

## Questions and Answers on the Sago Mine Accident

**Question:** Why were there so many health and safety violations issued by the Mine Safety and Health Administration (MSHA) against Sago Mine last year?

**Answer:** MSHA became concerned that the Sago Mine's safety performance record was not as good as it should be. Mining operations at the Sago Mine more than doubled between 2004 and 2005, and the injury rate was significantly above the national average. This prompted MSHA to dramatically increase – by 84% – its on-site inspection and enforcement presence. As a result, MSHA also took significantly more enforcement actions – 208 in total – against Sago Mine in 2005, requiring the operator to quickly correct health and safety violations in accordance with federal Mine Act standards. MSHA's aggressive inspection and enforcement record at Sago Mine exemplifies the agency's record-setting commitment to strong enforcement over the past five years.

**Question:** Doesn't the high number of citations against Sago Mine last year indicate that the operation was simply unsafe, an accident waiting to happen?

**Answer:** Of the 208 citations, orders and safeguards issued in 2005, several involved significant violations that were the result of high negligence and MSHA ordered that mining cease in the affected area until the unsafe condition was addressed. However, less than half of the overall citations against Sago Mine in 2005 were for "significant and substantial" violations – and all but eight of the overall citations have been corrected by the operator. The eight remaining issues were being abated by the operator in compliance with the abatement provisions of the Mine Act.

**Question:** Should MSHA have shut down the Sago Mine in light of the health and safety violations it identified?

**Answer:** MSHA has the authority to suspend mining activity by issuing "withdrawal orders." *MSHA aggressively exercised its suspension authority against Sago Mine in 2005*, issuing 18 separate "withdrawal

orders” that shut down mining activity in specific areas of the mine until health and safety problems were corrected by the operator. All of the safety issues that caused the withdrawal orders were corrected. Absent a mine-wide hazard, MSHA does not have the statutory authority to shut down a mine simply because it has a large number of other violations.

**Question:** Could any of the health and safety violations cited by MSHA have caused the explosion?

**Answer:** Until MSHA completes its investigation of the accident and determines the likely causes of the explosion, it is impossible to speculate on what the causes might have been. At the same time, none of the health and safety violations cited by MSHA at Sago Mine last year involved an immediate risk of injury that would have warranted a 107(a) imminent danger order. At MSHA’s direction, the operator has worked to correct all health and safety problems in accordance with the requirements of the Mine Act.

**Question:** Does the Sago Mine disaster indicate that MSHA has grown “too soft” on mine operators and has not been aggressive enough in enforcing the Mine Act?

**Answer:** MSHA’s actions at Sago Mine demonstrate the opposite: the agency rapidly expanded its inspection and enforcement presence at the site – by 84% between 2004 and 2005 – in response to poor safety performance at the mine and increasing production activity at the mine. Last year, MSHA more than *tripled* the number of citations, orders and safeguards issued against the company and insisted that the operator quickly remedy all safety and health violations in full compliance with the Mine Act.

MSHA’s aggressive actions at Sago Mine reflect MSHA’s overall record of increased enforcement against mine operators during this Administration. Specifically, from CY 2000 to CY 2005:

- ✓ Total Citations and Orders issued by MSHA at all mines increased by 6% (120,050 to 127,682)
- ✓ Total Citations and Orders issued at coal mines increased by 18% (58,304 to 68,818)

- ✓ Total “Significant and Substantial” Citations and Orders issued at coal mines increased by 11% (23,994 to 26,779)

While MSHA has also pursued cooperative health and safety partnerships with labor unions, mine operators and industry associations, it has consistently backed up those compliance assistance efforts with strong enforcement against unsafe operators. And for the past several years, the President’s Budget for the U.S. Department of Labor has requested that Congress more than *triple* the current statutory penalties that MSHA can impose on companies for egregious mine safety violations.

**Question:** What level of enforcement activity did MSHA perform at the Sago Mine last year?

**Answer:** MSHA personnel spent 744 on-site inspection hours at Sago Mine during calendar year 2005. This represents an 84% increase from the 405 on-site inspection hours spent at the mine during calendar year 2004. The increased level of oversight led to the issuance of 208 Citations, Orders and Safeguards at the Sago Mine in 2005.

**Question:** MSHA issued 49 citations against Sago Mine in December. Is this an unusually high number, and does it indicate that the mine was becoming increasingly unsafe?

**Answer:** The 49 citations and orders that MSHA issued in the fourth quarter were not for December alone, but represented all health and safety issues identified during the fourth-quarter inspection, as stipulated by the Mine Act. Of these 49 violations, 18 were considered to be “significant and substantial.” All of the violations were either corrected, or were being abated within the provisions of the Mine Act.

**Question:** What kinds of violations were uncovered in the fourth quarter 2005 inspection?

**Answer:** MSHA cited the operator for a variety of health and safety issues, including the suitability of cable fittings, warning devices on mobile equipment, location of first aid equipment, location of fire fighting equipment, roof bolting, insulation of power wires and cables, and roof control plans, among

others. All of these issues have been addressed under the provisions of the Mine Act.

**Question:** How large were the fines levied against the Sago Mine in 2005?

**Answer:** Thus far, the Sago Mine has been assessed \$24,155 for penalties cited in 2005. Nine of the most serious violations are currently under appeal and have not yet been assessed, although the conditions cited in those violations have been corrected.

**Question:** How many fatalities have there been at the Sago Mine in the past?

**Answer:** Prior to the accident, there had never been a fatality at the Sago Mine.

**Question:** How many people did MSHA have on the site of the rescue effort?

**Answer:** Approximately 25 MSHA mine safety professionals were on scene at any given time.

**Question:** What is MSHA's next step?

**Answer:** The Department of Labor has appointed an independent MSHA investigative team that will perform a thorough investigation including an assessment of why the explosion occurred, whether or not the mine operator failed to take any steps that would have prevented the accident, and how the rescue efforts unfolded – including the handling of emergency information relating to the miners' condition. The team is led by a senior MSHA safety professional who was not been part of the initial inspection and enforcement efforts. The investigation will be conducted jointly with the State of West Virginia, and will include a public hearing that will also be held jointly with state mine safety authorities.

**Question:** Does compliance assistance actually work? Or is this just a way of skimping on enforcement?

**Answer:** The U.S. Department of Labor offers compliance assistance to labor unions, employers and individual workers to help them understand the Department's laws and fully comply with them. Compliance assistance resources include partnerships, online tools, educational materials, and training programs. At the same time, the Department's worker protection agencies have set new records during this Administration for aggressive enforcement against bad actors.

Compliance assistance has a proven track record at MSHA. For example, MSHA has established a program to help small mines comply with MSHA's safety and health regulations. In 2004, the small mine operators that received compliance assistance from MSHA had a fatality rate that was **four times less** than mines that did not. In addition, the total injury rate for the small mines that received compliance assistance decreased by 41% from 2003 to 2004.

**Question:** ICG has stated that they won the "Sentinels of Safety" award in 2005. In light of the tragic accident at the Sago Mine, do you think they deserved this award?

**Answer:** ICG operates a number of different mining facilities, and the Sentinels of Safety award was given for *one* of those facilities, not for *all* of their operations.

The award was given because in 2004, the Clean Energy Mine, located in Kentucky, had no significant injuries or fatalities. The Clean Energy Mine was one of 20 operations that received an award on September 21, 2005.

**Question:** What will you do to ensure that miners are kept safe in the future?

**Answer:** Although mining injuries and fatalities are at record lows, the tragic accident at the Sago Mine reminds us that our goal is to get to zero. We will continue our enforcement activities, continue to help miners and mine operators understand and follow MSHA's safety regulations, and continue to push for legislation to increase penalties for serious safety violations. And, of

course, we will also incorporate the lessons we learn from the ongoing investigation at the Sago Mine.

**Question:** Critics accuse you of cutting the budget at MSHA. Is this correct?

**Answer:** This administration has consistently requested increased funding for MSHA, up from \$242 million in FY 01 to more than \$280 million in FY 06.

**Question:** Is it true that you have cut approximately 140 jobs at MSHA in the past year?

**Answer:** Even though we have increased the number of inspectors since 2001, the total number of staff at MSHA is down slightly, primarily due to reductions in the administrative ranks. MSHA has put more resources on the front lines by reducing overhead costs.

**Question:** Have you cut back on enforcement activity at MSHA?

**Answer:** Absolutely not. If ones looks at the number of mining fatalities and injuries, they are down since the Administration took office and are at historic lows. Overall fatalities have fallen by 33% from CY 2000 to CY 2005. Fatalities in coal mines have fallen by 42% from CY 2000 to CY 2005. The number of citations issued have risen, as have civil penalties assessed. And this Administration has proposed significant increases in the amount of monetary penalties MSHA can assess for serious violations.

**Question:** Is it true that there are over 100 vacancies at MSHA?

**Answer:** A small percentage of the positions at MSHA are vacant right now. A government-wide problem is that as senior employees retire, it is difficult to find younger workers to replace them. DOL is actively encouraging young people to enter government service.

**Question:** Why has it taken so long to appoint a new Assistant Secretary for Mine Safety?

**Answer:** The President sent a nominee to the Senate on September 15, 2005. That nomination is still pending with Congress.

**Question:** How will you divide responsibility for the investigation between DOL and the state of West Virginia?

**Answer:** The federal government and West Virginia each have separate authority to regulate and inspect mines for safety and health and investigate accidents.

MSHA and West Virginia have traditionally cooperated in mine accident investigations, and are doing so in this case. Underground investigations are generally jointly conducted, records are shared, and witnesses are jointly interviewed.

DOL and state officials are maintaining close communications and, on the ground, state and federal investigators are working closely together. Each agency will prepare separate accident reports and take their own enforcement actions at the conclusion of the investigation. Each agency will assess its own civil penalties.