Remarks of

Joseph A. Main, Assistant Secretary of Labor

for Mine Safety and Health

41st Annual West Virginia Mining Symposium

Charleston, W Va

January 30, 2014

I appreciate the opportunity to be here today to update you on the actions taken by MSHA and the mining community to improve mine safety and health, and on the results. Over the past year, MSHA has implemented several changes, continuing the transformation we have made to our agency, and to mine safety. I will share some of those with you today.

While progress has been made in a number of areas in mine safety and health, and in the mine safety and health culture in the

industry, more improvements are needed to protect the nation's miners.

MSHA's data shows that mine safety has been on a steady path of improvement since we began implementing reforms in 2010, including a reduction in the number of chronic violators and better compliance with mine safety and health standards. Most importantly, during this period, the industry achieved the lowest fatality and injury rates in the history of mining in 2011 and again in 2012; that trend continued through fiscal 2013.

The first three quarters of 2013 also contributed to the lowest fatal and injury rates and the fewest number of deaths, at 33, ever recorded in mining in a fiscal year during the fiscal year ending September 30, 2013.

However, the fourth quarter of 2013 did not follow that trend, and 15 miners, including six in coal, died in mining accidents during that period. During the entire year, 42 miners died, an increase of six over last year. Of those fatalities, 20 were in coal mining and 22 were in metal/nonmetal mining, compared with 20 and 16, respectively, in 2012.

Four mining deaths in 2013 – two in coal and two in metal/nonmetal - involved contractors. This is the fewest number of contractor deaths since MSHA began maintaining contractor data in 1983.

The 2013 coal fatalities occurred in nine states. Six were in West Virginia, followed by Illinois with four; two each in Kentucky, Pennsylvania and Wyoming; and one in Alabama, Indiana, Ohio and Utah. Of the six West Virginia mining deaths, five occurred

during a six week period ending March 13, 2013. MSHA immediately launched an effort to respond to that increase in deaths. Following that, there was only one mining death in the state in 2013, which occurred on October 4.

The most common causes of mining accidents in 2013 for both coal and metal/nonmetal involved machinery and powered haulage equipment.

In coal alone, there were seven fatal accidents involving powered haulage equipment and six fatal accidents involving machinery. In addition, there was one coal fatality involving hoisting, two involving the fall of a roof or back and two involving the fall of a face rib or highwall. There was one coal death caused by exploding vessels under pressure and one by drowning. Four of

coal's fatalities could have been prevented with proximity detection systems.

MSHA provided further information on these fatalities and best practices to prevent them to mining industry stakeholders, including mine operators, miners and trainers. That information can be found on MSHA's web site.

While MSHA and the entire mining community have made a number of improvements and have been moving mine safety in the right direction in the past few years, the increased number of fatalities in 2013 makes clear that we need to do more to protect our nation's miners from injury, illness and death.

MSHA has implemented a number of initiatives that we believe have improved mine safety and health. Those include the special emphasis impact inspection program ongoing since 2010; the

Pattern of Violations (POV) process revised in 2010 and the revised POV regulations implemented last year; the Rules to Live By initiative, which focuses on the most common types of mining deaths initiated in 2010; the End Black Lung---Act Now campaign to reduce the incidence of that disease among the nation's miners started in late 2009 and *the Examinations of Work Areas in Underground Coal Mines for Violations of Mandatory Health or Safety Standards* final rule implemented in 2012, targeting specific standards.

Also ongoing are activities to enhance enforcement of the Mine Act provisions that protect miners from safety discrimination; reduce the backlog of contested citations; increase auditing of miner training sessions; and increase outreach to mining stakeholders.

As I am sure you are aware, this past year was a challenging one for MSHA as the sequestration budget actions resulted in serious funding cuts to the agency's operations; the government shutdown in October further complicated the ability of MSHA to fulfill its mission.

As a result, MSHA had to implement serious austerity measures throughout the agency, making difficult choices along the way.

Despite the funding reductions and government shutdown, MSHA was able to make headway in implementing initiatives and other actions to improve miner health and safety.

That included work to address the 100 internal review recommendations resulting from MSHA's review of its actions prior to the April 5, 2010 Upper Big Branch mine disaster. The

internal review report was issued on March 6, 2012, and MSHA set aggressive timetables for responding to these recommendations. I personally committed that we would complete our corrective actions by the end of 2013, and we were able to meet that deadline.

This Upper Big Branch review was one of the most comprehensive internal reviews conducted in MSHA history, and the corrective actions MSHA took have resulted in the most extensive changes at MSHA in decades, improving mine safety and health for the nation's miners and changing how we do business at the agency.

MSHA did not wait for the internal review to publish its findings and recommendations before it put into place a number of administrative, organizational and regulatory reforms to respond

to the tragedy. Some reforms were in progress before the tragedy occurred and many began immediately following the tragedy.

They included the implementation of the special emphasis enforcement programs, such as impact inspections and revised Pattern of Violations (POV) actions, and the publication of a number of program bulletins to the industry concerning ventilation, the prohibition against advance notice, hazardous condition complaints and the right to request inspections, miners' rights and the accumulation of combustible materials and rock dust.

MSHA also split Coal District 4 into two districts and upgraded the Mt. Hope Laboratory. In addition, MSHA reorganized the Office of Assessments to better support MSHA's special

enforcement programs, such as impact inspections, POV and scofflaws; investigation programs including miners' rights and 110 Mine Act investigations; and the enforcement auditing program.

The agency also engaged in targeted rulemaking, publishing an emergency temporary standard on the *Maintenance of Incombustible Content of Rock Dust,* which became a final rule in 2011; in 2012, a final examination rule that requires operators of underground coal mines to conduct more thorough examinations to find and fix commonly cited hazardous conditions; and in 2013, a final POV rule aligning it with the original intent of Congress to rein in chronic violators.

Under the new POV rule, the monitoring MSHA did under the PPOV process is now the responsibility of operators, inspecting

and monitoring compliance at their own mines and taking corrective actions before a mine meets the POV screening criteria. MSHA has also developed web tools that allow mines to monitor their mine compliance under the POV criteria. Our latest tool is a new on-line S&S calculator, which we launched this past August.

To address the recommendations of the internal review, MSHA completed over 40 policy directives, including the extensive revision of the coal and metal nonmetal inspectors' handbooks and the development of a new coal Roof Control Handbook. It conducted more than 20 training sessions for MSHA personnel on issues raised in the internal review and created and implemented a centralized system to establish better oversight of all agency directives and policy guidance to ensure their consistency.

MSHA also developed new inspection procedures for rockdusting underground coal mines to prevent coal dust

explosions and began using these procedures last Spring. In addition, MSHA made many technological changes that we believe will improve the agency's ability to do its job more efficiently.

Beginning in June 2012, MSHA posted its progress on a quarterly basis on the agency web site.

Through the dedication of MSHA employees---especially those in coal enforcement, headed by Kevin Stricklin, we met our end-of-the-year deadline and posted the remainder of our corrective actions on January 13, 2014.

In addition, MSHA has announced a new regulatory action in response to the internal review recommendations. MSHA intends to publish a Request for Information that will focus on

important mine safety issues in underground mines, such as ventilation and rockdusting.

MSHA has been developing communication, tracking, mapping and atmospheric monitoring technologies to use during mine rescue that will speed up mine rescue efforts and make them safer.

Working with the mining community we have made other improvements in mine emergency response by creating the Holmes Mine Rescue Association, within the Holmes Mine Safety Association, to provide a national support structure and to provide guidance for mine rescue and training. Recent changes we made in the national mine rescue training contests have increased stakeholder participation; for example, the last coal

training contest was sponsored by the National Mining Association. As required by the 2006 MINER Act, MSHA, with input from the mine rescue community, recently issued updated criteria for certifying mine rescue teams.

The state-of-the art training and mine emergency facility opened by Alpha Natural Resources in Julian, WVA this past June, is also an important asset to further mine safety and mine emergency response.

Like many of you here today, I have been actively involved in mine rescue over the years. We know that we owe our mine rescue teams the best training and guidance we can give them so they can be ready to respond at a moment's notice when an accident occurs.

Last October 30th, we declared that each October 30th will be recognized as "Mine Rescue Day" to honor mine rescuers---past, present and future---who place their own lives at risk to save others.

MSHA has been working with the mining industry and manufacturers of both refuge alternatives and components to implement the December 31, 2013 requirements of 75.1506(a)(3), which was issued on December 31, 2008. To implement those new requirements, MSHA has approved 17 breathable air, 12 harmful gas removal and 6 air monitoring components.

Let me share the results of some of the actions MSHA has undertaken.

We are continuing to use our special emphasis enforcement measures, such as impact inspections and the revised Pattern of Violations (POV) process implemented in 2010 to improve health and safety at mines with histories of violations. The good news is that we have not needed to use these tools as frequently as we did in the past. The safety culture of mining here in West Virginia and elsewhere is changing in a positive way and operators are improving their compliance with MSHA's standards.

In our first year of POV screening following the revisions to the process, 53 mines were identified, 17 mines received Proposed Pattern of Violation (PPOV) notices and two received POV notices as a result. This year, during our fourth screening, MSHA identified nine mines for additional review, and four underground coal mines were given POV notices. MSHA's POV actions have resulted in a significant reduction in mines receiving

additional screening as chronic violators - down 83% from 2010 when the POV screening criteria was revised to focus on mines with the most serious compliance issues

In addition, a review of POV mines shows that as of December 31, 2013, these mines have improved their performance. Their total violation rates are down 37 percent; their S&S violation rates down 59 percent and unwarrantable failures down 78 percent; and lost time injury rates down 44 percent.

A review of mines receiving impact inspections between September, 2010 and September 30, 2013 that have had at least one follow-up inspection also shows that these inspections have made a real difference. As of December 31, 2013, violations per inspection hour were down 19 percent; S&S violations down

26percent; unwarrantable failures down 52 percent; and lost time injury rates, down 13 percent.

MSHA, with SOL, is also having success reducing the backlog of contested cases that existed since before I arrived at the agency in late 2009. From a high of about 89,000 contested citations and orders at the end of December, 2010, the backlog, as of December 31, 2013, stood at about 31,000 cases, or a reduction of more than 65 percent. The backlog is now down to 2008 levels.

From January 1, 2012 through January 11, 2014, we have resolved about 150,000 contested violations.

In January 2012, MSHA implemented a pre-contest conferencing process to resolve citations before they become a matter for litigation. Through December 31, 2013, MSHA had conferenced

almost 8,000 violations, more than half of which were coal violations. Of the more than 7,000 cases that were resolved at conference, 60 percent of them were not further contested.

MSHA cannot be present at all mines all the time, so we rely on miners to bring hazardous conditions to the attention of the agency and mine management. Evidence from the investigations of the Upper Big Branch mine disclosed that we needed to do a better job of educating miners on their rights to speak out about their safety and also on enforcing those rights. MSHA is very committed to enforcing the rights of miners who have been retaliated against for making these complaints.

In 2013, the agency, working with the Department of Labor, filed 45 105(c) discrimination cases on behalf of miners, the most ever in a year, according to MSHA records. Last year, we filed 26

actions for the temporary reinstatement of miners who lost their jobs because they had exercised their rights under the Mine Act. The number of temporary reinstatement actions filed in 2013 was exceeded only by 2012, when we filed a record 47 cases.

MSHA continually updates the Miners Rights and Responsibilities page on its website, and this past year we developed a Miners' Representatives Handbook, a comprehensive tool that expands upon the "Guide to Miners' Rights and Responsibilities" released by the agency in 2011. The Handbook, along with a web-based training course to accompany the Handbook, is available on MSHA's website.

In December, 2009, we launched the "End Black Lung—ACT NOW" campaign, a comprehensive strategy to end black lung disease involving targeted outreach, education and training, rulemaking, focused enforcement and collaboration with

stakeholders.

In FY2013, operator Designated Occupation sample results recorded the lowest yearly average respirable dust concentration ever in underground coal mines at 0.70 mg/m^3. Operator data also shows an approximately 9% reduction since we began the campaign through FY2013. Improvements in respirable dust levels are achievable, but more needs done to end Black Lung, a disease that has claimed the lives of thousands of miners.

MSHA is also improving occupational health in the workplace by issuing a new policy on HazCom to conform with global standards.

Ensuring that miners have proper training is essential, and in 2013, MSHA audited 856 training sessions, the most sessions audited ever based on agency records.

As I noted earlier, MSHA is continuing its targeted rulemaking activities, focusing its efforts on those rules that will have the biggest impact on miner safety and health. The Department of Labor has submitted MSHA's final rules on *Lowering Miners' Exposure to Respirable Coal Mine Dust, Including Continuous Personal Dust Monitors* and P*roximity Detection Systems for Continuous Mining Machines in Underground Coal Mines* to OMB for review.

Proximity detection technology in the underground coal mining industry is advancing and MSHA's proposed rule on proximity

detection systems for mobile machines has been withdrawn from OMB review to make refinements consistent with technological advancements.

While we continue to move forward on rulemaking, the industry continues to makes progress to implement this technology, and as of January 10, 2014, about 400 proximity detection systems had been installed on continuous mining machines and other mobile equipment. Alliance Resource Partners, LP has equipped its continuous mining machines with proximity detectors, and Consol Energy is also a leader in this area.

Since 1983, 77 miners have died in crushing accidents with mining equipment in underground coal mines. Thirty-four of those fatalities involved continuous mining machines. The use of proximity detection systems on mining machines in underground

coal mines is among the best practices to prevent these crushing deaths.

We believe that all these collective actions and initiatives are improving mine safety and health in the nation's mines. One measure of our success is that each year since 2010, compliance has improved as MSHA has issued fewer citations to operators. Between 2010 and 2012, the number of citations dropped by 18 percent. Last year the number dropped an additional 15 percent from 2012; it dropped 20 percent for coal. It is recognized that the reduced number of mines contributes to some of this reduction.

But of course the most important measure is how many miners return home at the end of their shift without illness or injury.

To that end, the mining industry had the lowest fatal and injury rates in 2011 and again in 2012. That trend continued in fiscal year 2013, as preliminary data showed a record-low fatality rate of .0104 and an injury rate of 2.42, as well as the lowest number of mining deaths at 33 for a fiscal year. However, as I have said the fourth quarter did not follow that trend with 15 fatalities, a significant increase from the same period in 2012 when 6 miners died.

Certainly, the progress we have made in mine safety in recent years lets us know that greater improvements are achievable. Together we can make that happen. We owe the nation's miners that much.

I know that President Obama and Secretary of Labor Tom Perez share this goal.

Going forward, we will continue to focus on our mission to prevent death, disease and injury and to promote safe and healthy workplaces for all miners.