

Insights, News & Events

# MINE OPERATORS ON NOTICE: 3 BIGGEST TAKEAWAYS FROM MSHA'S LATEST QUARTERLY CALL

Insights  
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MSHA just held its latest quarterly stakeholder call to put mine operators on notice of points of emphasis and other priorities it will seek to address in the near future, meaning you need to get up to speed if you want to focus on critical areas for your operations. The June 28 call marked the first for new Assistant Secretary Christopher Williamson, who appears to be setting an ambitious agenda for the mine safety agency. What are the three biggest takeaways from this call that you need to know about?

## 1. Agency Emphasizes Training After Spike in Fatalities

MSHA began the call with a review of the 15 fatal accidents that have occurred in 2022 and offered a summary of the statistics related to these incidents. Notably, of the 15 fatalities, five involved machinery and three involved powered haulage.

MSHA also noted that a disproportionate number of the fatalities involved less experienced workers. Eight of the 15 victims had less than one year of experience on the job and seven of the 15 involved miners with less than one year of experience in the task they were performing. From this, MSHA emphasized the importance of training – particularly task training – which is consistent with guidance MSHA has offered throughout the year.

## 2. Silica at the Forefront

MSHA leadership next led an extended discussion of the agency's silica initiatives. Mr. Williamson acknowledged

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that MSHA is currently engaged in rulemaking for a new silica standard, which would apply to both metal/non-metal and coal mines. He also made reference to MSHA's silica initiative, which the agency recently announced.

Deputy Assistant Secretary Patricia Silvey detailed MSHA's enforcement activities under the initiative. She indicated that mines could be identified for 15-day spot inspections under Section 103(i) of the Mine Act if they demonstrate a history of silica exposure. The use of this section to conduct the spot inspections is typically reserved for underground mines exhibiting a history of methane but Ms. Silvey noted that spot inspections could be used for other purposes, such as silica exposure.

The agency call emphasized that discretion as to whether to designate a mine for 103(i) spot inspections for silica will reside locally with the District Manager, and that both metal/non-metal and coal mines could be subject to such spot inspections. Ms. Silvey also indicated that, for underground coal mines, District Managers may require additional provisions in ventilation plans aimed at silica exposure. She specifically identified extended cuts and miners working downwind of the continuous miner as subjects for potential additional requirements in a mine's ventilation plan related to silica if the District Manager deems a mine's exposure history to be excessive.

### **3. Enhanced Enforcement Coming Down the Road**

Lastly, Mr. Williamson and Ms. Silvey briefly made mention of an "enhanced enforcement initiative" involving powered haulage and the activities of supervisors. Based on fatality data from 2021, the initiative will involve increased MSHA attention on customer and contractor truck drivers and supervisors performing mining tasks. Additionally, during the Q&A segment of the call, Ms. Silvey indicated that the final powered haulage standard is expected to be released by the end of the year.

### **Conclusion**

Fisher Phillips will continue to monitor developments from MSHA, so make sure you are subscribed to [the firm's Insight system](#) in order to receive the latest news. Please contact your Fisher Phillips attorney, the author of this Insight, or [any of our MSHA attorneys](#) with any questions about the

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