



MSHA One Year Later: A Record of Successful Implementation of the MINER Act

June 15, 2007, marks the one-year anniversary of President George W. Bush's signing of the MINER Act. This legislation, the most significant mine safety legislation in 30 years, builds upon the Mine Safety and Health Administration's (MSHA) ongoing efforts to enhance mine safety, increase training, improve safety and communications technology for miners, and provide more emergency supplies of breathable air along escape routes. At MSHA, the number one priority is to protect the health and safety of America's miners. This commitment has resulted in the successful implementation of MINER Act provisions since enactment of the Act – often ahead of schedule and beyond the requirements of the Act. Significant accomplishments over the past twelve months include:

June 15, 2006 *MINER Act Signed into Law by President George W. Bush*

June 16, 2006 *New Penalties for Late Accident Notification*

MSHA immediately implemented new minimum penalties for late accident notification and “unwarrantable failure” violations.

September 8, 2006 *New Penalties for Mine Safety and Health Violations (Proposed Rule)*

MSHA published a proposed rule to increase civil penalty amounts for mine safety and health violations. The MINER Act established new minimum penalties for “unwarrantable failure” and late accident notification violations, and a \$220,000 maximum penalty for “flagrant violations”.

October 26, 2006 *New Penalties for Flagrant Violations*

MSHA issued a Procedure Instruction Letter (I06-III-04) to implement the new “flagrant violation” maximum penalty of up to \$220,000.

November 2, 2006 *Secretarial Order to Improve Post-Accident Communication*

The Secretary of Labor signed an Order establishing the DOL Family Liaison and Primary Communicator positions to be onsite during a mine emergency. MSHA has trained 14 family liaisons. The National Transportation Safety Board and the American Red Cross have helped train these individuals.

December 8, 2006 *Strengthening Evacuation Practices*

MSHA issued a final rule to strengthen mine evacuation practices. The rule included:

- ***Self-Contained Self Rescue (SCSR) Devices:*** The rule requires coal mine operators to provide additional SCSRs for each miner underground in areas such as working places, on mantrips, in escapeways, and where outby crews work or travel. The rule also requires that SCSRs be readily accessible in the event of an emergency.
- ***Multi-Gas Detectors:*** The rule goes beyond the requirements of the

MINER Act by requiring coal mine operators to provide multi-gas detectors to miners working alone and to each group of miners.

- **Lifelines:** The rule requires coal mine operators to install directional lifelines in all primary and alternate escape routes out of the mine. Lifelines help guide miners in poor visibility conditions toward evacuation routes and SCSR storage locations.
- **Training:** The rule requires coal mine operators to conduct quarterly training for miners in how to don SCSRs and, in particular, how to transfer from one SCSR to another. The rule goes beyond the requirements of the MINER Act by requiring expectations training during which miners use an SCSR training unit that duplicates the heat and breathing resistance of an SCSR and don an SCSR in simulated smoke. SCSR training units for annual expectations training have now been developed.
- **Accident Notification:** The rule requires all mine operators to contact MSHA within minutes of a serious accident. On this date, MSHA also implemented a nation-wide single call-in number for accidents and hazardous condition notifications to ensure immediate, consistent and effective response by MSHA (1-800-746-1553).

January 10, 2007

Technical Study Panel on Belt Air

MSHA convened the first public meeting of the MINER Act Technical Study Panel on belt air issues. Subsequent public meetings were held in March and May, with the fourth meeting scheduled for June 20-21. The purpose of the Technical Study Panel is to “provide independent scientific and engineering review and recommendations with respect to the utilization of belt air and the composition and fire retardant properties of belt materials in underground coal mining.” A final report will be delivered to DOL, HHS and Congress by December 20, 2007.

February 8, 2007

Requiring Breathable Air for Trapped Miners

MSHA issued a Program Information Bulletin (No. P07-03) providing mine operators guidance concerning acceptable ways to fulfill the breathable air requirements of the MINER Act. Options for providing acceptable quantities of breathable air for trapped miners include:

- Drilling boreholes within 2,000 feet of the working sections of mines;
- Having 48 hours of breathable air located within 2,000 feet of working sections coupled with contingency plans for drilling boreholes if miners are not rescued within 48 hours;
- Having 96 hours of breathable air within 2,000 feet of working sections; or,
- Other options taking into account the unique conditions in a mine that provide equivalent protection, including refuge alternatives.

March 22, 2007

New Civil Penalties for Safety and Health Violations (Final Rule)

MSHA published a final rule to increase civil penalty amounts for mine safety and health violations. Issuance of this rule goes beyond the requirements of the MINER Act and demonstrates the commitment of MSHA to protect the safety and health of our nation's miners. As of the one-year anniversary of the MINER Act, MSHA had issued 13 citations for flagrant violations, including three of the largest proposed penalties in the history of the agency.

As prescribed by the Act, the final rule:

- Establishes a maximum penalty of \$220,000 for "flagrant violations", as proposed in the President's previous budgets.
- Sets minimum penalty amounts of \$2,000 and \$4,000 for "unwarrantable failure citations and orders."
- Imposes a minimum penalty of \$5,000 (up to a maximum of \$60,000) for failure to timely notify MSHA of a death or an injury or entrapment with a reasonable potential to cause death.

Other major provisions of the final rule applicable to all mines and contractors:

- Increases civil penalties overall by an estimated 179 percent using 2005 violation data - targeting the most serious safety and health violations with escalating penalties.
- Adds a new provision to increase penalties - notwithstanding the severity - for operators who *repeatedly* violate MSHA standards.
- Replaces the \$60 single penalty with higher formula assessments for non-significant and substantial (non-S&S) violations.

March 30, 2007

Enforcing SCSR Expectation Training Requirements

MSHA published a notice in the *Federal Register* notifying mine operators that SCSR training units were available. Mine operators must have had these training units or a purchase order for them by April 30th and must conduct training with them within 60 days of receipt of the units.

May 11, 2007

Tracking Inventory of SCSRs

MSHA implemented a system for coal mine operators to electronically submit their inventories of SCSRs. The SCSR Inventory can be completed and filed online and requires the operator to submit relevant data about the manufacturer and model of each SCSR, its serial number and reporting date. The SCSR inventory tracking system was mandated as part of the Mine Emergency Evacuation Rule and will be used to randomly select units for performance testing.

May 22, 2007

Protecting Miners from Explosions in Abandoned Areas

MSHA published an Emergency Temporary Standard (ETS) in the *Federal Register* to increase protection for miners who work in underground coal

mines with sealed off abandoned areas. Although Section 10 of the MINER Act gives MSHA until December 2007 to issue a new standard on mine seals, MSHA concluded that immediate action was necessary to protect miners. This ETS significantly increases the strength standard for mine seals from 20 pounds-per-square-inch (psi) set in 1992, to ranges between 50psi to 120psi or higher. Specifically, it establishes a three-tiered approach to preventing or withstanding overpressure-loading: (1) Seals may be constructed at 50psi, but the atmosphere behind them must be monitored and maintained inert. (2) If the atmosphere is not monitored and maintained inert, the seals must be constructed at 120psi. (3) Where higher explosion pressures are possible within sealed areas that are not monitored or maintained inert, the seals must be greater than 120psi.

As of June 15, 2007, Developing New Communications Technologies

MSHA has conducted meetings with representatives of 54 communications and tracking system companies, observed the testing or demonstration of 21 post-accident communications and tracking systems, and approved 21 systems, including six new devices.

As of June 15, 2007, Approval of Emergency Response Plans

MSHA has approved over 90 percent of the Emergency Response Plans (ERPs) submitted by mine operators.