

News Statement



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Statement of US Secretary of Labor Hilda L. Solis on Upper Big Branch Mine and pattern of violation status

WASHINGTON – Secretary of Labor Hilda L. Solis today issued the following statement on the Upper Big Branch Mine and pattern of violation status:

“After the tragedy at the Upper Big Branch Mine, I directed Assistant Secretary of Labor for the Mine Safety and Health Administration Joe Main to look at all of the information we had regarding the history of violations at the Upper Big Branch Mine.

“On Monday evening, that review found an error in the computer program used since 2007 to screen mines to determine whether they meet the criteria for inclusion into pattern of violation status. Specifically, the program was not counting final orders of unwarrantable citations in the ‘unpaid and uncontested; first demand letter sent’ category. This error was immediately corrected and the data re-run.

“Massey Energy’s Upper Big Branch Mine had eight citations in this category, which were not counted in the screening process.

“Inclusion of these orders means that the Upper Big Branch Mine should have been identified for further consideration for placement on a potential pattern of violation status.

“It is very likely that the Upper Big Branch Mine would have received a letter from MSHA informing Massey Energy that this mine would be included on the potential pattern of violation list.

“Had the error in the computer program been corrected, the mine could have been placed into potential pattern of violation status in October of 2009, when the last pattern of violation review for this mine took place.

“Upon notification of being in potential pattern of violation status, Massey Energy would have had a chance to request a meeting to correct any data errors. The mine then would have been given 90 days to reduce its ‘significant and substantial’ violations by 30 percent, or to reduce its level of ‘significant and substantial violations’ to below the industry average for mines of similar type and size.

“From October through December 2009, the Upper Big Branch Mine dramatically reduced its level of ‘significant and substantial’ violations – by nearly 65 percent.

“As such, even if there had been no computer programming error, the mine would not have been in the pattern of violation status at the time of the explosion.

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“This computer programming error did not have an impact on this tragedy. It did, however, have an impact on the information that we provided to the public and the media.

“We take all of our processes and the accuracy of our data very seriously. In this instance, we found a problem and immediately corrected it.

“MSHA also has reviewed the data related to all other underground coal mines and determined that no additional mines meet the potential pattern of violation criteria because of this computer programming error.

“At this time, the Upper Big Branch Mine is closed due to the explosion. MSHA will not allow the mine to reopen until the investigation is complete and we are assured that Massey Energy can effectively and successfully provide for the safety and health of those in the mine.

“The larger issue is that the pattern of violation process needs to be fixed. As Assistant Secretary Main indicated in his testimony to Congress in February, MSHA already has begun a review of the pattern of violation program, and we expect that review to be concluded before the next screen of underground coal operators.”

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