MSHA’s Proposed Mobile Haulage Rule

Presented by Willa B. Perlmutter
Stoel Rives LLP
CalCIMA Spring Thaw
Spring 2022
WHY DO WE NEED A NEW RULE?
THE PROPOSED RULE’S STATUS

• June 26, 2018: Request for Information
• August/September 2018: stakeholder meetings and webinar
• September 9, 2021: Proposed Rule (comment period closes November 8, 2021)
• December 20, 2021: MSHA reopens rulemaking record for public comments
• January 11, 2022: virtual public hearing and comment period closes
• October, 2022: target date for final rule
WHAT THE PROPOSED RULE WOULD REQUIRE

• mine operator with six or more employees must develop a written plan within six months of the rule’s effective date

• operator must designate “responsible person” who has responsibility and authority to develop and evaluate plan

• plan evaluated and updated at least annually and when equipment or mining conditions change or when accidents or injuries happen

• plan does not need to be approved by MSHA

• plan must be made available if inspectors, miners, or miners reps ask for a copy
PLAN REQUIREMENTS – OPERATORS MUST:

• identify and analyze mobile equipment hazards;

• develop and maintain procedures for routine maintenance and non-routine repairs;

• identify currently available and newly-emerging feasible safety technologies and evaluate whether to adopt them; and

• train miners to identify and avoid mobile equipment hazards
CONCERNS ABOUT THE PROPOSAL

- applies only to mines that have six or more employees
  - how miners will be counted
- contractor’s obligations unclear
- what qualifies as “surface mobile equipment”
- designation of responsible person
- redundancies
  - responsible person
  - 30 C.F.R. Subpart M
  - Part 46 and Part 48 training
- schedules for routine maintenance and non-routine repairs
- identification and evaluation of available and emerging safety-related technologies
ANY QUESTIONS

DO YOU HAVE?