

# News Release



U.S. Department of Labor  
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For Immediate Release  
June 23, 2010  
Contact: Amy Louviere  
Phone: 202-693-9423

## **Statements of US Labor Secretary Hilda L. Solis and US Assistant Labor Secretary Joseph A. Main on MSHA's POV Program**

**WASHINGTON** – On April 13, 2010, following the explosion at the Upper Big Branch Mine that killed 29 men on April 5, U.S. Rep. George Miller, chairman of the U.S. House of Representatives Committee on Education and Labor, asked the U.S. Department of Labor's Office of Inspector General to review the Mine Safety and Health Administration's Pattern of Violation Program. Later that month, the inspector general began its review, with the full support and cooperation of MSHA leadership and staff. An interim report was released today.

Both Secretary of Labor Hilda L. Solis and Assistant Secretary of Labor for MSHA Joseph A. Main welcomed the independent analysis provided by the inspector general; reiterated that the POV system, created by the previous administration, is fundamentally flawed and needs to be fixed; and pledged to revise administrative procedures that govern POVs for the 2010 determinations, as well as to continue to work on legislative and regulatory long-term reforms.

The Department of Labor announced in April that it would work on new regulations that govern the POV system. Today, the department further announced it will change its administrative policies regarding POV to the extent permitted under the law. These new policies will govern the 2010 POV determinations expected in October and assure that all mines are dealt with according to these policies.

Assistant Secretary Main's letter to Chairman Miller, which outlines the agency's short- and long-term plan to fix the broken POV system, is attached. Secretary Solis and Assistant Secretary Main issued the following statements today:

U.S. Labor Secretary Hilda L. Solis: "The Office of Inspector General reaffirms what we already knew: The Pattern of Violation process is badly broken. It's clear that we need to scrap the current system and put a new system in place that is focused on protecting miners' safety and health. I'm working with my former colleagues in Congress to develop a legislative response, and at the same time I've asked MSHA to begin work on both regulatory and administrative fixes. The bottom line is that the system we use this year will be different than the system we used in the past, and we'll continue to work to get this system right in order to protect the safety and health of America's miners."

U.S. Assistant Secretary of Labor Joseph A. Main: "The more one looks at the Pattern of Violation system we inherited, the more problems one finds. That's why, in April, we announced that we'd be rewriting the Pattern of Violation rules this year. We're also conducting a review of the internal policies that govern Pattern of Violations so we can begin to change the way we deal with persistently problematic mines this year. We welcome the inspector general's continued partnership in identifying problems we need to fix, and we remain committed to doing whatever it takes to fix this badly broken system."

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JUN 23 2010

The Honorable George L. Miller  
Chairman, Committee on Education and Labor  
U. S. House of Representatives  
Washington, DC

Dear Chairman Miller:

I am writing to provide an update on the Mine Safety and Health Administration's (MSHA) response to the Inspector General's ongoing audit of MSHA's pattern of violation (POV) program. As you know, the Mine Act of 1977 authorizes MSHA to review all mines to determine whether they have engaged in a pattern of violations and to invoke enhanced enforcement authority against mines that are determined to be in POV status. I began a review of the POV program shortly after I arrived at MSHA in late October 2009, recognizing the importance of improving this enforcement tool.

There are serious problems with the current POV system, some of which were brought to light in the aftermath of the explosion at the Upper Big Branch. One of those issues, a flawed computer program used to determine POV eligibility, raised additional concerns and resulted in your request that the Department's Inspector General (IG) review the program.

The IG initiated the review in April at your request, and with our full support. The IG informed us that he would be issuing an alert memorandum today to bring to my attention certain deficiencies that his review has identified in the February and October 2009 POV screenings conducted by MSHA. These deficiencies include a failure by MSHA to appropriately intervene in mines identified in those screening procedures. I would anticipate that the IG will identify further problems with the POV program and how it was operated in the past. As I've found, the more one looks at the POV system we inherited, the more problems one finds.

As I have informed the IG and I would like to share with you, I agree with the IG's conclusion that the POV process is seriously flawed and that 2009 screenings and Agency response are symptomatic of those flaws. The POV process being reviewed by the IG was based on procedures established in 1995, and reaffirmed by the previous administration in 2003. The specific screenings reviewed by the IG were conducted before my confirmation as Assistant Secretary for Mine Safety and Health on October 21, 2009. I can assure you, however, that this process will not be used going forward and that decisions about POV enforcement actions will be based on the law and focused on what is best for the safety and health of the miners at the mines under consideration.

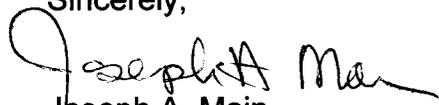
Upon my confirmation, I reviewed the MSHA POV process, recognized that this was a flawed process, and made a commitment to overhaul the POV system. Since then, I have begun to implement changes. MSHA is actively working on new regulations to govern the POV process, which we included on our spring 2010 regulatory agenda.

We are also revising our administrative procedures to make whatever changes are within our authority to make in advance of the completion of the regulatory process that will better target persistent violators and hold them accountable. These new administrative procedures will be applied to the next POV screening this fall. Moreover, as I have testified before both the House and Senate, I support Congress's intent to pass legislation to revise the statutory POV provision.

The POV process is one critical tool for MSHA to be able to respond to chronic and persistent violators of mandatory health and safety standards, but not the only one. While we are revising the POV administrative procedures, proposing new regulations, and supporting new, more effective legislation, we have been conducting a series of intensive "blitz" inspections directed at persistent violators who have allowed particularly hazardous conditions. We have also been working with the Solicitor of Labor to address the problem of problem mines contesting large numbers of citations and using the backlog at the Federal Mine Safety Health Review Commission to avoid being placed in the POV system.

As the IG's review of the POV process continues and as Congress considers the legislative response to the Upper Big Branch disaster, I hope that we can continue to discuss ways to improve the POV system, and to improve on our other enforcement tools to hold persistent violators to account. If you or your staffs have any questions, please do not hesitate to contact me. I look forward to working with you to ensure that our laws and policies provide our nation's miners with the safety they deserve.

Sincerely,

A handwritten signature in black ink that reads "Joseph A. Main". The signature is written in a cursive style with a large initial "J".

Joseph A. Main  
Assistant Secretary of Labor for  
Mine Safety and Health

**U.S. Department of Labor**

Mine Safety and Health Administration  
1100 Wilson Boulevard  
Arlington, Virginia 22209-3939



**JUN 23 2010**

The Honorable Tom Harkin  
Chairman  
Subcommittee on Labor, Health and Human Services,  
Education, and Related Agencies  
Committee on Appropriations  
United States Senate  
Washington, D. C. 20510

Dear Senator Harkin:

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You can now file your MSHA forms online at [www.MSHA.gov](http://www.MSHA.gov). It's easy, it's fast, and it saves you money!

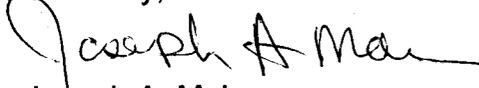
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Sincerely,



Joseph A. Main  
Assistant Secretary of Labor for  
Mine Safety and Health



**JUN 23 2010**

The Honorable Lynn Woolsey  
U. S. House of Representatives  
Washington, D. C. 20515

Dear Congresswoman Woolsey:

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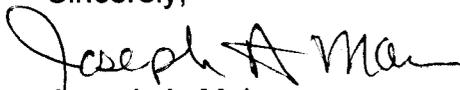
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Sincerely,



Joseph A. Main  
Assistant Secretary of Labor for  
Mine Safety and Health



**JUN 23 2010**

The Honorable John D. Rockefeller  
United States Senate  
Washington, D. C. 20510

Dear Senator Rockefeller:

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Joseph A. Main  
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**JUN 23 2010**

The Honorable Nick Rahall, II  
U.S. House of Representatives  
Washington, D. C. 20515

Dear Congressman Rahall:

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