

Remarks of  
Joseph A. Main, Assistant Secretary of Labor  
for Mine Safety and Health  
“Further Along the Road to Zero”  
Bluefield Coal Symposium  
Bluefield, W Va  
August 14, 2012

I appreciate the opportunity to be here today to discuss mine safety and health and the actions we, as well as the industry, have taken to improve it.

I believe we are making a positive difference and moving mine safety and health in the right direction. However, we would all agree that more needs to be done to protect the nation’s miners.

I took the job as Assistant Secretary over two years ago with a clear purpose -- to implement and enforce the nation's mine safety laws and to improve health and safety conditions so miners can go to work, do their jobs, and return home to their families safe and healthy at the end of every shift. In short, my goal was to make mining a better place for miners, their families and the mining community.

Even at the beginning of my tenure, MSHA was already facing many challenges that demanded immediate attention. A backlog in excess of 80,000 contested violations overwhelming the system, mine emergency response in need of improvement, a relatively inexperienced inspection workforce, an unfulfilled mandate from the 2006 Miner Act involving communications and tracking systems for underground coal mines, concerns about inconsistency at MSHA, to name a few. Add to that, the advances

I planned, including the “Rules to Live By” initiative for preventing fatalities, actions to improve mine emergency response, the “End Black Lung-Act Now” campaign, a comprehensive strategy for ending black lung at coal mines, and stakeholder education and outreach on all of these issues.

However, as I have said on a number of occasions, the tragedy on April 5, 2010, at Upper Big Branch, just months after my appointment, unquestionably shook the very foundation of mine safety and caused us all to take a deeper look at the weaknesses in the safety net expected to protect the nation’s miners. MSHA’s extensive investigation of the tragedy identified a workplace culture promoted by the operator that valued production over safety, including practices that fostered and encouraged non-compliance and prevented workers from speaking out about unsafe and unhealthy conditions in the mine.

On July 27<sup>th</sup>, a permanent monument to the miners who perished at Upper Big Branch, and to all miners, was unveiled in Whitesville, West Virginia.

As I said on that day, while the monument is a tribute to those fallen miners, it is something more. It is a marker we are placing on this spot on the earth as a reminder that we can never forget and that we must not let these tragedies involving the loss of miners' lives ever happen again.

The tragedy identified that more needed to be done to provide miners with a voice in the workplace, that MSHA needed to more aggressively use its tools under the Mine Act to enforce the law and that the culture affecting safety and health needed to change. We began taking actions immediately and are still continuing to implement initiatives to make mines safer.

This includes our impact inspection and revised Pattern of Violations (POV) programs; targeted rulemaking on the maintenance of rock dust and examinations in underground mines; and administrative changes, such as our revised pre-contest conference procedure to reduce the backlog of contested cases.

On March 6, 2012, MSHA released the results of its internal review of MSHA's actions at Upper Big Branch, including recommendations for improving MSHA's effectiveness. We are changing how we do business and have initiated major changes, including a comprehensive review of agency directives and guidance and an overhaul of our policy directive system and our coal mine inspectors' handbook. We are also improving agency oversight and increasing training for our staff. Finally, we are

addressing shortcomings repeatedly identified in several past internal reviews to prevent a recurrence of those in the future.

In June, we began posting the corrective actions we have completed on our website. We will do this quarterly so that the public and all interested parties can chart our progress.

One of the enhanced enforcement strategies implemented after Upper Big Branch was our impact inspection program, targeting mines meriting increased attention and enforcement. From April 2010 through June 2012, we conducted 464 of these impact inspections, resulting in 8,283 citations, 833 orders and 33 safeguards, for a total of 9,149 issuances.

A recent review shows that overall compliance is improving at mines that received impact inspections from September, 2010

through March, 2012. As of June 30, 2012, violations per inspection hour at these mines were down 14 percent; Significant & Substantial (S&S) violation rates down 21 percent; unwarrantable failure orders down 46 percent. The total lost time injury rate was down 12 percent.

Unfortunately, there are still mines that haven't gotten the message. For example, during our May impact inspections, we captured the phones at one underground coal mine to ensure that no advance notice of our presence was given, and we found a continuous mining machine operating with the ventilation curtain rolled up and a 60-foot deep visible cloud of dust. The water pressure on the machine was inadequate and several sprays were inoperative. MSHA issued 43 violations including 16 unwarrantable failure orders.

We also found that another mine--which had already undergone an impact inspection and had been issued a notice for a potential POV in November, 2011 --had failed to comply with its ventilation plan on two working sections. This mine, with a history of methane liberation, was found with its ventilation curtain rolled up where the continuous mining machine was operating. In addition, ventilation curtains were missing in other critical areas of the mine. Closure orders were issued when no air movement could be detected on an anemometer. These kinds of conditions can lead to explosions.

The egregious problems found at these and other mines during impact inspections, and the extreme measures MSHA had to take to find them - arriving off-shift and commandeering mine phones -- validate the Administration's support of focused improvements



to the Mine Act to give MSHA the additional tools it needs to address chronic violators.

We have also made changes to strengthen the POV program, which we believe are improving safety.

Since November 2010, we have issued 28 PPOV notices at 26 mines, and issued two POV notices, the first time a mine was successfully subject to the POV closure orders in the Mine Act's 33-year history. 17 mines were placed on PPOV based on our November 2010 screening – four of those after agency audits revealed that mine operators had under-reported injuries.

Following the 2011 screening, MSHA issued PPOV notices at eight mines, down from the 2010 levels. We are encouraged by this result.

A recent review of enforcement data on the 14 mines that received the initial PPOV notices in 2010 found, that as of June 30, 2012, the total violation rate among these mines was down 27 percent, the S&S rate down 48 percent, and the rate of unwarrantable failures down 72 percent. The lost time injury rate dropped 51 percent.

We are conducting these PPOV screenings openly and transparently and the criteria we use are posted on our website. In April, 2011, we created an on-line tool permitting the public, any mine operator or miner to determine, based on the most recent data available, how a specific mine matches up with the POV criteria. Any operator using the tool can implement immediate corrective actions to maintain compliance and prevent PPOV actions.

We are continuing our “Rules to Live By” fatality prevention initiative that we launched in January 2010 outlining the most common mining deaths and standards associated with them. If we are to prevent mining deaths, we must focus attention on the common causes of those fatalities. This is what “Rules to Live By” does.

The second phase followed in November 2010 involving catastrophic-type accidents; in January of this year, we announced “Rules to Live By III,” which highlights those safety standards cited as a result of at least five mining accidents and resulting in at least five fatalities between January 1, 2001 to December 31, 2010. Surface fatalities accounted for the highest number of fatalities in 2011 and the new program addresses mostly surface mining deaths and standards.

I have implemented a different approach in the rollout of these and other new initiatives. Stakeholder outreach and education occurs in advance so everyone will know what the program is about and what we expect before the program begins. That is followed by training of MSHA's inspectorate through distance learning. The training program is posted on our web site so everyone can receive the same training and message before the enforcement component is initiated. We also began providing information to training instructors and state grant recipients to be included in the training miners receive.

Consistency in the application and enforcement of standards remains a key concern of the industry, and we are continuing our efforts to improve consistency. As I noted when I became Assistant Secretary, MSHA's workforce had changed significantly. A number of inspectors had retired, and as a result,

about 55% of coal mine and 38% of metal nonmetal inspectors had been conducting inspections for two years or less. Many supervisors were also relatively new.

I quickly had developed a new training program for field office supervisors, which is to occur at least every other year and to include training in issues identified in agency audits and internal reviews. The Internal Review report recommended that this training be made permanent, and this is being done. Coal field office supervisors are in their second round and metal nonmetal supervisors are beginning their third round of training.

In addition, we have been chipping away at the backlog of contested cases. From May 31, 2011 through May 31, 2012, MSHA's contested violations went from 82,027 citations to 57,423 citations, a reduction of about 30 percent. Moreover, most coal

districts are participating in the revised pre-contest conferencing process we put into place this January. The conferencing, if utilized by operators, will resolve a number of cases early before they become a matter for litigation and will improve the dialogue between the parties. Other initiatives to improve consistency include regular reviews of enforcement actions, as well as audits conducted by the National Office and out in the field to assess compliance with policies and procedures.

As a result of all the actions MSHA and the industry have taken, compliance overall is showing signs of improvement. In 2011, MSHA inspectors issued 157,613 citations and orders at all the 14,000 mines that MSHA inspects. This is down from 2010, when MSHA issued 170,909 citations and orders.

We have seen improvements in S&S and unwarrantable failure citations and orders as well. In 2011, MSHA issued 49,379 S&S and 2,894 unwarrantable failure citations and orders as compared to 2010 when 56,078 S&S and 3,292 unwarrantable failures were issued.

The drop from 2010 to 2011 in total citations and orders amounts to about 8%. S&S citations and unwarrantable failure orders each decreased by 12 percent during this period.

Underground coal mines continue to have the most challenging compliance issues. In 2011, about 49 percent of all citations and orders issued were at underground coal mines, even though they represented only four percent of the total mines inspected.

In 2011, 76,644 citations and orders were issued at underground coal mines, down from 79,912 in 2010, a four percent improvement. Also in 2011, 24,996 S&S violations were issued, down from 25,779 in 2010, a three percent change. However, the number of unwarrantable failure violations rose four percent from 1,462 in 2010 to 1,526 in 2011.

While there is improvement in some areas, we must do better in improving compliance in underground mines. In particular, operators need to do a better job of examining their mines, which is the purpose of MSHA's final rule on examinations that went into effect on August 6. The rule mandates operators to identify and correct violations of standards related to ventilation, methane, roof control, combustible materials, rock dust, and other safeguards and guarding. The rule also requires operators to review with mine examiners quarterly all MSHA citations and



orders issued in areas where pre-shift, supplemental, on-shift, and weekly examinations are required. In sum, this rule places operators in a proactive role by requiring them to identify and correct unsafe conditions in mines earlier, removing many of the conditions that could lead to danger, and improving protection for miners.

In 2011, 37 miners died in the workplace- the second lowest number of mining deaths recorded. Twenty-one miners died in coal mines, and 16 in metal nonmetal mines compared with 48 and 23, respectively, in 2010 - which included 29 miners who lost their lives at the Upper Big Branch mine. 2009 saw the lowest fatalities with 34 deaths - 18 coal and 16 metal nonmetal. The industry finished fiscal year 2011 with the lowest number of deaths ever recorded in a fiscal year.

On July 17, MSHA released its midyear fatality update for 2012, showing the second-lowest number of deaths ever recorded in a mid-year. The lowest mid-year was last year. Nineteen miners died during this period this year, including 10 in coal mines. Since June, four more miners have died; three of them in coal mines.

As low as the fatalities have come in recent years, we all know that one death is one too many and that mining deaths are preventable. The year the 1977 Mine Act was enacted, there were 273 mining deaths; 139 in coal and 134 in metal nonmetal. We've seen those numbers continue to fall since then, and the distance to zero is much shorter than it was in 1977. I believe we all share the goal of zero fatalities.

Last year, we began providing detailed quarterly information on deaths to the industry, as well as training for instructors and state grantees that provide training directly to miners, and posting that on our website. I want everyone to receive this critical information to better train and protect miners.

Mine emergency response was something we began to look at before Upper Big Branch, and working with stakeholders, we have made significant progress in developing state of the art technologies, increasing mine emergency response training, improving command and control preparedness and engaging the mining community in a dialogue to identify and implement additional improvements.

In May, MSHA held a coal emergency mine summit at the Mine Academy, with many in the mine emergency community

participating. We convened experts to talk about outstanding issues in emergency response and discuss action plans.

Also in May, MSHA, along with Consol Energy, the State of Pennsylvania and others, staged an all-day Mine Emergency Response Development (MERD) exercise at Consol Energy's Bailey BMX mine in Wind Ridge, PA. This simulation of a mine accident with trapped miners utilizing a refuge alternative allowed us to test MSHA's newly improved Seismic Location System.

We also used MSHA's robot to explore areas where rescuers could not. MSHA has posted a video of that exercise on its website, and I encourage you to watch the event.

Other technologies being developed and tested that will change how we are able to conduct mine rescue include an innovative mine rescue communications system that will connect advancing teams with the command center, electronic real-time rescue exploration and tracking maps and a camera at the fresh air base. Finally, in July, MSHA held another stakeholder meeting at MSHA headquarters to further our discussions about mine rescue.

Mine emergency response requires cooperation between us all, and we are moving in the right direction.

The United States should be the world leader in advancing health and safety technologies, and there are those in the industry leading the way.

There are now over 120 continuous mining machines in the U.S. operating with proximity detection systems installed. Alliance Resources has more than 70 in place, and expects to have 80-90 in operation by the end of the year. Consol Energy is working on the application of proximity detection protections to other section mining equipment, as is Peabody Energy. Arch Coal has been a leader in mine emergency preparation with the large scale MERD training it conducts.

We are also interested in the work that Alpha Natural Resources has undertaken as part of its settlement with the U.S. Attorney for the Southern District of West Virginia to utilize state of the art mine safety equipment---such as atmospheric monitoring, the cascading oxygen system and the coal dust explosibility meter, a tool used to determine the explosibility of coal dust.

As required by the MINER Act, all underground coal mines have communication and tracking systems installed and operational, and the U.S. is leading the way in developing the next generation of these systems. Consol Energy is helping develop through-the-earth audible communications, and more and more operators are installing atmospheric monitoring systems that can leverage communication and tracking systems for data transmission.

We have held and will continue to hold stakeholder meetings to foster continued advances and improvements.

Improving mine safety and health and instilling a culture of prevention in the industry is of great importance to President Obama, Secretary of Labor Hilda Solis, myself---and I am sure---everyone here today. The Secretary has articulated a forward-looking vision of assuring “good jobs” for every U.S. worker,

which include safe and healthy workplaces, particularly in high risk industries, and a voice in the workplace for workers as critical elements of a “good job.”

Many mines across this country operate every day while adhering to sound health and safety programs. There is no reason that every mine cannot do the same.