in an auger conveyor or a screw conveyor. Let's talk about best practices to prevent this type of fatality. It's important when you deal with screw conveyors, auger conveyors, that the covers over those conveyors have to be secure and in place during normal operations. Very, very important. Secure covers in place during normal operation.

It's important to keep tools, clothing, body parts away from moving conveyors. Something that we've talked about in past stakeholder meetings, lock out and tagging out, de-energize, lock out, tag out and block machinery against hazardous motion before performing repairs or maintenance, and we should never work on a moving conveyor. We also talk a lot in the past about examinations. Examinations of work areas, examinations of equipment. So very, very important. That's one of the key ways that miners are kept safe in the work environment is through proper examinations. Upon complete and thorough examinations, we should report hazards to miners and assure hazards are corrected and recorded.

Moving on to slide nine, this was a powered haulage fatality, and as you know, in times past, we've talked a lot about powered haulage. Powered haulage has been a classification that we've had several fatalities. The Tunnel Ridge Mine in West Virginia on August the 17th, a general inside laborer died when he was caught between a supply car and its coupler. He was sitting on a supply car, which was coupled to a locomotive that was parked in the track spur that you can see on that slide. There was another locomotive coming in and the switch was thrown for the spur, so the locomotive went into the spur and hit the other parked locomotive.

After that impact, the victim was knocked off the supply car and fatal injuries occurred because of that accident. If we go now to slide 10, best practices when we talk about traveling on track, maintaining track, we need to ensure that the switches are in the proper position for the direction of travel and that the latches are in contact with the rail. Sometimes, you got to make sure that even with the switch is thrown, that that switch has done its job and the rail is in the proper position. Miner should be in a safe location away from parked equipment parked in a spur when you have equipment passing on the main line. Communication. Anytime we talk about power haulage, communication always comes up. That's very, very important to prevent powered haulage type of fatalities. Miners need to communicate their location and the intended movements, and when we're dealing with switches, it's a best practice to communicate the switch orientation with the dispatcher.

Moving on to slide 11, we also have several engulfment fatalities. In Nevada on September the 28th, a miner died when he was engulfed beneath several feet of material when the stockpile that you see there on the slide collapsed. The miner was trying to remove a blockage and that happens so many times in these

engulfment type of fatality. There's an attempt to remove a blockage and somebody gets into an area where they should not be, where there's hazards from material and then that material collapses onto the miner. That's what happened in this fatality.

Moving on to slide 12, mechanical clearing devices are important and if those can be installed, those are very good and they can help prevent miners from being exposed from falling or sliding material. It's really important to have proper procedures. When blockages occur, have proper procedures and make everybody's properly trained and knows how to follow those proper procedures to safely clear blockages so that miners are not exposed to that danger of sliding material. Then it's always important to just remove the hazard. If we can trim those over-steepened, soft pile faces to the angle of repose, that removes the hazard.

As I mentioned before, we had a fatality on October the 17th in Oklahoma, and in that fatality, we don't have that slide in the slide deck because that one just occurred, but a miner fell approximately 100 feet and was fatally injured in that fall. Now I'm going to talk about some near misses as we move to slide 13. These near misses are also going to deal with fall-related injuries. On July the 25th in Colorado, a miner was at a preparation plant and fell 35 feet and suffered a broken leg and the miner was not wearing fall protection.

Moving to slide 15 on September the ninth in Kansas, at the Monarch Cement Company, a contract truck driver was attempting to close the hatch on top of his trailer when he fell approximately 10 feet to the ground, and we've had these accidents before as well. The truck drivers attempting to access to hatch on top of the trailer. The driver was not wearing fall protection. This driver was admitted to the hospital with broken ribs and other injuries, so these accidents, we call them near misses. You could also call them near fatalities, but this just highlights just some other things that are occurring in the mining industry.

Moving to slide 16, we wanted to talk a little bit about some enforcement actions, some fall-protection related issuances, and we wanted to mention that MSHA has issued 150 imminent danger orders related to fall hazards between January 21 and September of this year, so an imminent danger order is issued when an inspector is doing an inspection and notices an imminent danger and issues an order to protect miners. 150 imminent danger orders related to fall hazards were issued in that time period, January of '21, September of this year, and there were issues because miners were working where there was danger from falling and they did not have fall protection.

We listed here on this slide three of the most common violations, and we mentioned this previously. Truck drivers climbing on top of their vehicles, mechanics working on equipment and plant workers climbing on equipment, and some of these, as we say below, involve supervisors and because the imminent danger order was issued, those supervisors were ordered down from those dangerous locations. Moving now to slide 17, in addition to imminent

danger orders, you can see standards here in the 30 CFR that address fall protection requirements. We have 56.15005, 57.15005 at metal and non-metal mines, and then at coal mines, 77.1710 (g) and both of those deal with safety belts and lines, fall protection that's required where there's a danger of falling.

As we see at the top of that slide, mine operators and independent contractors must always comply with these standards. 392 times MSHA has cited these standards in the same timeframe that we issue those imminent danger orders. These are 392 other issuances... Citation orders from January of last year to September of this year because MSHA inspectors found violations of these mandatory standards. At this time, I'm going to introduce Ben Gandy from tech support and he's going to go further into the discussion of fall protection. Ben?

Ben Gandy:

Thank you, Marcus. This is Ben Gandy and I'm a general engineer in MSHA technical support located in Triadelphia, West Virginia. Today, I'll be discussing fall protection and associated best practices. Please refer to slide number 19 if you're following the presentation online. Historically, slips and falls account for one of the leading classifications for injuries within the mining industry. This is nearly a quarter of all nonfatal days lost or NFDL injuries. Over 12% of NFDL injuries result from miners falling from an elevated surface.

So far in 2022, there have been 315 NFDL injuries and three fatalities where miners fell from a height. On slide number 20, as you can see by looking at the chart, slip and fall fatalities continue to occur within the mining industry. Mine operators are encouraged to conduct risk assessments, control hazards, and increase training and education efforts regarding the proper use of personal protective equipment. On slide 21, in order to understand risks and hazards and control hazards, it is important to know what the contributing factors are to the slip and fall of person fatalities and injuries. They can be summarized as follows; not providing or maintaining safe access in plants or surface facilities, not providing

Ben Gandy:

Maintaining safe access on mobile equipment. For example, while conducting maintenance and truck tarping, getting on and off [inaudible] equipment or mounting and dismounting equipment and improperly wearing or not wearing fall protection. Slide 22. There are five basic elements to risk and hazard identification and mitigation that can assist mine operators in preventing falls in the workplace. The first is understanding and complying with regulatory requirements contained in Title 30 CFR. MSHA frequently receives fall protection requirement questions from contractors who work at sites regulated by MSHA and OSHA. Complying with OSHA regulations contained in Title 29 CFR will assure you meet MSHA requirements. Company policies should also be developed to enhance regulatory requirements.

The second part is identifying hazards. A well conceived fall protection program begins with identification of fall hazards in the workplace. Evaluate tasks that are likely to cause harm or injury and evaluate the risk associated with each hazard. The third basic element is hazard mitigation. After hazards are

identified, mine operators should specify how to deal with each hazard by outlining what fall protective measures are to be used, how they are to be used and who is responsible for overall supervision and training. Ideally, it is best to eliminate the hazard. When this is not possible, other measures such as the wearing of fall protection equipment, enhance worker safety. The fourth item is products selection. Mine operators must know the types of fall protection products that are available and decide which would be the most suitable for the workplace. And lastly, it is essential that persons are properly trained to recognize potential fall hazards, evaluate and control each hazards, learn examination and maintenance procedures, select appropriate products for the task and properly wear fall protection equipment, including size, fit, and adjustment.

On slide 23. When considering the hierarchy of accident prevention, it is best to eliminate the hazard when identified. For example, perhaps the cover is installed over an opening located on an elevated platform. Engineering and administrative controls are also effective in preventing falls in the workplace. These may include installing barriers, safe access, stairs instead of ladders, just to name a few. Another effective measure is assuring miners have the necessary personal protective equipment to safely conduct a task. Properly worn fall protections does not remove the hazard, but can aid in preventing miners from contacting lower levels when working in elevated areas. There are three basic parts of protection equipment: anchorage, body wear and connecting devices. Anchorage is commonly referred to as the tie point.

These locations should be easily accessible and be high enough for a worker to avoid contact with a lower level should a fall occur. Body wear. This is a personal protective equipment worn by the worker. For example, a full body harness. A full body harness is designed to hold the wear upright in the event of a fall. The full body harness should fit snug, so that will distribute forces generated during a fall across the person's body evenly reducing the potential for serious injury. Lastly is connecting devices. Always know your fall distance and be sure to select the proper equipment to meet the fall clearance requirements. Connecting devices may consist of shock absorbing lanyards or position restricting lifelines. Slide 24. With the winter months approaching snow, ice, mud and rain can create slippery conditions on travel ways such as stairs, ladders, and other walking surfaces. Be especially mindful of hazards associated with falls while getting on and off mobile equipment and tarping trucks. Be sure to train miners on how to safely conduct examinations and remove hazardous conditions.

On slide 25, we'll discuss fall protection best practices. Number one, train miners to recognize fall hazards in a chore that safe work procedures are discussed and established. Number two, always use fall protection equipment and safety belts with lines when working at height in near openings where there is a danger of falling. Number three, have properly designed gates, safety change, handrails, guards and the short covers are securely in place at openings through which persons may fall. Number four, always use the three points of

contact method. Be sure to maintain contact with the equipment by using either two hands and one foot or one hand and two feet when mounting and dismounting equipment. Number five, use automatic parts of point systems to prevent miners from working from heights. And lastly, number six, provide, use and maintain safe truck hatch access facilities. I'll now turn this over to Greg Meikle. Thank you.

Speaker 1:

Hello, my name is Greg Meikle. I'm the Chief Division of Health in Enforcement for the Mine Safety and Health Administration in the national office. Some of you may know me, some of you may not know me. And my contact information is on our website. Today, I intend to call attention to our silica initiative, which is one of our initiatives because it's of interest to all of our stakeholders, everybody on this call. It involves all of our miners that are at risk of over exposure to silica and respirable silica dust. At our website, you can go to our initiative. And in a nutshell, what the initiative wants to do is call attention and push resources toward resolving the issue of overexposure to silica by our miners.

And there's elements of that, and you can read them, but we wish to call attention to the ones that are at risk and have been identified through our sampling. Bullet number one, as you can see, would be placing mines on a 103 eye spot inspection for repeated overexposure when that's warranted. To increase our sampling at those activities at your mines and that involve high risk activity in making sure that we do our monitoring and do our sampling in order to know what is working, what is not working and correct it to where we can protect miners. For overexposures that we identify, there's going to be some requirements for us to correct those and to get compliance. You can read those, but again, I'm here to call some attention to the activities that everybody on the call is involved in and have a stake of.

We have on our website, not only the silica initiative link, but we also have a number of things. We've got the miner health matters and there will be, if not already, a health alert aimed at respirable [inaudible] silica. And by placing this in the slide, we can look at some of the elements. But the point is those elements you can read. At the bottom of the slide, there's a link and that link goes to the NIOSH website that will allow you to access their published information concerning control of respirable dust in both coal and metal/non-metal mines. Those controls have been tried, they have been tested, they have been peer reviewed and they have been published. That link I'll reference in later slides, but the information on our website, including the miner app, is making you available to the resources. And of course, my contacts are on the website.

You can call me at any time. I return calls. Not always immediately, but I will return your call. And I also return emails. Next slide, please. This past chart is information that has been publicly presented before and it represents the calendar year 2021 samples that MSHA took in coal mines that were greater than a hundred micrograms of silica exposure. The point in going over the

details of how many and where they were and everything, the point of this slide is to say, "Okay, these occupations that you see here are occupations that are at higher risk." We know that that's a part of our regulations. Next slide, please. And we have, again, analyzed the data up through third quarter for counter year for 2022. And it is no surprise those same occupations are involved. What we know is where controls need to be applied because those activities and those occupations haven't changed over the years.

We continue to do that analysis to make sure, but those controls and those occupations and activities are connecting the dots back to that stuff that is published and known to work and have been tested. Next slide. Those be best practices as published in the NIOCHE control of silica or respirable dust in the coal mining industry, for those occupations that we found, there are six of them. We read through those and picked out two. It doesn't represent a comprehensive list, but we picked out two of the controls that are being most utilized and effective for each one of the occupations. And as an example, I'll go over the continuous monitoring machine operator. Water spray systems at the cutting drum or boom that both in volume and in location and increased face ventilation. Now obviously, there's multitudes of permutations of different controls that are published. The trick is to pick the ones that are best suited for your mining conditions, your mining practices, and people in order for them to be effective in protecting those miners. And you can go down the list, but these are straight from the best practices as published. Next slide.

This slide represents the citations issued and gone through termination in coal mining for those up through the third quarter of this year. And how do they correspond to the best practices that are published? Again, going to the continuous miner machine operator, a mining machine operator, water and ventilation or combination of ventilation and water was the first two or the highest percentage of those that were utilized to abate the conditions and practices causing citations thus far this year. That corresponds well with those that are in the best practices. And you can go down through there. High wall drill operator, increased maintenance. I want to say a little bit about that. We had as general classifications, enclosed cab or filtration systems. And most of our high wall drills, they have environmental cabs or enclosed cabs. The problem thus far this year has been maintaining those cabs. As you can see, the category of increased maintenance means that the remediation for the conditions and practices [inaudible] goes overexposed exposures was to maintain what they had on the machine.

And then, work practices that would include individuals doing things as a part of their routine activities. And that would include miners getting out of those enclosed cabs to do various activities. And when that can't be done safely, it needs to be limited. Next slide, please. And then, we go to the metal and non-metal mines for calendar year 2021. That same ideology was for this slide. These occupations over the years have not varied much. They jog in position, but the top activities and occupations involved in overexposures are still at the top. Next slide. We did another analysis of the data this year and found that to hold



true. You can look at those, stone cutters, crusher operators, baggers, those occupations or those activities in our stakeholders, in our mining operations that are at the higher risk of overexposure and they have been issued more citations for being overexposed this year. Therefore, where should we focus our resources? Where should we look? Next slide. Best practices in controlling dust in the metal and non-metal mining industry lists the controls and best practices.

And this is the NIOCHE publication. These things been peer reviewed and published and we picked out, again, not a comprehensive list, but two for each one of these occupations and activities. And for instance, stone cutting and polishing, wet cutting when it's possible. Local exhaust ventilation at the work workstation or in the area. And as you can read down through here, these things are in those publications. The suggestion is these work, but you need to tailor these best practices for your mine and your mine activities in order to maintain to compliance. That's the key. And we can go over water that's already under the bridge or we can get proactive. And that's the activity we need to do. When we're trying to call attention to silica dust, and I use this in [inaudible] speeches at the mine. The NIOCHE doctors and those that are on the medical end would contend that silica dust can be up to 20 times more toxic than other dust.

In my [inaudible] speech, I would say if you're in the coal mine, what your father or grandfather got in a 40 to 45 year career, you get in two years. You'll have it before you know it. It doesn't take that long. And at some of the levels we're seeing on overexposures, we've got to get proactive if we're going to protect miners. We did an analysis of what controls have been involved in the abatements of these citations thus far this year. For stone cutting, an example was in closed cab filtration systems and use of water. And use of water was the number one. I've personally witnessed one mine visit, the use of water. And we understand that once the respirable dust gets liberated into the mine atmosphere, we have to take a little bit more effort to protect miners. The moral of that story is prevention is less expensive than cure. We can go down through these, but these also followed pretty closely to those best practices that have been published. We have those things.

But before we can implement those, we have to have awareness of what is working and what is not working, who is being overexposed. I can't emphasize enough that our regulations require us to know that we're compliant. Our sampling programs are abatements. We utilize sampling. We utilize those in order for us to understand where we have to do better. One other note, or a couple notes on this abatement measures for the dust in metal and non-metal mines thus far this year. During debatement and issuance of the citation, 82% of the citations that were issued were issued at mines that did not have respiratory protection plans that were compliant in place and/or had plans in place, but was not following those plans and implementing those plans. That's a high percentage that needs to change. And we're all involved in this. We don't want to have to use these, we want our controls to work. But I can tell you this, I've

got a lot of insurance and every one of those insurance policies I have, I don't want to have to use them. I have them just in case.

Speaker 1:

I would encourage mine operators, miners, everybody involved, have that respiratory protection, utilize it, because this silica dust is toxic. One other aspect I want to call attention to, and it's somewhat timely, is to our effort and our initiative on part 90 miners. Now, if for the metal and non-metal, you may not know about part 90, but part 90 is a co-regulation that is intended to protect miners that has already been identified through medical monitoring of evidence that they have coal workers' pneumoconiosis. The link at the top, at the bullet, is to our part 90 coal miners in our initiatives on Part 90. I wanted to call attention to the mining community that, during the pandemic, the medical monitoring was suspended by NIOSH and many of the hospitals and clinics and even the mobile van unit for the coal workers health surveillance program. They have resumed.

But one thing during that timeframe that we have identified is that we all understand baby boomers are retiring now and they're being replaced. And the requirement under 3CFR 90.100C makes it mandatory for miners, new to the industry, to be given a medical monitoring within 30 days of their employment into the coal mining industry. So I'm reminding you that now we're through the pandemic and that they're doing chest x-rays and spirometry and those new symptoms assessment and occupational history surveys. When you have new miners coming into the industry, they have to get that medical monitoring within 30 days of that employment. And that's a baseline. It includes not only the initial, but also a three year follow up. And if that three year follow up or initial has evidence of pneumoconiosis, then a second follow up after two years. So five years after the initial. If anyone has any questions concerning that, I'd be glad to answer them. But that's what I have today. And again, if I'm new to you, I hope I helped.

Assistant Secre...:

Thank you, Greg. This is Secretary Williamson again. I just want to take a few minutes and kind of try to bring everything together and talk a little bit about... So we walked through some fatalities, some best practices. We focused on fall protection and did a little bit of a deeper dive there. Sort of new to the stakeholder meeting, Greg just had his presentation on some health hazards and really focused in on silica as a hazard that we're looking at better protecting miners in. So one of the things we recently did at MSHA, a few weeks ago, was kicked off a miner health campaign, which we were calling Miner Health Matters. So part of the thinking behind that is, and it's reflected in the stakeholder meeting, is that both MSHA's name and its mission makes clear that protecting both miner safety and health must be a priority.

And as Marcus did, not only today, but he does on all the stakeholder calls, he goes through. And in his presentation, there are pictures. There's a description of what happens. People follow along. So on the safety side, you see an accident or you see a near miss. And it's a visible, tangible event that immediately captures your attention. Or even if you're not there present to see it, you can

walk through the slides and you can get a pretty good feeling of what happened. And it immediately draws your attention and you focus on safety. And then, there's the best practices and those are things you can implement to protect miners, to prevent those things from reoccurring.

And we take our work very seriously on the safety side, and we'll continue to do so. But on the health side, health hazards are harder to identify. They're harder to analyze. They're harder to correct. Some of the worst occupational illnesses, that we just talked about, silicosis, coal workers' pneumoconiosis, so black lung disease, cancers, all these different things, all these different occupational illnesses that miners develop, by being overexposed beyond a, what I'll call, a healthy limit over a period of time, that's how miners get sick. Those health hazards are much harder to identify and address. So part of the thinking behind this campaign and knowing that we need to focus on those things and that we know enough about them to protect miners from them and that it requires a little bit of heightened vigilance is that making sure that miner's health is considered equally as important as miner safety.

Both are incredibly important and both an important part of our mission. And we're going to do the work at this agency to protect both miner safety and their health. So that's part of the idea behind the campaign. Another part of it, and Greg just talked a little bit about, medical screening, at least on the coal side. And there's a whole program that exists, for numbers of years there. And NIOSH runs its coal worker surveillance program and that's well established and that's out there. But what I would say as part of this broader miners health campaign that we have, that encapsulates all the health work that we're doing, including all the work we're doing to better protect miners from silica is that's both coal and metal, non-metal. And I think the point that I'm about to make is equally applied to both, even though there is an existing system in coal for this, is that it's incredibly important for miners, no matter what the commodity is they're mining, to make sure that they have an awareness about their health.

Because if you don't know what your health is, you can't take any action to try to better protect yourself. You can't make decisions, you can't make all those important decisions, that health is a big part of our life. It's a big part of our wellbeing. It affects our families. It affects us personally. All those personal things that are involved in, I guess, just being a person. It's things that you discuss with your families. If you don't have that, at least, information about what your health is, whether you go see your own personal doctor, you participate in a surveillance program, like what NIOSH has, it doesn't matter what that avenue is for you to do that, it's incredibly important for miners to have an awareness of what their health is.

So that's a part of this campaign too. And the thought behind it. And part of what we did, in terms of rolling it out. And Greg alluded to part 90 and I'm just going to take a few minutes and talk about an initiative that we're doing as part of this health campaign, focused on part 90, which is a longstanding existing

program. But it's also a program that we know, both from our internal data and that it's historically been underutilized.

And I think it's even the numbers are even lower now, because of COVID. We had a lot of part 90 miners drop out or drop out of the workforce, because of COVID, which makes sense. Because if you've already been diagnosed with a pneumoconiosis and you have an underlying lung or health condition, you could see how a miner would not want to jeopardize their health, by potentially going and working in that environment. But we know that the program is underutilized. And for those of you that are on the call or may not be familiar with it, just in a nutshell, under existing, and if you want to learn more, we have a website that's got a lot more information on it. But in a nutshell, part 90, and it's part 90, because it's 30CFR part 90, it's also referred to as Transfer Rights. And under existing law, coal miners, who, unfortunately, have already developed a pneumoconiosis, whether that's coal workers' pneumoconiosis, silicosis, a form of pneumoconiosis, and they've already been diagnosed, and this is a program too that we share with NIOSH.

So I should also make that clear. NIOSH does the health evaluation and determination. And then, once a miner wants to exercise these rights, that's the part of the program that we have. So if unfortunately a miner's already developed a pneumoconiosis, they could exercise these rights and they can continue working, if they want to, in, what I'll call, a healthier, more protective environment. And there's more specifics to that, but it's a less dusty environment, essentially. It's a lower standard than what applies elsewhere in the mine. And so, what we know, right now, in terms of the current picture, is there's an increase in cases of pneumoconiosis. Not only is there more cases in pneumoconiosis, we're seeing more severe forms in pneumoconiosis, like progressive massive fibrosis. And we're seeing it in younger and less experienced miners. And I think Greg made the point earlier about how much more toxic silica is.

And you think about it in terms of the latency period and how long it takes previous generations of miners, how long it took to work in a mine environment to develop black lung disease. And you think about it from that standpoint, now you add on top of more exposure to silica, you're going to get sick. You can potentially get sick a lot quicker in those environments than maybe even existed before. So you got younger miners that are getting it, less experienced miners that are getting sick. And the way that I think about this, coming from the community that I come from, and having a young family myself, there might be miners that are out there, I can't tell you the exact number of them or what the total population is, but they, unfortunately, might have already gotten sick. They might have young children. They may have other people that they have to support financially.

They may have an inability to move or change in careers. They may not have anywhere near comparable employment opportunities. And a lot of people, as you all know so well, just enjoy the profession of mining. They have a family

history of it. It's incredibly important to them. Some of them see it as a patriotic duty. It does not matter, whatever that circumstance is, whether it's economic or whatever that personal decision, if a coal miner has unfortunately already gotten sick, what part 90 does is, if you need to remain employed, it allows them to do that. And they're not going to get better, because pneumoconiosis is a progressive illness. There is no cure for it. You're going to get worse over time. But we know how you get worse, quicker. It's from being exposed to higher levels of coal dust and silica. So if you need, whatever the reason, you make the decision that you need to continue working, part 90, at least, lets you have the opportunity to exercise that right, to stay employed, and to do so with at least slowing down the progression of your illness.

In that healthier, less dusty environment, at least the progression of your illness is going to be slowed down. And that's why it's such an important right. And so, basically, I ask my team to take a look into the issue, in terms of we know it's underutilized and we know that there's a growing population out there. So what can we do? And I'll just quickly walk through it real quick and I want to make sure we save appropriate time for questions. But we look at it, in terms of three primary areas that we're working on right now to better improve the program, that will hopefully make it easier for people to participate, if they want to. It's always a personal choice and the decision that the miner makes with his or her family. But so, the first question is a question of awareness. Do coal miners actually know that this right exists? How many of them do? We know that there are more and more newer, inexperienced miners joining the workforce.

How many of them even know about that? That that right exists? So some of the ways we're trying to address that issue is we've developed part 90 education and training materials. They're pretty extensive. They're on our website. We've partnered with NIOSH to improve and streamline the communications that both of us have with coal miners about this program, to address both the awareness and, what I'll call, the second issue, accessibility. Say, you know about the program. But you're talking about two different government agencies and forms and all those things that go into just going through the process. Well, so we created a new landing page on our website. And I think Greg had it up earlier, it's [www.msha.gov/part90](http://www.msha.gov/part90). It's a nowhere on the internet. Before this, was there just a place where someone wanted to know about part 90 or the steps to go through the process of getting a medical evaluation to invoking the right? That did not exist.

Well, it does now. And if miners have heard about the program and they want to learn more, there's a place where they can do that. And those education and training materials live there as well. And there's pretty what I think is great flow chart that walks you through the entire process. So here's the last piece of this. So you're a miner who knows about the program, you know how to go through the program. Fortunately, as I said, you've already been diagnosed and you've already developed a pneumoconiosis. So you're weighing, "do I exercise this right, given my situation, because I need or want to continue to remain employed in the coal mining industry?" Well the third piece of that is providing

assurance. So making sure that that miner knows that he or she can exercise that right, without fear of retaliation or discrimination. And we hope that they can and do exercise those rights and that never becomes a problem. That they're able to transfer, or their existing mine environment is made to come in compliance with that 0.5 standard, that applies to part 90 miners.

But unfortunately, if that happens, giving miners assurance that they can exercise those rights and know that there's an agency that, if they file a discrimination complaint, under 105C, we'll investigate it and if that it has merit, then there's an agency out there that'll do everything we can to make sure that miner's right's restored. And that the big part of that too is knowing that you can exercise this right. You're not going to get reduced pay or have any effect at all to any of your existing benefits. You just get to work in a healthier, better environment. And we're going to continue to have conversations about both miner rights and just the part 90 program in general, when inspectors and our ESFMS personnel go to mine sites. And we're going to talk to miners and we're going to continue to work with NIOSH and everyone else to try to improve the program.

Because if you've already gotten sick, it's a very powerful existing right, if you've already gotten sick, that allows you to remain employed, if you choose to exercise it. So we're going to continue working on it, but those are a few steps that we've already taken to improve what we think are improvements to the part 90 program. And we'll keep thinking about it and trying to work with NIOSH to do that. And I'll just lastly mention too, for those of you that don't know, we just developed and introduced a miner safety and health app. It's already gotten some really great feedback. We're continuing to work on it and make even more improvements to it. But if you haven't already, I would encourage you to download it and check it out. Let us know if you have any feedback or thoughts about it. It's available for both Android and iPhone and we're really proud of it.

And we think it's an incredibly important tool that allows direct communication with miners and a great education and training tool. There's health information, there's safety information, there's miners' rights information. And if a miner needs to, basically can make a hazard complaint by just a couple push of the buttons from the app and call it in, if they need to. So just wanted to flag everyone's attention that that resource is now out there and exists, and encourage you to download it, take a look. And if you have feedback on it, we'd welcome hearing about it. So I guess, with that, we'll go to questions.

Operator (Erika...: If you would like to ask a question, please press star zero on your telephone head now and operator will take your name and place you into the queue in the order received. Once again, if you would like to ask a question, please press star one on your phone now. Our first question comes from Diane Hale, please state your question.

Various Q&A Par...: Good morning, everyone. Okay, so my question is, I've been asked, for a couple of my mining clients, I provide respiratory [inaudible] testing and respiratory

detection. We have downloaded the ANSI Z88 standard. I've gone through that. I've got the 1969 one. I heard in the meeting you talk specifically about miners need to have spirometry. I would love to find, where is it either in the MSHA regulations, a letter of interpretation, a policy statement, or in one of those fancy [inaudible] standards? Where is it listed that they are required to have this spirometry, that additional medical? I know a lot of mines do it, but I'd being asked, why do we need to have it, if they're young and they're healthy and they're not over 45 or 50? Which is, according to, I think, the American Thoracic Society, under one of the appendices, I cannot find where that is. And does it even exist? And if so, where

Speaker 2: Diane, are your clients...?

Patricia Silvey: Copy that. Diane? Are your clients metal/nonmetal?

Various Q&A Par...: Metal/nonmetal? Yes, there's no coal mines that I'm aware of on the west coast, that I go to.

Patricia Silvey: Right. I didn't know where you were. I thought you were on the west coast when you said good morning. But in any event, when we were given the presentation earlier on health, Fred Nichols, and he was uniquely talking about the coal standard. There is no, and you did exactly right when you said you downloaded the acid 1969 standard. That's what you were supposed to do because that's what we incorporate by reference in the metal/nonmetal health standard, 56, 57, 5005. Right now there is no requirement for spirometry. And in a word, that's the end of the answer to your question. I don't need to pontificate and go on, and on, and on because you asked one question, that's the answer to your question.

Various Q&A Par...: And thank you so much. I wish I had asked this three months ago because I went down trying to find, where's this document? Because everybody was saying one thing and I know the mines want to hold their workers to a higher standard, and track their health and safety. I get it. But I'd like to see where is it in the regulations or the standards? So thank you very much, that was my question.

Patricia Silvey: Okay. You're welcome.

Assistant Secre...: Yeah. And I'm just the Assistant Secretary Williamson. I'm just going to add just a quick point on it though to part of the question, is the idea of whether it's in coal or metal/nonmetal, whether it's mandatory under a reg or whether it's voluntary under just as a good practice. The point I made earlier about how important it is for miners to maintain and have an awareness to their health. I think the idea and the importance of the initial screening when you enter the workforce is you have a baseline. That way, if you ever get an additional follow up or you have an additional examination, you have a baseline of what your health was when you entered employment. That way you can kind of look back five years, and you can look back and see what happened. That's the

importance of getting the initial, whether it's on coal as a function of a mandatory reg, or it's just a voluntary thing on the metal/nonmetal side. That's the importance of having the baseline screening at the beginning of entering mining employment.

Various Q&A Par...: I get that, but I deal with mostly contractor employees that are there for a week or two, and then they're probably not going back to that mine site. What you just said almost makes it a policy by MSHA, which means now I have to tell my clients, "MSHA just said in a conference call, 'We want you to track the health and safety of the miners, and we want you to go a little bit above and beyond.'" Which a lot of my clients, some of them will do it, but I like to be able to back that up for them because it comes down to, yes, they want to be protecting the miners.

I'm giving them the best respiratory protection program training, how to maintain their respirators I can, and what the hazards are. But then have them go spend all this extra money for spirometry for a couple week program, that's where I get a lot of pushback. But I wanted to be able to back up with what does MSHA require? As opposed to miners that are going to stay at the mine and work multiple years. That's where I'm coming from, from these contractors.

Assistant Secre...: Well, fair enough, I'll just leave it at this. I cannot tell you one way or another how to advise your clients, but there's a difference between what is required in a regulation, and what is the best practice. We just clearly talked, and told you what is required under coal and what is not required, but may be a good suggestion, or a good best practice, or a good piece of medical advice, for lack of a better word. I can't tell you one way or another how to advise your clients, but what we've discussed and what is very clear, is there are requirements under coal and there are not the same requirements under existing law in metal, non-metal, but, it may or may not be a best practice or there is value in having medical information. I'll just kind of leave it at that.

Various Q&A Par...: Okay. I appreciate that, thank you.

Assistant Secre...: Thank you.

Operator (Erika...: Our next question comes from John Sefnock. Please state your question.

John Toopnock: Yes, good afternoon MSHA team. This is John Toopnock, New Jersey State Grants. Thank you, Assistant Secretary Williamson, Ms. Silvey, and Greg [inaudible] tram.

Various Q&A Par...: Thank you

John Toopnock: Always like to see you the first time in six years. Well, we haven't been there in two years. Anyway, thank you Craig, for the review on the silica, the new enforcement initiative. Of course, that's being part 46 where sand and gravel



and quarries up north. So that's been my focus during part 46, annual refresher as well as new miner training. And appreciate, reiterate how silica is 20 times more toxic than the coal dust, but that is of course the focus has been for my six years while I've been state grants.

MY question is this. Okay, so we have both concrete, as well as asphalt facilities, located on some of our mines. There is a inter-agency agreement between Department of Labor, OSHA, and MSHA. It's old. I don't have in front of me right now, but it's many years old. So my question is, is that agreement, is it still in place? And what are the plans, and what are MSHA's requirements under that current initiative? Thank you.

Patricia Silvey: It's still in place. It's 1980 or 1981.

John Toopnock: Thank you. I knew it was very old, Ms Silvey. Thank you.

Patricia Silvey: But it's not that old, it's all in your perspective. So don't get it twisted.

John Toopnock: Okay, roger.

Patricia Silvey: I was here at MSHA when it was put in place, so anyway, is in place.

Brian: Yeah, nothing's changed. This is Brian, from the last meeting. Nothing changed, for them or you.

John Toopnock: Okay, thank you very much. Thank you.

Operator (Erika...: Our next question comes from Jim London. Please state your question.

Jim London: Hello, my name is Jim London. I represent work for WVU, West Virginia University in Morgantown, West Virginia. I am the electrical instructor. I do coal miner retraining, apprentice, high voltage training for coal miners here in the area, and I came in late the call, and I apologize for that. Was there any discussion which has already happened that I may have missed concerning the fatality down at Coalberg Tunnel in Kanawha County, West Virginia back on September 1st?

Various Q&A Par...: No, we didn't discuss that.

Patricia Silvey: No, there was no discussion of that, and I think we saw the question that came in on that. Was that your question? You just gave yourself away.

Jim London: That is my question.

Patricia Silvey: Okay. I figured it.

It's number 13. Okay, no, there was no discussion of that question. You gave the date as September 1st, we are in the process of doing the fatality report and I will say on behalf of Mr. Williamson, I hope trying to get it out as accurately and as timely as we can. We understand the importance of that for our own staff, as well as for the mining industry, both labor and industry. And that is about, we are going to get that fatality report out. It will include what causes, as well as corrective actions that we think are appropriate to address the root causes. And that answers your question I think maybe in an obtuse way, but I think it answers your question.

- Jim London: Well, I guess what I'm understanding you to say then is that once the investigation is complete, and the report is filed, and the root cause analysis is performed, then MSHA may make recommendations on actions to prevent further such types of fatalities. Is that correct?
- Patricia Silvey: Correct, absolutely, you got it a hundred percent right.
- Jim London: I know these things are hard to predict. Do you have any timeline on when this report might come out?
- Patricia Silvey: We going to do it as, and it's not meant to be a bureaucratic answer, we're going to do it as quickly as we can. Some of them happen to be a little bit more complicated than others, both factually and otherwise. But we are going to try to do it as quickly as we can and to get to that question that ask about the ones for the four over that are from 21, we are almost ready to release those in the next several weeks or so.
- Jim London: Okay, well thank you very much. I'll look forward to seeing your report and the recommendations in that report, and perhaps I'll have a follow up question for you at the next stakeholder meeting.
- Patricia Silvey: I'm sure with the great University of WVU you will, but that's fine too.
- Jim London: Okay, well, thank you very much.
- Patricia Silvey: Okay, thank you
- Operator (Erika...: Once again, if you would like to ask a question, please press star zero on your telephone keypad, now. Our next question comes from Robert Weston. Please state your question.
- Scott Johnson: Good afternoon, Assistant Secretary Williamson. Good afternoon, Pat. Again, my name is Scott Johnson. Pat, I'm led to believe by your mention of a list that perhaps my question's already on said list, but if not, I've just been doing some light reading in the unified agenda on alyra. It looks like the first time we've addressed the possibility of rewriting the silica rule for metal/nonmetal was in 2003. And then our most current information, this notice for public rule making

was listed anyways in September of 22. So my question is just simply, and granted it's only been since 2003, do we have concrete or even plastic idea of what this new, I assume will be a new rule would look like? Is it going to be out for public comment, something we can put our eyes to, and help our stakeholders see where we're going? Just purely from a regulatory standpoint. I know we have the best practices out there and we have all sorts of information, and we're certainly encouraging folks to follow that. But from a what we have to do question, from a regulatory standpoint can anyone speak to where we're at with that?

Assistant Secre...:

Sure. This is Assistant Secretary Williamson, and I will say first and foremost, that we are actively working on a notice of proposed rule making that will better protect miners from silica. I can't tell you when it's coming out, but it will come out and the regulated community and everyone that's on this call will have the opportunity that you just talked about in terms of being able to provide comment, and we welcome that comment. That's the whole point of the regulatory process is, we're going to put out what we think is a improved mandatory health standard that's going to better protect miners from exposure to silica. We talked a lot about the dangers of silica and what can happen to miners if they have repeated over exposures at certain levels. I can't really give you, that's the regulatory process. We will be transparent and we will cross every tee, dot every I, and go through the process in the way that we have to do that, and welcome all the input and comments. That's about really all I can say, but we're working very hard on that.

That's one of the top priorities at MSHA right now. The last point I'll just make is that right now in this country, there's only one worker population that does not have a certain level of protection when it comes to silica, and that is miners. Right now, under our existing standards, the permissible exposure limit is double what every other worker in this country has. So, I just want to put that out there, and people know that that's the reality. But we're working very hard on an improved health standard that we think will make a difference, and we'll definitely better protect miners. Related to that, I won't get into all the information because we talked about the last stakeholder call, and Greg mentioned a little bit earlier in his presentation, but that's a complex health rule.

But we're also taking all the measures Greg put up on the screens on our website under our silicon enforcement initiative to better protect miners now even under the existing standards. So I'll just kind of leave it at that, but I appreciate your question, appreciate your interest, and what we're going to do in that space. I know there's a lot of people that have interest in it, so hopefully maybe I answered a few questions with this answer, but that's about all we can say at this point. But, we're working very hard and want to get it out there so you all can see it and give us a comment and we'll go from there.

Thank you.

Operator (Erika...: Our next question comes from David Blitzer, please state your question.

David Schweitze...: Yes, thank you. My name name's David Schweitzer. Thank you Assistant Secretary, Ms. Silvy Young. I did submit a question in writing, but I'm happy to state it here. Calling in the metal/nonmetal dust, but not silica, we have seen and heard of in recent weeks or months, MSHA's use of real time Particulate MAT monitors being used during inspections. The question that I have been asked to submit is, does MSHA have an intention to use those monitors for enforcement actions?

Patricia Silvey: Can you clarify what you said? Real time Particular? Say that again?

David Schweitze...: Yes, Miss Silvey, these monitors that are handheld, basically, and give a reading of dust particulate in real time.

Patricia Silvey: For silica?

David Schweitze...: Pardon me?

Patricia Silvey: Is it the silica?

David Schweitze...: No, ma'am, not for silica.

Patricia Silvey: Not for silica. What is he talking about?

Assistant Secre...: Do you know what they're measuring? I guess that would be-

David Schweitze...: Oh, I'm sorry, in the lime industry. Calcium dust.

Patricia Silvey: I don't know what he's talking about. Do you know what-

Various Q&A Par...: We have to check into that.

Patricia Silvey: I think you need to set up, be very specific about your particular incident, about where this device is being used. Let us know. I'll be honest with you, I'm not familiar with what you are asking.

David Schweitze...: Okay.

Various Q&A Par...: Can you send your question to either me, Mr. Williamson, or Greg Nickel, or Amanda [inaudible] or Cam Watkins. Even enforcement, that's an enforcement question. So what, between the five of us, you can send it to either one, it doesn't matter. Then we'll have your information and we'll be able to properly answer you.

David Schweitze...: That's great, thank you very much. I appreciate it.

Patricia Silvey: All right, thank you.

Operator (Erika...: Once again to ask a question, please press star one on your phone now. At this time, we have no further questions.

Assistant Secre...: All right, well, I just want to take a couple minutes to thank everyone for joining us and I think we had a good discussion that covered a lot of ground, both in safety and in health, and really appreciate the dialogue and the interest and hopefully there was a lot of good information that we were able to share that will help all of us do what we all want to do is protect miner's safety and health. Miners can go home to their families and their communities every day, both safe and healthy. That's why we all do the work we do, and just really appreciate coming on the call today. We'll have another one soon. Thank you.

Patricia Silvey: Thank you.

Operator (Erika...: This concludes today's meeting. Thank you for attending.