

Remarks of  
Joseph A. Main, Assistant Secretary of Labor  
for Mine Safety and Health  
National Stone, Sand and Gravel Association Meeting  
March 5, 2014  
Las Vegas, NV

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.

MSHA's data shows that mine safety has been on a steady path of improvement since we began implementing reforms in late 2009, including a reduction in chronic violators and better compliance with mine safety and health standards. Most importantly, 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 year 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 a fiscal year.

However, the fourth quarter of 2013 did not follow that trend, and 15 miners, including nine in Metal and Nonmetal (MNM), died during that period---for a total of 42 fatalities for the year, 22 in MNM and 20 in coal. This is an increase of six over 2012.

Four mining deaths in 2013 including two in MNM involved contractors. This is the fewest number of contractor deaths since MSHA began maintaining this data in 1983.

The most common cause of mining accidents in 2013 involved powered haulage equipment. Seven MNM miners were killed in these accidents. Additionally, five of MNM's fatalities occurred as a result of failing to Lock Out and Tag Out equipment power sources. These accidents could have been prevented had the power been disconnected and locked out.

MSHA provided further information on these fatalities and best practices to prevent them to mining industry stakeholders, including mine operators, miners and trainers. MSHA now distributes information to the mining industry and trainers on the causes of mining deaths and the best practices to prevent them on a quarterly basis.

So far in 2014, there have been five mining fatalities, three in MNM mines.

While MSHA and the mining community have been moving mine safety in the right direction, the increase in fatalities in 2013 makes clear that we need to do more to protect our nation's miners.

MSHA has implemented several changes we believe has improved mine safety and health. A number of those including Rules to Live By began in 2010. We have taken action to address consistency and improve compliance with MSHA's standards. In addition, we have started

health initiatives, such as the End Black Lung campaign and the 5002 initiative to protect MNM miners.

We have enhanced enforcement with our impact inspection and Pattern of Violations (POV) programs and have engaged in extensive outreach and collaboration with our stakeholders. MSHA has also been active in protecting miners from safety discrimination, has reduced the backlog of contested citations and orders and has increased auditing of miner training sessions to ensure that miners are receiving required training.

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. This included the decision to reduce funding to the state grants program.

However, Congress has appropriated funding for \$8.441 million for state grants for FY2014, and MSHA will provide grants to the states at that level. MSHA's Office of Educational Policy and Development (EPD) has already notified state grantees about this restoration of grant funding and that the solicitation for applications should be posted on MSHA's web site shortly.

To address concerns from the industry about consistency in our enforcement, MSHA has invested heavily in training of MSHA staff. This includes training since 2010 of field office supervisors. To date there have been three training sessions for MNM supervisors and MNM's fourth round of training will take place in June.

Working with stakeholders we have also implemented special initiatives to assist operators' compliance with MSHA standards, such as Guarding I and Guarding II that provide information on compliance with MSHA's guarding standards; the Fall Protection policy that uses OSHA's 6-foot rule as guidance; the new HazCom policy that recognizes OSHA standards; and our new Ladder guidance, rolled out on February 5, 2014 with our stakeholders. I want to thank the NSSGA for working with MSHA to implement these initiatives including the recent pilots on the Ladder initiative.

As we have done with every initiative since the launching of Rules To Live By, we are engaging our stakeholders and sharing the training we provide our inspectors on the Ladder guidance with everyone. That is a stakeholder approach I began when I arrived at MSHA.

We have worked with the mining community to develop the 5002 campaign to protect MNM miners from harmful airborne contaminants and have formed a working group within MSHA to focus on health issues facing miners.

In 2013, MSHA completed its 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

underground coal mine disaster. I personally committed to completing our corrective actions--- which resulted in the most extensive changes in decades at MSHA and have improved the agency and mine safety in significant ways---by the end of 2013; we were able to meet that deadline.

Working with the mining community we have made needed improvements in mine emergency response by creating the Holmes Mine Rescue Association to provide national support and guidance for mine rescue and training.

MSHA continues to engage in important outreach activities. This past year I and other MSHA staff continued to travel the country to meet with stakeholders to discuss ways to improve mine safety and health. These meetings have been very productive.

We are also looking at better ways to improve training for miners. MSHA EPD field staff has been meeting with aggregate associations and continues to assist small mine operators and miners on several matters, including the development of written safety and health programs.

The vast majority of these mines are aggregate mines, producing sand and gravel and crushed stone.

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 conducted since 2010 and the revised Pattern of Violations (POV) process to improve health and safety at troubled mines. The good news is that we have not needed to use these tools as

frequently as we did in the past, and statistics show the safety culture of mining is changing as evidenced by improved compliance with MSHA's standards.

**Slide #1 (POV)**

In our first year of POV screening in 2010 following the revisions to the process, 53 mines were identified, 17 mines received Proposed Pattern of Violation (PPOV) notices and two received POV notices. In 2013, during our fourth screening, MSHA identified nine mines; 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.

Under the new POV rule, the monitoring that MSHA did under the PPOV process is now the responsibility of operators so they can take corrective actions before a mine meets the POV screening criteria. MSHA has developed web tools---including a new online S&S calculator---which allow mines to easily monitor their mine compliance under the POV criteria.

A review of POV mines shows that as of December 31, 2013, these mines have improved their performance with total violation rates down 37 percent; S&S violation rates down 59 percent; 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 26 percent; unwarrantable failures down 52 percent; and lost time injury rates, down 13 percent.

In addition, since MSHA issued its Guarding I guide on conveyor belts in 2010 (followed by Guarding II covering other types of machinery), guarding violations are down about 40 percent.

Similarly, following the 2012 publication of a MSHA Program Policy Letter on Fall Protection, there has been a 25 percent decrease in fall protection violations.

### **Slide #2 (Citations in Contest)**

MSHA, with SOL, is also having success reducing the backlog of contested citations and orders. As of December 31, 2013, the backlog stood at about 31,000 violations, or a reduction of about 65 percent from its highest levels of over 89,000 at the end of 2010. The backlog is now down to 2008 levels.

In January 2012, MSHA implemented a pre-contest conferencing process to resolve citations before they become a matter for litigation. Through December 31, 2013, MNM had conferenced about 4,000 violations and resolved roughly 3,700 of them at conference. Of that 3,700, 70 percent of them were not further contested. All of the MNM districts are participating in the pre-contest conferencing process.

MSHA has made a strong commitment to miners' rights. Evidence from the investigations of the Upper Big Branch mine disaster 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.

As a result, MSHA has been working with the Department of Labor to support miners who are retaliated against for making safety complaints. In 2013, we filed 45 105(c) discrimination cases the most ever in a year, according to MSHA records. Last year, we filed 26 actions for temporary reinstatement. This number was exceeded only by 2012, when we filed 47. We believe mine operators should have effective health and safety programs and they should encourage participation by miners.

In addition, in 2013, MSHA audited 856 training sessions, the most sessions ever audited according to MSHA records. I believe these efforts are improving the quality of training and instruction for miners.

### **Slide #3 (Citations and Orders)**

All these collective actions and initiatives are improving operator compliance and miner safety and health. Since 2010, compliance has improved each year as MSHA has issued fewer citations to operators. From 2010 through 2013, the number of citations and orders issued at MNM mines dropped by 25 percent from 2010 levels through 2013.

### **Slide #4 (Dollar Amount Assessed)**

In addition, while penalties are not fully assessed for 2013, the fiscal year data for FY2013 shows that that penalties assessed in FY2013 are down 32 percent since FY2010.

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

**Slide #5 (Fatality and All-Injury Rate)**

The MNM 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 shows a record-low fatality rate of .0074 and an injury rate of 2.11 for MNM. However, as I have said the fourth quarter did not follow that trend with nine fatalities at MNM mines.

Certainly, the progress we have made in mine safety in recent years lets us know that greater improvements are achievable.

Improving mine safety and health by preventing death, injury and illness is of great importance to President Obama, Secretary of Labor Tom Perez---and I am sure---everyone here today.

President Obama is also urging action on the transportation infrastructure bill to create jobs for workers and increase work for business. I can think of no other industry that will benefit more from the passage of this legislation than the aggregates industry.

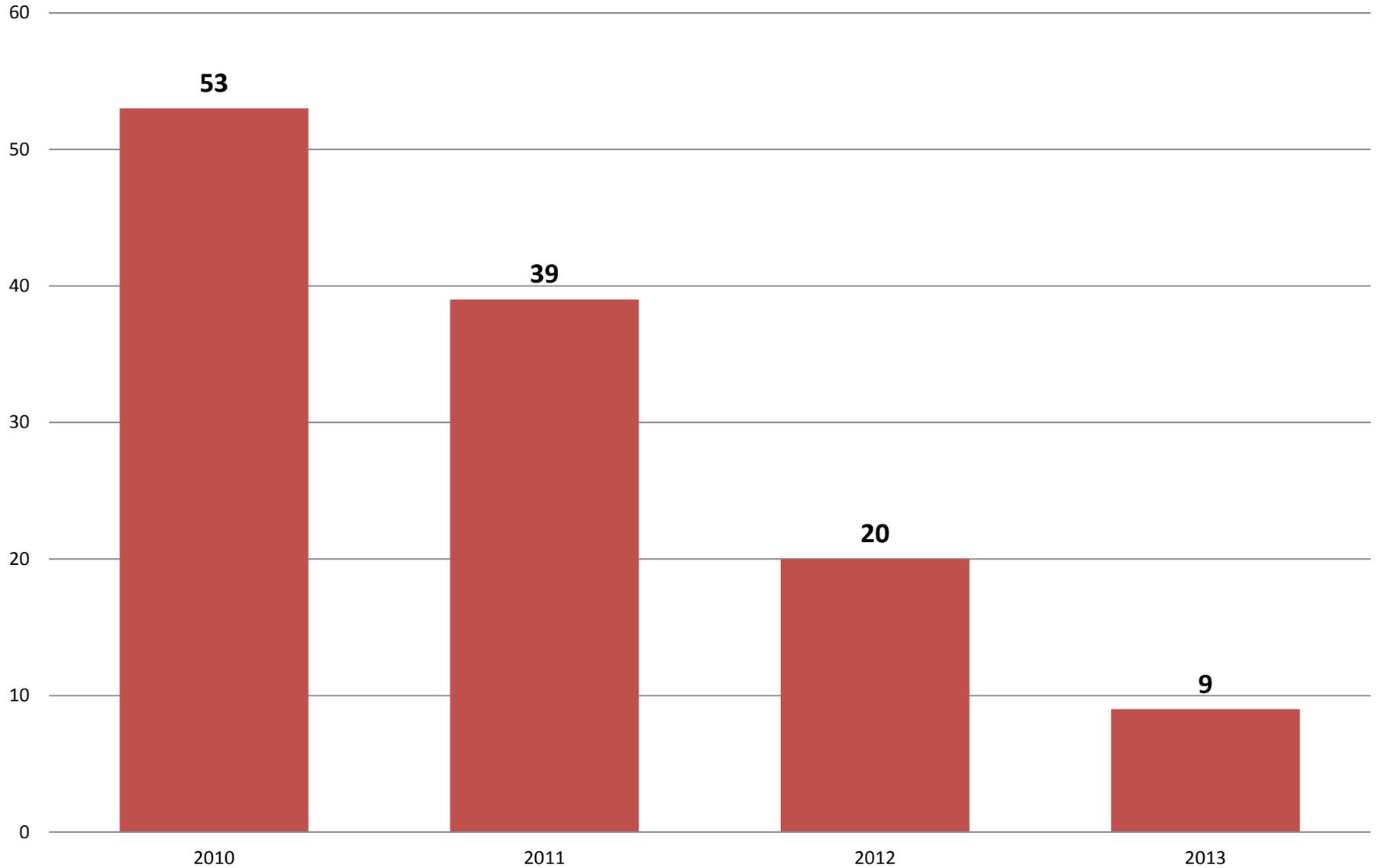
In addition, the President just launched a competition for \$600 million in TIGER competitive grants to fund transportation infrastructure projects in the nation's states, cities and localities.

The TIGER grant program was created as part of the American Recovery and Reinvestment Act and has already provided \$3.5 billion in 270 projects around the country. Investments like these

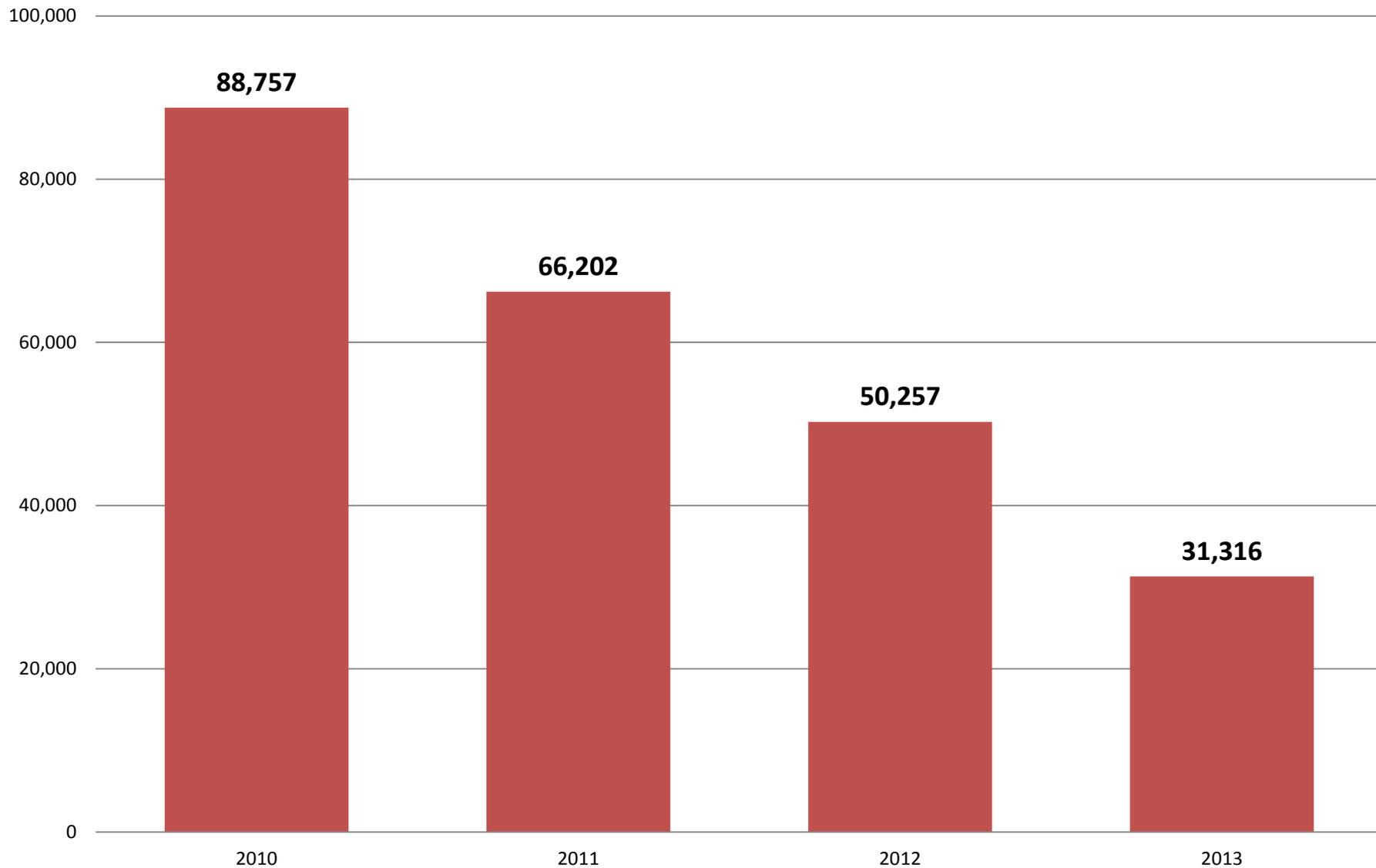
serve to benefit mining operations, and we need to have safety and health ready as more workers enter the mining workforce.

Going forward, MSHA plans to continue its initiatives and identify other programs that will help us build upon the progress we have already made. Thank you for your assistance in improving health and safety. We owe our miners that much.

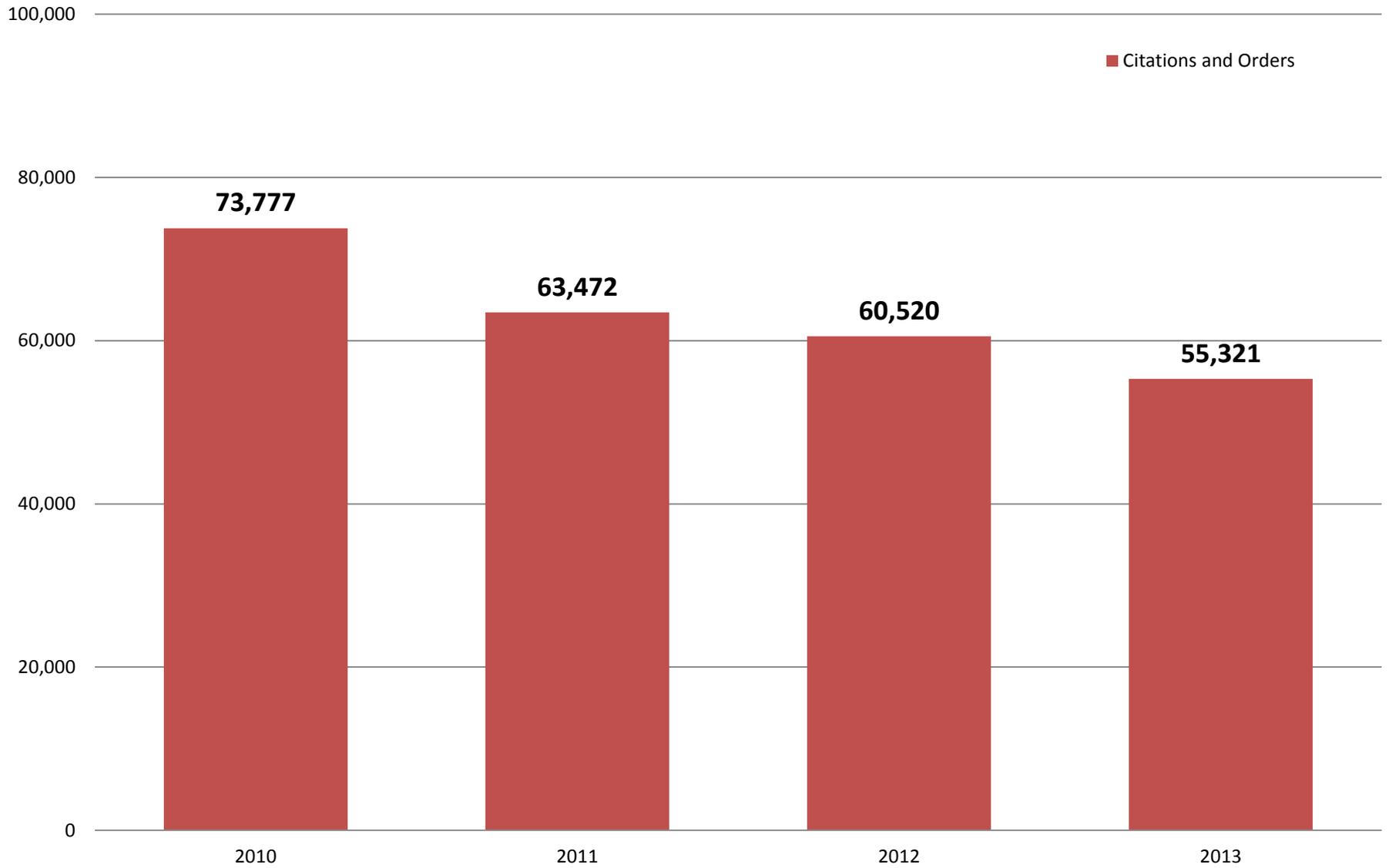
## Number of Mines Identified in Pattern of Violations (POV) Screenings CY 2010-2013



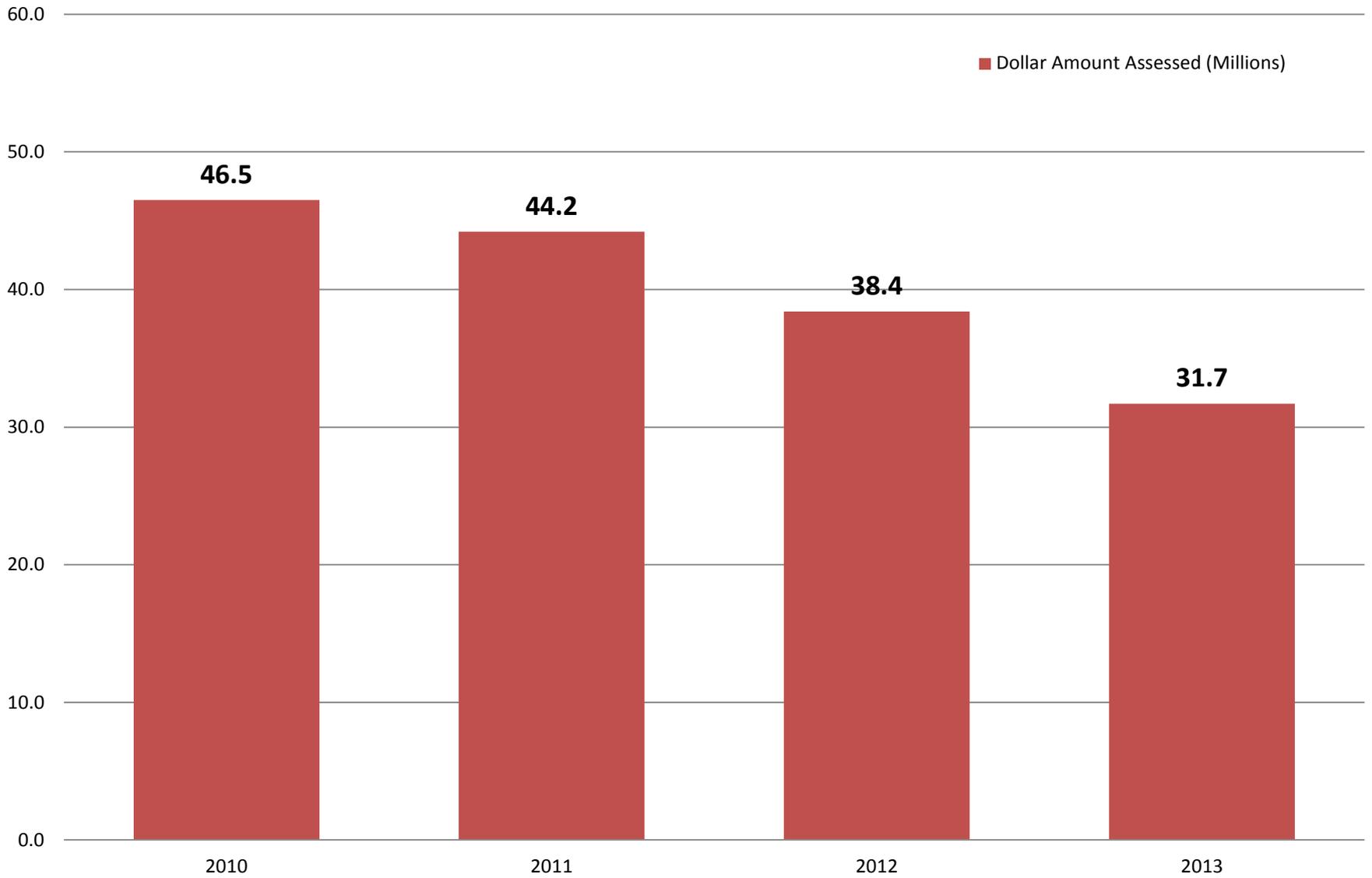
## Number of Citations In Contest (Backlog) CY 2010-2013



# MNM Mines - Citations and Orders Issued CY 2010-2013



## MNM Mines - Dollar Amount Assessed (Millions) FY 2010-2013



# MNM Mines - Fatality and All-Injury Rate CY 2008-2012

