

**U.S. Department of Labor
Mine Safety and Health
Administration**



November 2016

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TAB 1: AGENCY ORGANIZATIONAL OVERVIEW

Mission

The Mine Safety and Health Administration (MSHA) works to prevent death, illness, and injury from mining and promote safe and healthy workplaces for miners. MSHA develops and enforces safety and health standards as a means to eliminate fatal accidents; to reduce the frequency and severity of nonfatal accidents; to minimize health hazards; and to promote improved safety and health conditions in the Nation's mines.

Authorizing Legislation

MSHA was created in 1978 as a result of the passage of the [Federal Mine Safety and Health Act of 1977 \(Mine Act\)](#). The Mine Act transferred responsibility for mine safety and health for all coal and metal and nonmetal mines from the Department of the Interior to the Department of Labor.

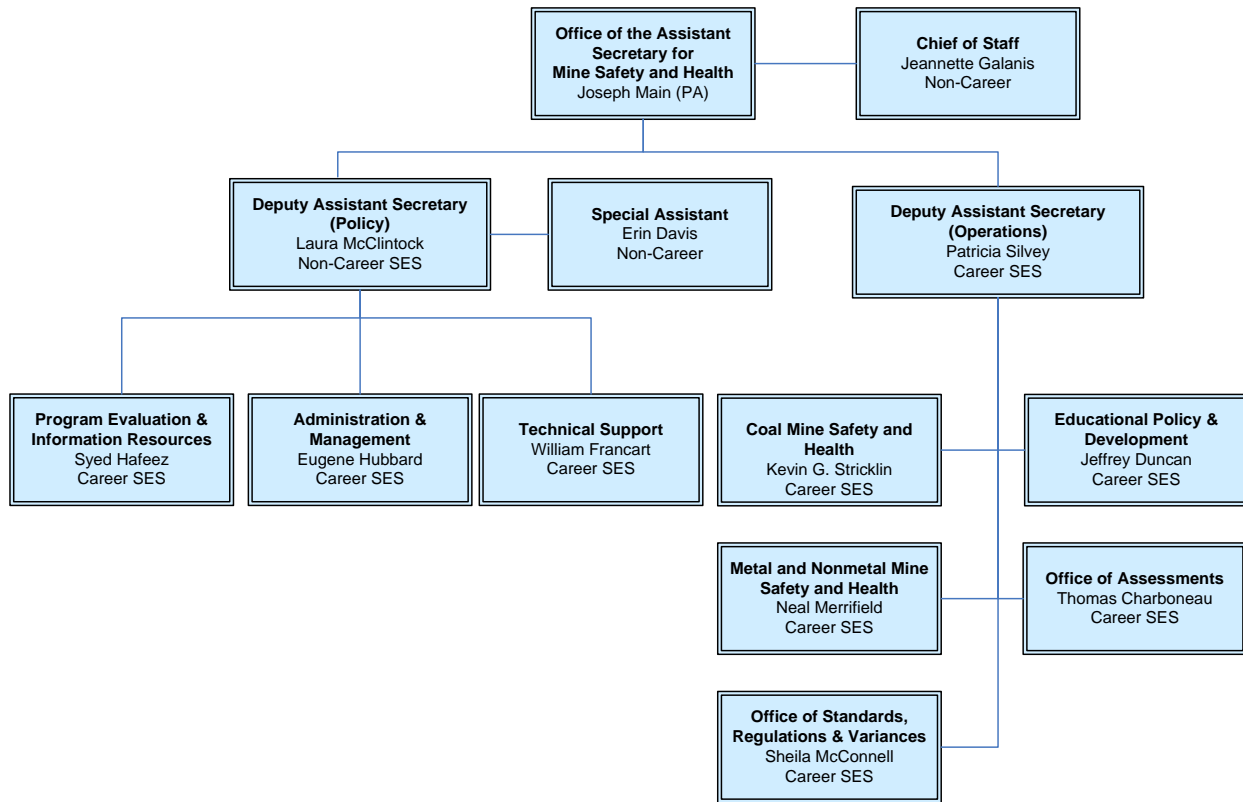
The Mine Act was amended by The Mine Improvement and New Emergency Response Act of 2006 (MINER Act) in June 2006. It represented the first revision to federal mine safety laws since the Mine Act was passed – the most significant mine safety legislation in nearly 30 years. The MINER Act builds upon efforts by MSHA to improve mine safety nationwide, and requires the modernization of safety practices and development of enhanced communication technology.

Organizational Structure

MSHA is headquartered in Arlington, Virginia, and is under the direction of the Assistant Secretary of Labor for Mine Safety and Health. MSHA is largely a field organization with the vast majority (90 percent) of its employees stationed in approximately 100 locations throughout the United States, with about 250 employees stationed at the Arlington headquarters. At present, MSHA has eleven career Senior Executive Service (SES) positions and one non-career SES position.

MSHA also operates and maintains the National Mine Health and Safety Academy (Academy) in Beckley, West Virginia, one of seven federally chartered training academies. The Academy is devoted to providing miner safety and health training. Government, industry and labor officials, including international delegations, attend the Academy to obtain specialized training in a number of mine safety and health subjects ranging from accident investigation to proper roof control procedures. The Academy also trains MSHA mine inspectors. The Academy staff produces and distributes a variety of training and compliance assistance materials.

Organizational Chart



Organizational Changes During the Past Eight Years

Realignment of Coal Resources: Due to the decline of coal production, particularly in the Appalachian region, MSHA has taken several steps to realign Coal Mine Safety and Health (Coal) resources. In 2013, MSHA merged Coal District 1 in northeast Pennsylvania into District 2 in western Pennsylvania. On October 1, 2016, MSHA will close the District 6 office, which has jurisdiction over mines in eastern Kentucky, and transfer enforcement responsibilities to Districts 5 and 7. To ensure that MSHA maintains a cadre of experienced personnel so that the Agency can accomplish its mission and fill critical staffing gaps, MSHA redirected resources from Coal to Metal and Nonmetal Mine Safety and Health (MNM) and other programs (Educational Policy and Development, Technical Support, Program Evaluation and Information Resources, and Administration and Management). This allows the Agency to retain an experienced inspectorate as well as meet the demands of mining activities in all regions. For example, in FY 2015 and FY 2016, Coal enforcement personnel supported MNM to achieve its statutory mandated inspections and to assist in MNM’s Fatality Prevention Initiative.

Improving Compliance Assistance: In 2014, MSHA merged the Educational Field Services and the Small Mine Consultation Program to create the Educational Field and Small Mine Services program. By creating a single program, MSHA has eliminated duplication, reduced costs, and allowed the Agency to provide a single, comprehensive program of education,

training, and compliance assistance to all mines, regardless of size. This new office has increased compliance assistance on implementation of final rules such as the respirable dust rule and guidance on agency policies such as a guarding of equipment to improve compliance, and initiatives including Rules to Live By that focuses enforcement attention on mining standards commonly cited following mining deaths

Office of Assessments: In 2012, MSHA centralized oversight and management of special enforcement authorities under a single program, the Office of Assessments. These authorities include: identifying mines for a pattern of violations of safety and health standards for enhanced enforcement; identifying mines for additional impact inspections; use of Secretary's injunctive authority; use of flagrant violations and special assessments; protection of miners' rights under the Mine act; and support and coordination of potential criminal cases. MSHA also transferred the accountability function that ensures MSHA's enforcement policies and procedures are carried out effectively, consistently, and appropriately to the Office of Assessments.

TAB 1: Agency Organizational Overview

Workforce At-A-Glance

**DEPARTMENT OF LABOR EMPLOYMENT *
AS OF 11/1/2016 - MSHA**

AGENCY			
Subagency	National Office	Regional Office	Total
MSHA	204	2029	2233
Total	204	2029	2233
RACE & GENDER			
Ethnicity	F	M	Total
American Indian	4	5	9
Asian	9	14	23
Black	81	52	133
Hawaiian/PI	0	1	1
Hispanic	20	47	67
Two or more Races	5	7	12
White	382	1606	1988
Total	501	1732	2233

BARGAINING UNIT	
Local 12	96
NCFL	1680
Non-BU	457
SUPERVISORY**	
Non Supervisor	1889
Supervisor	344
WORK SCHEDULE	
F-Full Time	2230
G-Full Time Seasonal	1
P-Part Time	2
REGIONS	
1 Boston	15
2 New York	33
3 Philadelphia	871
4 Atlanta	408
5 Chicago	225
6 Dallas	100
7 Kansas City	38
8 Denver	211
9 San Francisco	90
10 Seattle	38
Natl Ofc	204
Total	2233

GRADE DISTRIBUTION	
00	11
03	3
04	11
05	14
06	186
07	97
08	21
09	71
10	7
11	156
12	1067
13	389
14	138
15	62
Total	2233
DISABLED STATUS	
No Disability	2060
Non-targeted	158
Targeted	15
APPOINTMENT TENURE	
Indefinite	9
Permanent	2223
Temporary	1
RETIREMENT ELIGIBILITY	
Early Out	158
Eligible	442
Not Eligible	1633

METRO D.C. AREA EMPLOYEES BY BUILDING		
FRANCES PERKINS BLDG		1
MSHA ARLINGTON-CRYSTAL GATEWAY		202
TWIN TOWERS		1
Total		204
Includes regional employees working in the D.C. area		
GRADE 13 & ABOVE		
Ethnicity	F	M
American Indian	0	1
Asian	2	6
Black	36	24
Hawaiian/PI	0	1
Hispanic	7	12
Two or more Races	3	5
White	64	440

* Permanent and Temporary Employees
** Supervisor count includes manager levels 2 and 4

Key Leaders

Office of the Assistant Secretary for Mine Safety and Health

Assistant Secretary (Joseph A. Main, non-career)
Deputy Assistant Secretary for Policy (Laura McClintock, non-career)
Deputy Assistant Secretary for Operations: (Patricia W. Silvey, career)
Chief of Staff (Jeannette Galanis, non-career)
Special Assistant to the Assistant Secretary (Erin Davis, non-career)

Office of Administration and Management

Director: Eugene Hubbard
Deputy Director: Kimberlee Proctor

Office of Assessments

Director: Thomas Charboneau
Deputy Director, Civil Penalties and Assessments: Kelvin Blue
Deputy Director, Special Investigations, Enforcement and Accountability: Alfred Clayborne

Coal Mine Safety and Health

Administrator: Kevin Stricklin
Deputy Administrator: Timothy Watkins

Educational Policy and Development

Director: Jeffrey Duncan
Deputy Director: Krystle Mitchell

Metal and Nonmetal Mine Safety and Health

Acting Administrator: Kevin Stricklin
Deputy Administrator: Marvin Lichtenfels

Program Evaluation and Information Resources

Director: Syed Hafeez
Deputy Director: Li-Tai Bilbao

Office of Standards, Regulations and Variances

Director: Sheila McConnell
Deputy Director: Roslyn Fontaine

Technical Support

Director: William Francart
Deputy Director: Melanie Calhoun

TAB 2: 30/60/90 DAYS – STATE OF PLAY

Key Announcements

By end of February 2017

Examinations of Working Places in Metal and NonMetal Mines, Final Rule. MSHA is developing a final rule that will enhance the quality of working place examinations in MNM mines and help ensure that violations of mandatory health or safety standards are identified and corrected, thereby improving protections for miners. MSHA anticipates that this final rule will be published in the Federal Register in January 2017 and become effective in March/April 2017.

Closed-Circuit Escape Respirators. A closed-circuit escape respirator (CCER) is a lifesaving respiratory device used during mine emergencies. CCERs are known in the mining community as Self-Contained Self-Rescuers (SCSRs). CCERs enable miners to escape from atmospheres that can be immediately dangerous to health and life. On March 8, 2012, the National Institute for Occupational Safety and Health (NIOSH) issued new requirements for the testing and approval of CCERs.

On January 4, 2016, NIOSH and MSHA issued the first approval for a respirator that complies with NIOSH's new approval requirements for CCERs, a large-capacity (Cap 3) CCER for use in underground coal mining. Manufacturers can continue to manufacture, label, and sell Cap 3 CCERs approved under the old approval requirements until January 4, 2017. After that date, mine operators can only purchase new CCERs that have been approved under NIOSH's new approval requirements. However, mine operators may continue to use CCERs approved for use under the old approval requirements until the end of the service life of these units, which can range from 5 to 15 years. After the service life expires, mine operators must purchase CCERs approved under NIOSH's new approval requirements.

The approved Cap 3 CCER provides at least the same amount of breathable air as previously required under NIOSH's old approval requirements for a similar unit that provided 60 minutes of breathable air. However, the newly approved Cap 3 CCERs are large and heavy and cannot be carried on a miner's belt, unlike some the CCERs approved under the old approval requirements. These new units must be stored in a cache close to where miners work. Mine operators will need to provide miners with a CCER that can be worn on their belts and provide at least 10 minutes of oxygen (Cap 1) in order to reach a cache of larger Cap 3 CCERs that provide a minimum of 60 minutes of breathable air.

Retrospective Study. On May 1, 2014, MSHA published a final rule, Lowering Miners' Exposure to Respirable Coal Mine Dust, Including Continuous Personal Dust Monitors. MSHA intends on taking the lead in conducting a retrospective study beginning February 1, 2017. Under the Department's Plan for Retrospective Analysis of Existing Rules, MSHA intends to consult with industry, labor, NIOSH, and other stakeholders to determine best practices and how these practices can be replicated throughout mines to achieve similar results. This retrospective study will be conducted in accordance with the Department of Labor's Plan for Retrospective

Analysis of Existing Rules that complies with Executive Order 13563, Improving Regulation and Regulatory Review (76 FR 3821).

By end of April 2017

Implementing the Mine Act in the U.S. Territories. During the spring/summer of 2014, it was brought to MSHA's attention that the Agency should be enforcing the Mine Act in the U.S. Pacific Territories of Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands (Territories). MSHA will conduct compliance assistance visit inspections, with no penalties issued, during the first half of FY 2017. During the second half of FY 2017, MSHA plans to conduct regular safety and health inspections.

Consolidated Appropriations Act, 2016: Appropriations Report on Compliance Rates with Respirable Coal Mine Dust Rule. Congress directed MSHA to report to the Committees on Appropriations of the House of Representatives and the Senate and authorizing committees of jurisdiction within 72 hours of determining the compliance rates under the new sampling protocols that took effect on February 1, 2016, under MSHA's final rule on lowering miners' exposure to respirable coal mine dust. MSHA will issue the fourth quarterly report to Congress after April 2017. This is a recurring quarterly report.

Key Meetings

Consolidated Appropriations Act, 2016: Appropriations Report on Review of Occupational Exposure to Respirable Coal Mine Dust. Congress directed MSHA to provide assistance and data necessary for the National Academies of Sciences, Engineering, and Medicine (NAS) review of occupational exposure to respirable coal mine dust in underground mines. NAS is assembling its panel. MSHA anticipates the panel will hold its first meeting in March/April 2017. The report is due to Congress in December 2018.

Diesel Exhaust Health Effects Partnership on Diesel Exhaust in Underground Coal and Metal and Nonmetal Mines. MSHA is seeking information and data on the effectiveness of the Agency's existing standards and policy guidance on controlling miners' exposures to diesel exhaust to preserve miners' health. MSHA published a request for information (RFI) on June 8, 2016. MSHA and NIOSH have received requests from stakeholders to form a Diesel Exhaust Health Effects Partnership with the mining industry, including coal and metal and nonmetal mines, diesel engine manufacturers, and representatives of organized labor. The Partnership will begin after the comment period for the RFI closes on November 30, 2016. MSHA anticipates that the Partnership will schedule its first meeting in December 2018.

Key Agency Stakeholders

MSHA's key stakeholders include the general public, other Federal agencies, State mining agencies, labor organizations, national mining industry, and public interest groups. Key agency stakeholders include:

Labor Organizations

United Mine Workers of America (UMWA): The UMWA is the largest union in North America representing coal miners and represents workers in and around underground coal mines, surface mining operations, and preparation plants. The UMWA also represents miners of metal, hardrock, and other materials.

United Steelworkers of America (USW): The USW represents miners in surface and underground metal and nonmetal mines and several coal mines.

International Union of Operating Engineers (IUOE): The IUOE represents operating engineers, who work as heavy equipment operators, mechanics, and surveyors in the construction industry, and stationary engineers, who work in operations and maintenance in building and industrial complexes, and in the service industries.

The International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers (Ironworkers): The ironworkers represent those who work on bridges, structural steel, ornamental, architectural, and miscellaneous metals, rebar, and in shops.

Bituminous Coal Operators Association (BCOA): The BCOA represents its members in collective bargaining with the UMWA.

National Mining Industry Groups

National Mining Association (NMA): NMA is a national trade organization that represents the interests of coal and metal and nonmetal mine operators before Congress, the Administration, federal agencies, the judiciary and the media.

Industrial Minerals Association North America (IMA-NA): IMA-NA is a trade association that represents companies that mine or process minerals used throughout the manufacturing and agricultural industries.

Institute of Makers of Explosives (IME): The IME advocates at all levels of government for the adoption of rules and regulations consistent with safety and security in the manufacture, transportation, storage, handling, use and disposal of explosive materials.

National Stone, Sand & Gravel Association (NSSGA): The NSSGA represents the construction aggregates industry.

Portland Cement Association (PCA): PCA is a trade association that advocates for cement and concrete industries.

National Lime Association (NLA): NLA updates its members on issues of common interest including regulatory and legislative developments. NLA also provides a forum to enhance and encourage the exchange of ideas and technical information common to the industry and to promote the use of lime and the business interests of the lime industry.

Association of Equipment Manufactures (AEM): AEM advocates for a community of equipment manufacturers.

Public Interest Groups

American Public Health Association (APHA): APHA is an advocacy group of public health professionals that supports issues related to health care for communities.

Appalachian Citizens' Law Center: The Appalachian Citizens' Law Center is a nonprofit law firm that represents coal miners and their families on issues of black lung and mine safety.

TAB 3: INITIATIVES

Regulatory and Policy Issues

Regulatory Issues

Exposure of Underground Miners to Diesel Exhaust. Epidemiological studies by the National Institute for Occupational Safety and Health and the National Cancer Institute have found that diesel exhaust exposure increases miners' risk of death due to lung cancer. The International Agency for Research on Cancer classified diesel exhaust as a human carcinogen. On June 8, 2016, MSHA published a request for information and data on approaches to control and monitor miners' exposures to diesel exhaust in underground coal and metal and nonmetal mines. MSHA is seeking information and data on the effectiveness of the Agency's existing standards and policy guidance on controlling miners' exposures to diesel exhaust to preserve miners' health. The comment period was scheduled to close on September 6, 2016. In response to stakeholder requests, the comment period was extended to November 30, 2016. MSHA and NIOSH also received requests to form a Diesel Exhaust Health Effects Partnership with the mining industry, including coal and metal and nonmetal mines, diesel engine manufacturers, and representatives of organized labor. MSHA has agreed to work with NIOSH to form a Partnership. See Key Meetings.

Proximity Detection Systems for Mobile Machines in Underground Mines. On September 2, 2015, MSHA published a proposed rule that would require underground coal mine operators to equip coal hauling machines and scoops with proximity detection systems. Miners working near these machines face pinning, crushing, and striking hazards that result in accidents involving life threatening injuries and death. The comment period closed on December 15, 2015. MSHA is developing a notice that reopens the rulemaking record and requests comments on issues that were raised by commenters during the comment period and on issues that developed after the record closed.

Respirable Crystalline Silica. On March 25, 2016, OSHA published its final rule on Occupational Exposure to Respirable Crystalline Silica which improved protections for workers exposed to crystalline silica. Consistent with OSHA's rule, MSHA is developing a proposed rule for its metal and nonmetal mines.

Criteria and Procedures for Proposed Assessment of Civil Penalties. On July 31, 2014, MSHA published a proposed rule to amend its civil penalty regulation to simplify the criteria, which will promote consistency, objectivity, and efficiency in the proposed assessment of civil penalties and facilitate the resolution of enforcement issues. The proposal would place a greater emphasis on the more serious safety and health conditions and provide improved safety and health for miners. MSHA also proposed two alternatives that would address the scope and applicability of its civil penalty regulation. The comment period closed on March 31, 2015. MSHA received unanimous opposition from stakeholders on MSHA's proposed alternatives to the related scope. This item is classified as a long-term action in DOL's regulatory agenda.

Other Policy Issues

MNM is in the process of developing policy (Program Policy Letter) on Escapeways and Refuges. The policy will clarify ambiguities in 30 CFR § 57.11050, which regulates escapeways

and refuges, by establishing clear guidelines and expectations for mine operators and improving consistency of enforcement nation-wide.

Major Grants and Contracts

The Mine Act and MSHA's regulations require miner training and education in prevention of injury and disease. In the mining industry, inadequate or ineffective training has been identified as a contributing factor in certain mine fatalities. The Directorate of Educational Policy and Development (EPD) administers the following mine health and safety training programs:

State Grants Program. State grants support training programs for miners in 49 states and the Navajo Nation. Under this program, MSHA awards grants to assist states in training and retraining of miners working at surface and underground coal and metal and nonmetal mines, including miners engaged in shell dredging or employed at surface stone, sand, and gravel mining operations. With this formula-based grant, Congress is authorized to appropriate up to \$10 million annually. In recent years, Congress has required MSHA to award not less than \$8,441,000 in state grants funding annually. In FY 2017, MSHA will award \$8,441,000 in state grants and projects to train 180,000 miners.

Brookwood-Sago Mine Safety Grants. The MINER Act, which established the Brookwood-Sago Mine Safety Grants Program, requires MSHA to establish a program to award competitive grants for education and training. MSHA is also required to award grants with a special emphasis on programs and materials that target workers in smaller mines, including training miners and mine operators about MSHA's standards, and high risk activities and other hazards. To be eligible to receive a grant, an entity must be a public or private nonprofit. Eligible applicants include States and nonprofit (private or public) entities, including U.S. territories, Indian tribes, tribal organizations, Alaska Native entities, Indian-controlled organizations serving Indians, and Native Hawaiian organizations. The amount of funding for the program has ranged from \$500,000 up to \$1,250,000. In FY 2017, MSHA will award grants with a focus on training for mine rescue and mine emergency preparedness in underground mines. Grants must be awarded by September 30, 2017.

Joseph A. Holmes Safety Association (JAHSA). The JAHSA is a nonprofit organization that began in 1916 to promote health and safety in the mining industry and consists of representatives from Federal and State Governments, Mining Organizations and Labor. The Association's objectives are to prevent fatalities and injuries, to improve health and safety among officials and employees in all phases of mining, and to promote mine rescue. MSHA supports JAHSA in two ways: (1) assist in the development of JAHSA's organizational capacity and (2) provide direct support to the mine rescue activities of the Holmes Mine Rescue Association, a separate mine rescue component within the existing Association.

Training Grants for the U.S. Territories. MSHA will provide funds for training and other assistance to miners, mine operators, contractors in Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands in FY 2016 and FY 2017. See Key Announcements.

Enforcement

On April 5, 2010, 29 miners were killed and two were seriously injured in a massive explosion at the Upper Big Branch Mine in Raleigh County, West Virginia. It was the worst American coal mining disaster in 40 years and a devastating loss for the miners' families, and communities. Under the Mine Act, mine operators are responsible for maintaining safe and healthy work environments and complying with mandatory health and safety requirements at all times, whether or not MSHA inspectors are present. Since this preventable tragedy occurred, MSHA reviewed its enforcement activities and retooled some of the Agency's enforcement programs. The Agency also implemented other strategic enforcement initiatives. MSHA's enforcement actions have led to measured improvement in mine safety. On January 1, 2016, MSHA reported that 28 miners died in 2015 in work-related accidents at the nation's mines, down from 45 in 2014. The figure represents the lowest number of mining deaths ever recorded and the first year that mining deaths dropped below 30. MSHA credits this record to the combined efforts of the mining industry, both labor and operators, and the Agency's use of the following strategic enforcement tools and actions it employed since the tragic event in 2010.

MSHA has two enforcement program areas – Coal Mine Safety and Health (Coal) and Metal and Nonmetal Mine Safety and Health (MNM). To ensure the safety and health of the nation's miners, MSHA employs the following enforcement strategies.

Statutorily Mandated Inspections. The Mine Act requires MSHA to inspect all active underground mines four times per year and all surface mines twice per year. These inspections form the core of MSHA's enforcement, providing a first-hand look at conditions at each of the nation's mines. In FY 2016, MSHA inspected approximately 1,500 surface and underground coal mines, and about 12,000 surface and underground metal and nonmetal mines.

Pattern of Violations. MSHA also screens mines to determine whether a mine has a pattern of violations (POV) of mandatory safety and health standards. The POV provision of the Mine Act is one of MSHA's most stringent enforcement tools – reserved for mines that pose the greatest risk to the health and safety of miners, particularly those with chronic violation records. The Mine Act authorizes MSHA to issue a POV notice to mine operators that demonstrate a disregard for the health and safety of miners through a pattern of significant and substantial violations.

Targeted Impact Inspections. These inspections, which began following the explosion at the Upper Big Branch Mine, target mines with specific conditions, problems or compliance issues that merit increased agency attention and enforcement, including high number of violations or closure orders; indications of advance notification of inspections that prevent inspectors from observing violations; frequent hazard complaints or hotline calls; inadequate workplace examinations; high number of accidents, injuries or illnesses; fatalities; and adverse conditions such as increased methane liberation, faulty roof conditions, inadequate ventilation and high respirable dust levels. The number of targeted inspections conducted depends on the number of mines that meet the factors listed above.

Rules to Live By. Launched in 2010, the Rules to Live By initiatives target causes of fatal mine accidents and disasters. *Rules to Live By I* focuses on reducing violations of 24 frequently cited standards (11 in coal mining and 13 in metal/nonmetal mining) that cause or contribute to fatal

accidents in the mining industry. *Rules to Live By II* aims at preventing catastrophic accidents and focuses on 9 standards that were cited during major disasters over the last 10 years, and which contributed to 5 or more fatalities. *Rules to Live By III* is designed to prevent common mining deaths. The program focuses on 14 safety standards (8 in coal mining and 6 in metal and nonmetal mining) cited as a result of at least 5 mining accidents and resulting in at least 5 deaths during the 10-year period from January 1, 2001, to December 31, 2010. *Rules to Live By IV*, which is designed to prevent common mining deaths, focuses on 2 safety standards (1 in coal mining and 1 in metal and nonmetal mining) cited as a result of at least 5 mining accidents and resulting in at least 5 fatalities during the 10-year period from January 1, 2006, to December 31, 2015, that were not included in *Rules to Live By I, II, and III*. The *Rules to Live By* initiative also includes targeted inspections and outreach to miners in coal and metal and nonmetal mines.

Protecting Miners from Discrimination. Informed miners are an essential element in maintaining a safe and healthful environment in all mines, at all times. The Mine Act provides miners the right to be full stakeholders in their own health and safety by participating in the inspection process through a representative of their own choosing, speaking out about hazards, and refusing to work in dangerous conditions. MSHA became aware of miners' fears of discrimination and retaliation in the wake of the Upper Big Branch Mine disaster. Statements from miners and family members of the miners killed at Upper Big Branch indicated that mine employees had been reluctant to speak out about safety conditions in existence prior to the April 2010 explosion, fearing retaliation from management.

MSHA's Special Investigations Program investigates discrimination complaints filed under Section 105(c) of the Mine Act by miners, representatives of miners, or applicants for employment, in addition to investigation of knowing or willful violations under Section 110 of the Mine Act.

Specific Enforcement Activities for Coal Mine Safety and Health

Equipment, Materials, and Engineering Plans. Effective approaches to reducing the risk of injury and disease among miners include ensuring that mine operators' roof control and ventilation plans can control the hazards inherent to the underground coal mining environment and that equipment, materials, and structures used in mines meet MSHA's standards. MSHA is required to review roof control and ventilation plans at least every 6 months. MSHA also conducts timely reviews of mine operators' equipment and materials to ensure compliance with MSHA's standards.

Special Emphasis Health Inspections. On May 1, 2014, MSHA published a final rule to control miners' exposure to respirable coal mine dust. This rule reduces the allowable amount of respirable dust to which a miner can be exposed. The rule also increases the frequency of dust sampling and requires coal operators to take immediate corrective action when dust levels exceed an applicable standard. Since August 1, 2014, MSHA and mine operators have collected over 134,000 respirable dust samples, of which approximately 99 percent of those samples were in compliance with the new standards. The second phase of the rule, which went into effect on February 1, 2016, requires mine operators to use the Continuous Personal Dust Monitor (CPDM) to collect their dust samples. The CPDM is a new technology that provides a direct measurement of respirable dust in the miner's work atmosphere. The final phase of the rule, which went into effect on August 1, 2016, reduces the concentration limits for respirable coal

mine dust. The overall respirable dust standard in coal mines is reduced from 2.0 to 1.5 milligrams per cubic meter of air (mg/m³). The standard is reduced from 1.0 to 0.5 mg/m³ for air used to ventilate places in underground coal mines where miners work and for Part 90 miners (miners with evidence of pneumoconiosis).

Civil Penalties for Violations of the Mine Act. The decline in violations and total penalties in Coal is commensurate with the downtrend in coal production. See Table 1 below.

Fiscal Year	Table 1: Coal	
	No. of Violations	Total Penalties
2011	97,847	\$83,229,634
2012	97,746	\$104,303,428
2013	83,074	\$77,398,805
2014	65,486	\$60,662,182
2015	63,912	\$55,034,543
2016	47,206	\$46,526,755

Specific Enforcement Activities in Metal and Nonmetal Mine Safety and Health

Fatality Prevention Initiative. MNM has an ongoing Fatality Prevention Initiative to address an upward trend in fatalities at metal and nonmetal mines in recent years. Since October 2013, 66 MNM miners lost their lives, more than double the number of MNM fatalities in the previous three fiscal years combined. On August 3, 2015, there were three fatalities at three separate metal/nonmetal operations. As a result, MNM increased efforts under this initiative, which included targeted inspections and outreach to miners including “walk and talks,” and involved combined efforts of MNM and Coal enforcement staff, as well as Educational Policy and Development staff.

Implementing the Mine Act in the U.S. Territories. MSHA recently began Mine Act implementation activities in the U.S. Pacific Territories of Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands (the Territories). It was brought to MSHA’s attention in spring/summer of 2014 that the Agency has jurisdiction of and should be implementing the Mine Act in the Territories. MSHA developed a plan that involved outreach, education, and training, and Compliance Assistance Visits to prepare the mining industry for full implementation of the Mine Act in FY 2017. MSHA has been working with federal and local government officials in the execution of this plan, and MNM’s plans to conduct the first inspections of mining operations in the Territories in the first half of FY 2017. In lieu of issuing citations for violations during the first inspections, compliance assistance notices, with no penalties, will be issued. See Key Announcements.

Waste Isolation Pilot Plant. MSHA also is responsible for conducting inspections at the Waste Isolation Pilot Plant (WIPP), the only repository for the disposal of nuclear, transuranic waste in the United States, located in New Mexico. Under the Waste Isolation Pilot Plant Land Withdrawal Act (LWA), Congress mandated that MSHA inspect the WIPP four times a year. MSHA and the Department of Energy (DOE) entered into a Memorandum of Understanding in October 2014, specifying the responsibilities and duties of each party for compliance with the

TAB 3: Initiatives

LWA. Inspectors issue citations for violations of the Mine Act and mandatory standards, but there are no civil penalties associated with the citations. Additionally, MSHA does not have authority to shut down the facility, withdraw workers, or take other actions if hazards are not corrected as it would at other mines. MSHA and DOE worked together to address hazards identified during inspections, as well as ventilation and ground control issues of concern.

Civil Penalties for Violations of the Mine Act. The number of violations and penalties have been stable since FY 2014.

Fiscal Year	Table 1: Metal/Nonmetal	
	No. of Violations	Total Penalties
2011	71,602	\$33,486,246
2012	64,916	\$32,709,752
2013	62,933	\$31,749,513
2014	55,563	\$27,945,273
2015	58,799	\$27,156,380
2016	55,757	\$22,725,693

MSHA also has entered into formal Alliances with the following groups representing metal and nonmetal mines:

- Industrial Minerals Association - North America
- Institute of Makers of Explosives
- International Union of Operating Engineers
- National Lime Association
- National Stone, Sand and Gravel Association
- Portland Cement Association
- Association of Equipment Manufacturers
- International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers

Enforcement-Related Activities

Scofflaw Program. MSHA's Scofflaw Program also is an enforcement tool intended to pursue violators demonstrating egregious cases of non-compliance in combination with unpaid civil penalties. In such cases, MSHA will work with the Department of Labor's Office of the Solicitor to determine whether further action is warranted for operators and contractors that warrant further action. These actions include traditional collection practices, Court of Appeals Enforcement, District Court Injunction, and Section 104(a) Citation/104(b) Closure Order.

Accountability Program. MSHA's Accountability Program conducts reviews to determine whether Coal, and MNM programs are complying with MSHA's enforcement policies, procedures, and guidance consistently. The reviews identify actual or potential areas for improvement upon which the enforcement programs implement any needed corrective measures by establishing and promoting effective corrective actions and rigorous follow-up. These reviews serve to maintain a culture of consistent and effective enforcement activity.

Improve Mine Emergency Response Preparedness. In 2009 Assistant Secretary Main began an agency review of gaps in mine emergency and needed improvements. Those shortcomings were identified in prior mine emergencies and disasters and in internal investigative reviews that followed the Upper Big Branch disaster. Mine rescue summit meetings, and stakeholder meetings were held to address improvements needed. Since 2010, MSHA has developed state of the art communications, tracking, monitoring, and mapping systems to make mine rescue quicker and safer. MSHA has established its fourth mine rescue station in Madisonville, KY. The other three mine rescue stations are located in: Pittsburgh, PA; Denver, CO/Price UT; and Beckley, WV. Each station will be capable of providing underground communications, and command and control. MSHA is working toward ensuring that each station is fully equipped as soon as funding is available. MSHA also continues to address technology gaps. MSHA activities include: completing upgrades to the seismic location system, which is used to locate trapped miners, and; providing a seismic location system for each Rescue Station; completing upgrades to the robot that allows MSHA to locate and rescue trapped miners when conditions do not allow mine rescue teams to enter the mine; and purchasing a robot that locates trapped miners for the Denver/Price Mine Rescue Station.

MSHA Standardized Information System (MSIS). MSIS, a web-based application, is the critical core information management system enabling MSHA to accomplish its mission of protecting the health and safety of the nation's miners. MSIS collects and maintains information about mines, mine operations, miner and instructor qualifications and certifications, mine inspections, coal dust sampling management, infractions of mandatory safety and health standards, and provides information to assess alleged violations against mine operators and independent contractors. MSIS is the definitive source of mine safety data. Non-government entities like private industry, educational institutions, research organizations, in addition to other government agencies rely heavily on regular distribution of data and reports for their business operations.

Enforcement Challenge.

DOL IT Consolidation and Integration Initiatives. The DOL IT consolidation and integration initiative continues to affect MSHA's ability to carry out its core mission of preventing death, illness, and injury from mining. MSHA's challenge is to assure that the consolidation initiative provides the Agency's enforcement programs reliable and continued IT service. MSHA enforcement efforts depend on a well-performing network infrastructure that provides continual service to the Agency's large field organization that includes approximately 100 locations across the nation. MSHA must assure that the IT consolidation positively support the Agency's inspectors during mine inspections. Also, budget decisions must be made in a manner that allows MSHA the necessary funding to support the Agency's mission critical IT applications.

Other Program Areas that Support MSHA's Enforcement Activities.

Directorate of Technical Support (Technical Support). Technical Support provides engineering and scientific expertise in the areas of science and engineering, advanced and applied technologies, and laboratory investigations and analyses. Technical Support also evaluates and approves certain equipment and materials used in mines as well as maintain MSHA's mine emergency response capability. Technical Support's team of specialists provide

TAB 3: Initiatives

assistance to MSHA's two enforcement programs – Coal Mine Safety and Health and Metal and Nonmetal Safety and Health – by providing assistance on technical issues, responding to mine emergencies, and participating in accident investigations.

Office of Standards, Regulations, and Variance (OSRV). OSRV's primary responsibility is to manage and coordinate the development of MSHA's standards and regulations. The Mine Act provides MSHA with rulemaking authority in two areas: Section 101 and Section 508. Section 101 authorizes development of new and revised safety and health standards, and Section 508 provides general rulemaking authority or regulations necessary to carry out any provisions of the Mine Act.

Office of Assessments. The Office of Assessments is responsible for the administration of all activities involving the assessment and collection of civil monetary penalties issued against mine operators and their agents for the violations of the Mine Act and mine safety and health standards. In 2012, MSHA centralized oversight and management of special enforcement authorities under a single program, the Office of Assessments. See Organizational Changes.

Directorate of Program Evaluation and Information Resources (PEIR). PEIR conducts internal reviews, evaluates the effectiveness of MSHA's enforcement programs, and conducts follow-up reviews to ensure that appropriate corrective actions have been taken. PEIR also collects, analyzes, and publishes data obtained from mine operators on work-related injuries and illnesses in the mining industry. PEIR is responsible for maintaining the MSHA Standardized Information System (MSIS).

Directorate of Educational Policy and Development (EPD). EPD administers MSHA's training programs. EPD plans, monitors, and evaluates all MSHA education and training programs and provides entry-level and journeyman training for MSHA's enforcement staff. EPD reviews all training materials developed in support of these activities, coordinating training programs with other Federal and state Agencies, mining companies, educational institutions, and labor organizations. EDP administers the National Mine Health and Safety Academy and the Educational Field and Small Mine Services program. See Organizational Changes.

Audits and Reports

OIG Audits Completed Since 2013

No .	Report Date	Report Number	Report Title	Hyperlink to Report
1	15-Jan-13	05-13-001-06-001	Analysis of MSHA's MNM Inspection Activity Does Not Show Excessive Enforcement in South Dakota	http://www.oig.dol.gov/public/reports/oa/viewpdf.php?r=05-13-001-06-001&y=2013
2	29-Mar-13	05-13-002-06-001	MSHA Has Improved Its Roof Control Plan Review and Monitoring Process But Could Do More	http://www.oig.dol.gov/public/reports/oa/viewpdf.php?r=05-13-002-06-001&y=2013
3	31-Mar-13	05-13-003-06-001	MSHA is Making Progress to Implement the Upper Big Branch Internal Review Recommendations and is Undertaking Actions on the Independent Panel Report	http://www.oig.dol.gov/public/reports/oa/viewpdf.php?r=05-13-003-06-001&y=2013
4	24-Sep-13	23-13-019-06-001	Verification of MSHA Remediation Efforts of Prior-Year Information Technology Security Recommendations	This report is not publicly available (or accessible via a hyperlink) on the OIG's website due to sensitivity of contents.

TAB 3: Initiatives

5	27-Sep-13	23-13-027-06-001	Fiscal Year 2013 Federal Information Security Management Act: Mine Safety and Health Administration Standardized Information System Testing	This report is not publicly available (or accessible via a hyperlink) on the OIG's website due to sensitivity of contents.
6	30-Sep-13	23-13-013-06-001	Fiscal Year 2013 Federal Information Security Management Act: Mine Safety and Health Administration General Support System Testing	This report is not publicly available (or accessible via a hyperlink) on the OIG's website due to sensitivity of contents.
7	30-Sep-13	05-13-008-06-001	MSHA Can Improve Its Section 110 Special Investigations Process	http://www.oig.dol.gov/public/reports/oa/viewpdf.php?r=05-13-008-06-001&y=2013
8	30-Sep-13	05-13-004-06-001	MSHA Should Continue to Reassess and Make Improvements to its Role in Mine Rescue Contests	http://www.oig.dol.gov/public/reports/oa/viewpdf.php?r=05-13-004-06-001&y=2013
9	31-Mar-14	05-14-001-06-001	MSHA Has Taken Steps to Detect and Deter Underreporting of Accidents and Occupational Injuries and Illnesses, But More Action Is Still Needed	http://www.oig.dol.gov/public/reports/oa/viewpdf.php?r=05-14-001-06-001&y=2014
10	19-Sep-14	05-14-002-06-001	MSHA Laboratories Have Improved Timeliness, But the Overall Sampling Process Could Be Enhanced	http://www.oig.dol.gov/public/reports/oa/viewpdf.php?r=05-14-002-06-001&y=2014
11	29-Sep-14	05-14-004-06-001	Alleged Waste of Government Funds by MSHA Employees	http://www.oig.dol.gov/public/reports/oa/viewpdf.php?r=05-14-004-06-001&y=2014
12	7-Oct-15	05-16-001-06-001	Alert Memorandum: Incorrect Telephone Numbers in Mine Emergency Response Plans	http://www.oig.dol.gov/public/reports/oa/viewpdf.php?r=05-16-001-06-001&y=2016

Description of Ongoing OIG Audits

1. **Hazardous Condition Complaints (HCC):** The OIG audited MSHA to determine whether MSHA appropriately logged, assessed, and responded to complaints of hazardous mine conditions. MSHA recently received the final report.
2. **Civil Monetary Penalties (CMP):** The OIG is conducting an audit of MSHA's civil penalty collection process and delinquent debt management. On July 27, 2016, MSHA provided its May 2016 Debt Write-off Report and is current on all OIG data and documentation requests.
3. **Emergency Response Plan (ERP):** The OIG audited MSHA to determine whether MSHA provided sufficient oversight over the process to develop, review, approve, and implement emergency response plans. MSHA is waiting for a final preliminary results report from the OIG.
4. **Inspectors' Portable Application for Laptops (IPAL):** The OIG audited MSHA to review system controls to ensure that specific violations and other critical information were received by inspectors' and full data were transferred, logged, monitored and reviewed in a timely manner when compared to inspectors' inspection schedules. MSHA is waiting for a draft report from the OIG.

Management

MSHA has developed online compliance tools that allow anyone in the mining community to monitor a mine's compliance with key safety and health standards. These compliance tools access a broad range of mine safety and health data including information about mine

TAB 3: Initiatives

inspections, accidents, injuries, illnesses, violations, employment, production totals, and air sampling. These tools include:

[Rules to Live By Calculator](#). Beginning in February 2010, MSHA began launching the *Rules to Live By* safety and health initiative. With updates to the initiative, *Rules to Live* now focuses on 49 health and safety standards most often associated with fatal mining accidents and serious injuries and illnesses. This calculator gives miners, mine operators, MSHA and the public the ability to monitor any mine's compliance with the *Rules to Live By* standards.

[Significant and Substantial \(S&S\) Rate Calculator](#). An S&S designation indicates that an underlying safety or health hazard is likely to result in a serious injury or illness. Over the years, MSHA has studied its data to determine the common causes of injuries, illnesses, and fatalities. It is evident that the violations of a small number of health and safety standards are responsible for the majority of fatalities and serious injuries and illnesses. This tool shows the rate of S&S citations and orders per 100 inspection hours during a certain time period.

[Monthly Monitoring Tool for Pattern of Violations \(POV\)](#). Mine operators can determine whether a mine may be subject to a POV notice by using this online tool. The tool provides a comparison of a mine's enforcement and injury data against the four POV screening criteria.

[Key Underground Coal Standards \(Part 75\) Calculator](#). This tool calculates a mine's violation rate for 9 key health and safety standards for underground coal mines, as identified in MSHA's Part 75 Exam Rule requiring examinations and recordkeeping by mine operators. The standards address ventilation, methane, roof control, combustible materials, rock dust, guarding, and other safeguards.

Additionally, MSHA completed the implementation of the Inspection Tracking System (ITS), an enterprise-level application designed to help MSHA personnel plan, execute, and report mine inspections. The ITS will allow MSHA's mobile workforce to use full application capabilities whether they are in the field or the office.

MSHA's state of the art video communication system allows interaction between sites. PEIR established a videoconferencing solution across 23 District and Field offices as well as 14 Solicitor's offices (SOL) for a combined total of 37 sites. This system enables training to be provided remotely to inspectors as a cost-effective alternative to journeyman inspector training. It has been used extensively for other types of trainings, meetings and collaboration efforts with internal and external users. The VTC system allows for improved dissemination of critical information. MSHA has the most robust VTC system in DOL.

Calendar

The Joint National Meeting and Training Seminar of the Joseph A. Holmes Safety Association (JAHSA) and the Holmes Mine Rescue Association is an annual, three-day event that promotes mine safety and health, and mine rescue in all sectors of the mining industry. The next National Meeting and Training Seminar will take place in June 2017.

TAB 4: BUDGET

BUDGET AUTHORITY AND FTE SUMMARY

(Dollars in millions)

	FY 2013 Enacted	FY 2014 Enacted	FY 2015 Enacted	FY 2016 Enacted	FY 2017 Request
Budget Authority	\$373.3	\$375.9	\$375.9	\$375.9	\$397.4
FTE	2,374	2,286	2,257	2,251	2,277

At-A-Glance

- MSHA consists of eight different budget activities that are funded through an annual appropriation.

Budget and FTE Trends

- MSHA’s budget increased steadily by an average of \$9 million each year from FY 2009 to FY 2012. In FY 2013, funding was reduced by approximately \$20 million due to sequestration, but this was restored in FY 2014. Since that time MSHA’s annual appropriations have remained level at \$375.9 million. The agency has requested an increase of \$21.5 million in FY 2017 to support implementation and enforcement of the final Respirable Dust Rule, fund the modernization and replacement of Inspectors’ Portable Application Laptops, strengthen the delivery of training to MSHA staff and mining industry, and support other initiatives to further improve safety and health conditions in the mining workplace.
- From FY 2009 to FY 2013, MSHA’s FTE usage was relatively consistent. However, FTE use decreased by 117 FTE from FY 2013 to FY 2015. FY 2013 sequestration, the shutdown in FY 2014, and a large amount of unforeseen attritions contributed to this reduction. In FY 2017, the agency requested 6 additional FTE over the FY 2016 authorized FTE level of 2,271.
- The FY 2013 bill included a change to the appropriation language concerning the Approval and Certification Center fees. With this change, the authority to collect the fees comes from the language itself, instead of general collection authority. The revision increased the amount MSHA is authorized to collect and retain by \$1.0 million, to \$2.499 million.
- A supplemental funding bill was passed in 2010 in response to the Upper Big Branch Mine disaster. Resources were provided for enforcement and mine safety activities, including increased efforts to reduce the backlog of cases at the Federal Mine Safety and Health Review Commission¹, investigation of the Upper Big Branch Mine disaster,

¹ The Federal Mine Safety and Health Review Commission is an independent adjudicative agency that provides administrative trial and appellate review of legal disputes arising under the Federal Mine Safety and Health Act of 1977 (Mine Act). Under the Mine Act, the Department of Labor issues regulations covering health and safety in the nation's mines. Federal mine inspectors employed by the Department's Mine Safety and Health Administration (MSHA) enforce these regulations by issuing citations and orders to mine operators. The Commission is concerned solely with the adjudication of disputes under the Mine Act, including the determination of appropriate penalties. It does not regulate mining or enforce the Mine Act.

standards and rulemaking activities, emergency response equipment purchases and upgrades, and organizational improvement. DOL received a total of \$18.2 million in supplemental funding for the Departmental Management account; \$7.3 million of this was transferred to MSHA. The funding expired on July 28, 2011.

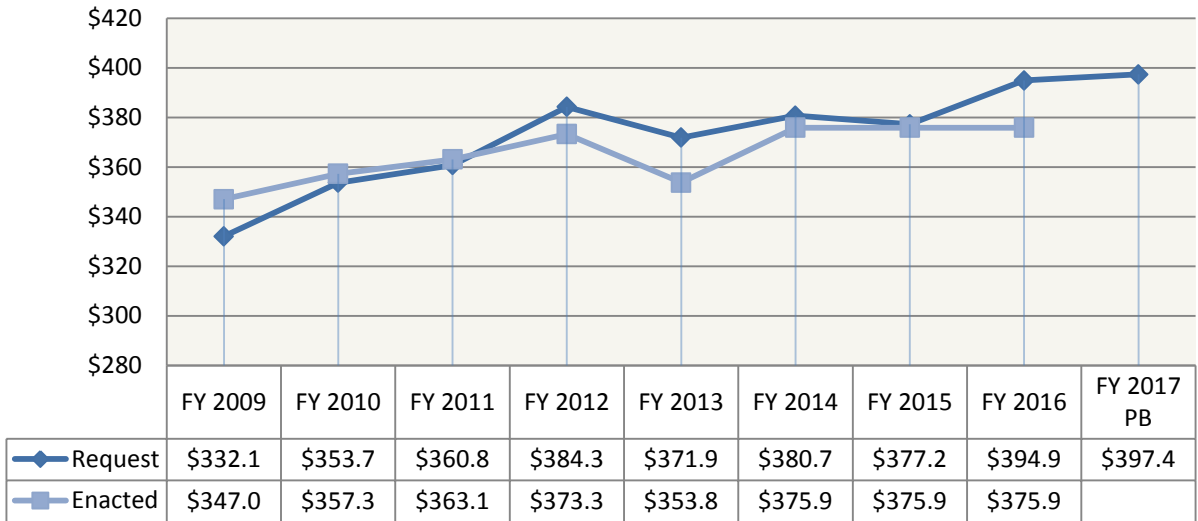
- Sequestration in FY 2013 impacted all of MSHA's activities. Due to the reduced funding, the agency redirected resources to support higher priority activities and strengthen its ability to conduct its mandated functions, including required health and safety inspections and investigations of accidents, hazard complaints, and miner discrimination complaints. This allowed the agency to avoid furloughs.

Upcoming Issues

- In FY 2016, MSHA reprogrammed funds from the CSMH activity to other activities within the agency. The reasoning behind this being that coal mining is currently on the decline, and the agency has a statutory requirement to conduct metal/nonmetal training, compliance assistance, and enforcement in the Pacific Territories, and anticipates an overall increase in aggregate mining. This reprogramming includes the transfer of enforcement positions from CSMH to other MSHA programs and may need to be repeated in future years to balance resources between the CSMH and MNMSH activities.

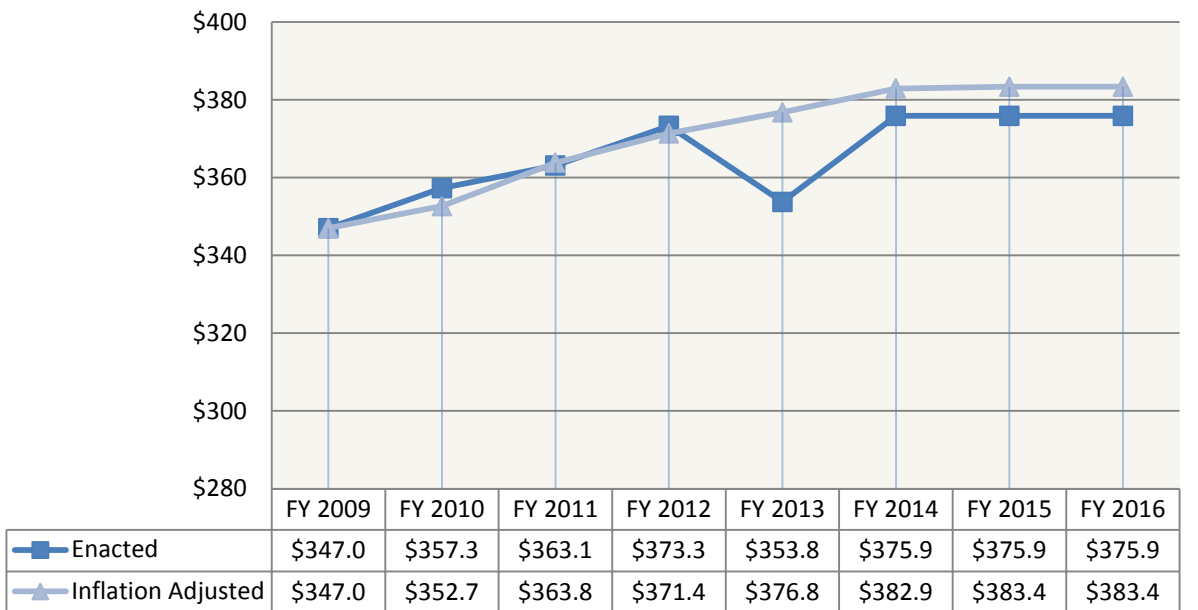
MSHA

Request vs. Enacted, FY 2009-FY 2016
(Dollars in millions)



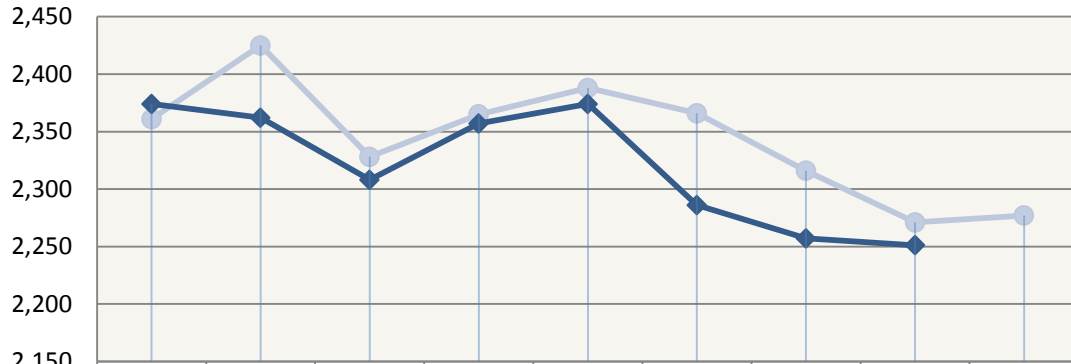
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FY 2009 Inflation Adjusted BA vs. FY 2009-FY 2016 Enacted BA
(Dollars in millions)



MSHA

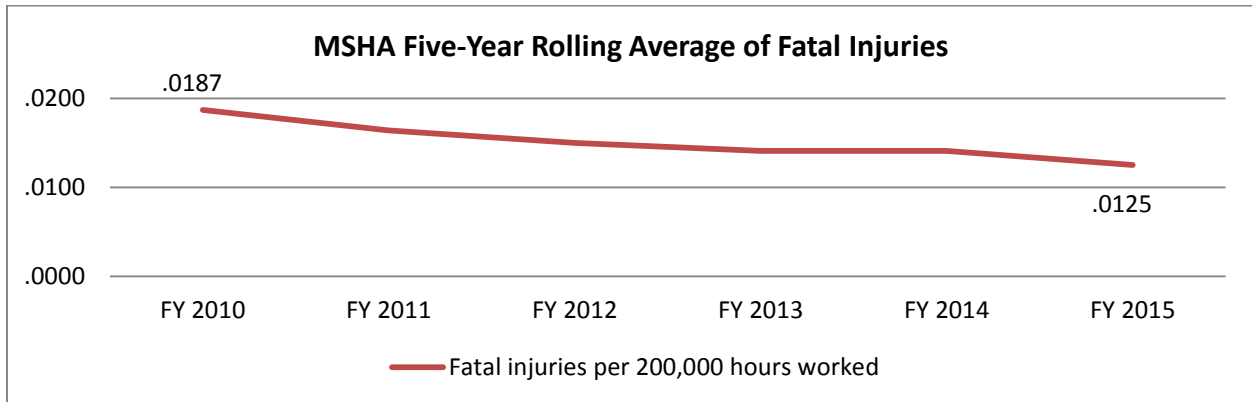
Authorized FTE vs. Actuals, FY 2009-2017



	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017 PB
Authorized	2,361	2,425	2,328	2,365	2,388	2,366	2,316	2,271	2,277
Actuals	2,374	2,362	2,308	2,357	2,374	2,286	2,257	2,251	

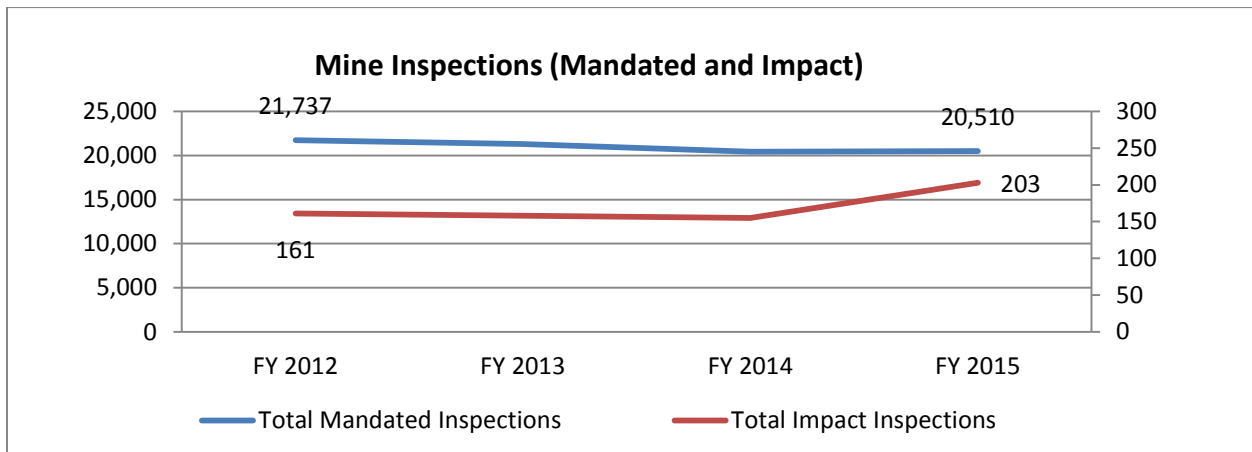
TAB 5: AGENCY PERFORMANCE

MSHA works to prevent death, illness, and injury from mining. In recent years, mine fatalities have reached record lows, in part due to MSHA’s many efforts to promote safe and healthful workplaces for U.S. miners. From FY 2010 to FY 2015, the 5 year rolling average of fatal injuries per 200,000 hours worked decreased 33% from .0187 to .0125.

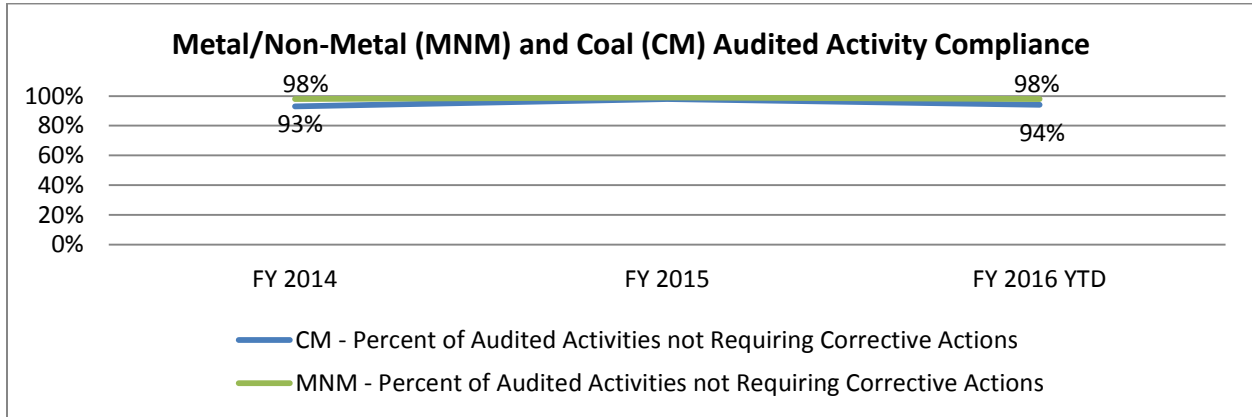


MSHA inspects every underground mine four times annually and every surface mine twice annually. Impact inspections are additional unscheduled inspections conducted for mines designated as high risk.

Performance Goal MSHA 2.1 – Prevent death, disease, and injury from mining and promote safe and healthful workplaces for the Nation’s miners.



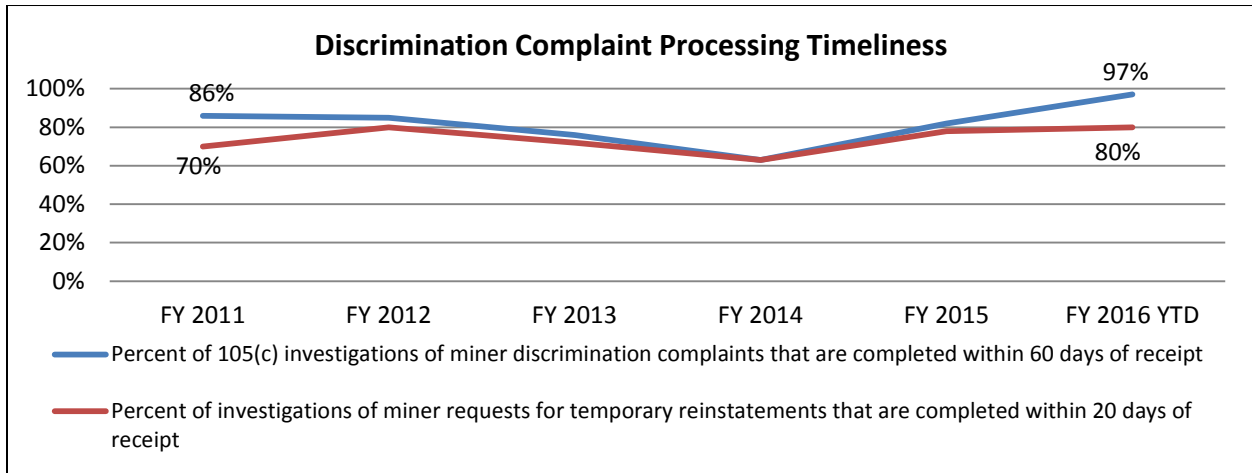
While the number of mines in the U.S. decreases, reducing the number of mandated inspections, MSHA uses its resources to provide more compliance assistance and to fill critical gaps in other MSHA programs to accomplish the Agency’s mission. This helps reduce the risk of accidents, which usually increases when mines begin to slow production. MSHA also reports on the quality of its inspections:



The changes in regulations, policies and the Mine Act along with staffing changes in the districts have greatly improved MSHA’s performance and accountability. Comprehensive training and periodic retraining has improved inspectors’ knowledge and skills; MSHA leadership centralized and improved its oversight.

MSHA protects miners from discrimination when they exercise their right to report health and safety hazards without fear of retaliation. MSHA reports on the timeliness of its discrimination and temporary reinstatement investigations with these measures:

Performance Goal MSHA 3.2 – Protect miners from discrimination.



Timeliness of discrimination complaint investigations improved from 86% in FY 2011 to 97% in FY 2016 YTD; for temporary reinstatement requests, timely investigations improved from 70% in FY 2011 to 80% in FY 2016 YTD.