

News Release



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MSHA outlines hearing process in investigation of Upper Big Branch Mine explosion

ARLINGTON, Va. – The U.S. Department of Labor's Mine Safety and Health Administration today further defined its plans for a series of public hearings in the investigation of the April 5 explosion at the Upper Big Branch Mine in Raleigh County, W.Va. The public hearings will commence after the initial witness interviews are completed.

"MSHA has a number of tools in its toolbox to investigate this tragedy that claimed 29 miners' lives," said Secretary of Labor Hilda L. Solis. "These include the physical inspection of the mine, public hearings with subpoenas and investigative interviews that protect witnesses with knowledge of what happened in the mine. During the investigation of the Upper Big Branch disaster, MSHA will use all of the tools at our disposal."

One of those tools is MSHA's authority to hold public hearings and subpoena witnesses and documents as authorized by Section 103(b) of the Federal Mine Safety and Health Act of 1977. To date, that authority has been exercised only two other times.

One of the public hearings will involve the questioning of witnesses with knowledge of the mine, the mine operations and the explosion. This public hearing will follow the procedures used by MSHA in the 1999 investigation of the explosion at Kaiser Aluminum and Chemical Co.'s Gramercy Works Alumina Plant. MSHA has updated the guidelines to ensure unprecedented access for the public and the media, both in person and via streaming video on the Internet. MSHA will post testimony and evidence on its website and solicit contributions to the final accident investigation report via a public comment process.

Another public hearing will focus on technical aspects of the explosion based upon the physical examination of the mine and other evidence. MSHA will present the theory (or theories) it has developed during the course of the physical investigation, and will allow outside experts and the general public to comment on MSHA's investigation and initial analysis. These comments will be reviewed by the investigation team and considered in the development of the final accident investigation report. All comments will be made public at the time the report is published. This hearing will also be open to the public and media and accessible on the Internet.

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The purposes of the public hearings will be to (1) discuss the possible cause(s), including possible contributory causes, of the explosion and (2) identify and develop corrective actions, procedures and strategies to prevent the occurrence of similar accidents.

At least seven days prior to any public hearing, MSHA will publish a notice in the *Federal Register* announcing the date, time and location. Mine employees, company officials, federal inspectors and others with knowledge of the incident will be invited to participate in the hearing. Subpoenas will be issued if necessary.

All questioning at the public hearings will be conducted by a panel of MSHA and possibly state of West Virginia investigators. In addition, the secretary of labor will select an impartial hearing officer who is not affiliated with MSHA, the state of West Virginia, the company or any other interested party to chair a hearing. The hearing officer and those participating in the panel will be announced publicly prior to the hearing.

In addition to testimonial evidence, the MSHA panel will be able to subpoena documentary evidence that MSHA believes can help determine the cause of the accident.

Members of the families of the fallen miners will have an opportunity to offer their thoughts about the explosion, in person at a public forum, in writing or electronically. These public statements will be made available to the public and media on MSHA's website and will be considered in the final accident investigation report. Family liaisons appointed immediately following the explosion will remain in regular contact with the families, and their input into the investigative process is encouraged.

MSHA officials will conduct a public town hall meeting to allow for an exchange of ideas on how to best create a culture of safety at all mining operations and to gather recommendations on how to improve mine safety as a whole.

Due to concerns about mine gasses produced by heating and/or fires, the investigation team has not been able to enter the mine to begin the physical examination. MSHA, the state of West Virginia and the mine owner continue to work to stabilize underground conditions.

"MSHA is committed to ensuring that the process moves forward in a timely and transparent manner, and will also make sure that its investigative process does not hinder any potential ongoing criminal investigations into the tragedy that happened at the Upper Big Branch Mine," said Joseph A. Main, assistant secretary of labor for mine safety and health.

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