

News Statement



U.S. Department of Labor
Office of Public Affairs
Washington, D.C.
Release Number: 10-807-NAT

For Immediate Release
June 8, 2010
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Statement from US Labor Department's MSHA Assistant Secretary Joseph A. Main on ruling in Tiller No. 1 Mine pattern of violations case

ARLINGTON, Va. – Joseph A. Main, assistant secretary of the U.S. Department of Labor's Mine Safety and Health Administration, today issued the following statement on a ruling in the Tiller No. 1 Mine pattern of violations case:

“As a result of today's oral decision* by Federal Mine Safety and Health Review Commission Judge David Barbour, Massey Energy's Tiller No. 1 Mine in southwestern Virginia cannot be placed on a pattern of violations by MSHA. The result makes clear the need to reform the broken pattern of violations system.

“The underground coal mine operation had contested 29 violations that would have formed the basis for issuance of a pattern notice. Judge Barbour agreed that the company committed all 29 violations, but he did not find a 'pattern' because he concluded that only 19 violations were significant and substantial. To place Tiller No.1 Mine on a pattern, 25 of those violations needed to be upheld as S&S.

“The citations disputed by Massey Energy involved hazardous roof or rib conditions, inadequate pre-shift examinations, inadequate ventilation, hazardous accumulations of combustible materials, hazardous electrical conditions and the use of non-permissible underground equipment – all serious violations that could ultimately lead to accidents and injuries.

“We believe that this case exemplifies the need for reforming the definition of S&S so that we can more easily prove in court that genuinely hazardous conditions are S&S. For example, attorneys for the Labor Department were unable to establish that the Tiller Mine's use of non-permissible electrical equipment in the most gassy and dusty areas of the mine was S&S. Permissible electrical equipment is designed to prevent electrical sources from igniting methane, which can result in an explosion. MSHA believes that permissibility violations are obvious candidates for an S&S designation. While we are certainly disappointed in the judge's ruling, it only underscores our unwavering resolve to fix the pattern of violations system.

“The pattern of violations system was designed to force persistent violators of safety rules to clean up their act. But under the current pattern of violations system, no mine has ever been successfully placed into pattern of violations status. As today's ruling demonstrates, even mine operators with serious safety problems can evade pattern of violations status. The system is broken and we will fix it.”

* Please note that the oral decision is neither official nor appealable until a written decision is issued.

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