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MSHA announces results of August impact inspections

Kentucky coal mine undergoes 10th targeted inspection, served with judgment by default

ARLINGTON, Va. — The U.S. Department of Labor's Mine Safety and Health Administration today announced that federal inspectors issued 255 citations, 13 orders and two safeguards during special impact inspections conducted at 11 coal mines and four metal/nonmetal mines last month.

The monthly inspections, which began in force in April 2010 following the explosion at the Upper Big Branch Mine, involve mines that merit increased agency attention and enforcement due to their poor compliance history or particular compliance concerns, including high numbers of violations or closure orders; frequent hazard complaints or hotline calls; plan compliance issues; inadequate workplace examinations; a high number of accidents, injuries or illnesses; fatalities; and adverse conditions such as increased methane liberation, faulty roof conditions and inadequate ventilation.

As an example from last month, an impact inspection was conducted on Aug. 8 at D & C Mining Corp. in Harlan County, Ky. MSHA personnel captured and monitored the communication systems to prevent advance notification of the inspection. They issued five 104(d)(2) unwarrantable failure orders, one 104(b) withdrawal order and 10 citations, six of which were deemed significant and substantial.

The 104(d)(2) orders were issued for an improperly conducted pre-shift examination, an accumulation of combustible materials, a failure to comply with mine emergency evacuation training and drills, a failure on the part of the section foreman and another miner to wear a self-contained self-rescuer device, and a failure by the section foreman to perform the required daily calibration test of multi-gas detectors.

Among the significant and substantial violations were a failure to comply with the roof control plan, an accumulation of combustible materials, damaged areas in the power cord of a battery charger and misaligned conveyer belts. This impact inspection was the mine's 10th since April 2010. Additionally, the mine received letters from MSHA notifying it of a potential pattern of violation in 2007 and 2008.

Last March, the Labor Department filed a complaint against D & C Mining in the U.S. District Court for the Eastern District of Kentucky, alleging that the company owes \$1.67 million of \$2.7 million assessed in civil penalties for 1,244 violations cited between Jan. 24, 2006, and Feb. 8, 2012. After D & C failed to respond to the complaint, the department filed a motion for entry of judgment by default on July 10 along with a proposed judgment.

The motion requests payment of the principal owed, penalties and interest; an order preventing D & C from “violating or failing or refusing to comply with any final orders” by failing to pay already delinquent penalties and future penalties; for D & C to post a bond to ensure the payment of future penalties; and an order that D & C keep all property in which it has an ownership interest on site at the mine and not sell or move the property.

“Sadly, D & C Mining still hasn’t gotten the message,” said Joseph A. Main, assistant secretary of labor for mine safety and health. “Operators who continue to ignore sound safety and health practices and fail to pay fines for assessed violations will be subject to the toughest enforcement actions allowed under the Federal Mine Safety and Health Act of 1977.”

Since April 2010, MSHA has conducted 492 impact inspections and issued 8,800 citations, 865 orders and 38 safeguards.

Editor's note: A [spreadsheet containing the results of impact inspections](#) in August 2012 accompanies this news release.