

GAO

Briefing Report to the Honorable
Howard M. Metzenbaum, U. S. Senate

March 1987

MINE SAFETY

Inspector Hiring, Penalty Assessments, and Injury Reporting



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Human Resources Division

B-226461

March 10, 1987

The Honorable Howard M. Metzenbaum
United States Senate

Dear Senator Metzenbaum:

This briefing report responds to your request for information related to our work on the quality of mine inspections by the Department of Labor's Mine Safety and Health Administration (MSHA) and the extent of accident and injury reporting by mine operators. Specifically, it discusses (1) MSHA's efforts to hire more inspectors, (2) penalties assessed mine operators in 1986 for not reporting injuries, (3) mining association and union officials' opinions on whether MSHA's penalty policy deters underreporting, and (4) a comparative statistical analysis of small and large mines that have had fatalities.

Most of this information was gathered from MSHA's automated management information system and supplemented through discussions with MSHA employees, including senior agency officials. Due to time constraints, we did not verify the information other than consistency checks and receiving assurances of the reasonableness of outputs from MSHA officials. Views on the penalty policy were obtained from seven major labor organizations representing about 90 percent of unionized miners, a national nonprofit legal advocacy firm representing miners, and nine organizations representing mine operators. Our work was done between October 1986 and February 1987.

STATUS OF MSHA'S INSPECTOR HIRING PROGRAM

Acting on the fiscal year 1987 House and Senate Appropriations Committee Conference Report (99-960), MSHA has undertaken an intensive inspector hiring program which, if completed in April 1987 as planned, will result in an inspector force of 1,201, an increase of 90 over MSHA's fiscal year 1986 inspector ceiling. MSHA records show however, that 30 of the 90 positions represent a reclassification of current coal inspectors who had been incorrectly classified in noninspector positions, leaving a net increase of 60 inspector positions. Because there was an inspector shortage before the ceiling was increased in September 1986, there were 168 vacancies to fill, as of October 1, 1986.

From October 1, 1986, through February 21, 1987, MSHA hired or made offers to 129 applicants, and 60 of these had started work as of February 21, 1987. MSHA hopes to make offers for the remaining 39 vacancies and have all inspectors on board by the end of April 1987. In all, there will be 95 more coal inspectors and 73 more metal inspectors. Fifty-four coal and 16 metal inspectors will be former MSHA inspectors who are being rehired. When all hiring and training is complete, MSHA will employ 828 coal inspectors and 373 metal inspectors, a level that senior agency officials plan to maintain and consider sufficient to meet the agency's legislative mandates. Table 1 provides a detailed breakdown of the hiring program.

According to senior MSHA officials, rehired inspectors will require minimal retraining to reach a fully proficient performance level. They expect, on average, that these individuals will be able to perform full inspection duties after about 3 to 6 months of refresher training. New inspectors will take much longer to train, on average between 18 and 24 months to reach journeyman level. Each will receive MSHA's basic entry-level and on-the-job training.

PENALTIES ASSESSED FOR UNDERREPORTING INJURIES

MSHA regulations specify that an assessment of \$20 may be imposed for violations that are not likely to cause serious injury and are abated within the time set by the inspector. However, these regulations also permit assessments of up to \$10,000 depending on such factors as the gravity of the violation, any negligence by the operator, and the operator's history of previous violations.

In calendar year 1986, MSHA assessed \$31,388 in penalties against mine operators for failing to report injuries.¹ A breakdown of the penalty assessments (provided in table 2) shows that 1,179 penalties were assessed against 333 mines in 1986, averaging \$27 per penalty and \$94 per mine. About 90 percent or 1,058 of the violations for not reporting an injury were assessed a \$20 penalty. The most \$20 violations assessed at a mine over the year was 66, resulting in a \$1,320 penalty. A total of 121 violations, or 10 percent, were assessed higher than \$20, the largest being \$160. The largest combination of penalties assessed a mine during 1986 was \$2,820.

The 1986 assessments exceeded by about \$3,600 the amount MSHA assessed over the previous 4 years combined. This increase is attributable to a December 1985 change in MSHA policy directing

¹Mine operators are also required to report certain accidents, even if no injuries are sustained, and each quarter report their employment levels. In 1986 MSHA assessed \$49,779 in penalties for violations of these reporting requirements.

inspectors to issue citations for each instance of failure to report an injury rather than permitting multiple instances of underreporting to be cited as one violation.

UNION AND ASSOCIATION VIEWS ON THE PENALTY STRUCTURE

All of the labor organizations and four of the nine mining associations we spoke with said that the current penalty policy does not deter underreporting of injuries. They said that much higher fines are needed. Not all of those we spoke with suggested specific amounts, but some stated that minimum fines of \$100 to \$500 per violation would make a difference in reporting accuracy. These people generally said that operators who repeatedly underreport injuries, perhaps even those who are cited a second time, should receive much higher fines. One official commented that when the word gets out that companies will receive stiff penalties for underreporting injuries, the accuracy of the reported data will improve significantly.

Officials of the five mining associations who stated that the current penalties serve as a deterrent said that the reporting is reasonably accurate. They said that instances of underreporting occur mostly for nonserious injuries, in situations where MSHA reporting criteria are unclear, and through administrative error rather than intentional wrongdoing. These officials commented that unintentional and minor instances of failing to report injuries should not be penalized at all. Table 3 lists the organizations that provided views.

MINES THAT EXPERIENCED FATALITIES

Comparisons of all small and large mines² that experienced fatalities from January 1983 through September 1986 show large differences in what is reported to MSHA and indicate that small mines significantly underreport injuries and employment activity. For the 206 small and 223 large mines that experienced at least one fatality over the 45-month period:

- o Small mines had a significantly higher proportion of fatalities. Small mines employed only 5 percent of those working in the mines that experienced fatalities but accounted for 45 percent of the fatalities. (See table 4.1.)

²Generally, we used MSHA classifications of mine size to distinguish between large and small mines. MSHA classifies coal mines employing fewer than 50 people as small mines and those employing more as large mines. Metal mines are grouped into three categories: small (1-19 employees), medium (20-99 employees), and large (100 or more employees). For this analysis, we categorized medium metal mines as large mines.

- o Small mines report many fewer injuries proportionate to fatalities than large mines--an average of 3 injuries for every fatality compared to 51 injuries for every fatality in large mines. (See table 4.1.)
- o Small mines more frequently reported only fatalities. Thirty-nine percent of the small mines reported only fatalities and no injuries over the 45-month period compared to less than 1 percent of large mines reporting only fatalities. (See table 4.2.)
- o Small mines do not report employment activity as regularly as large mines. Forty-eight percent of the small mines and 5 percent of the large mines never reported employment data to MSHA, which would imply they did not operate at any time during the period we examined. (See table 4.2.)

Most experts we spoke with, including senior MSHA officials, cited a number of possible explanations for these differences. First, small mine operators are more likely to pay an injured employee's medical expenses rather than report the injury and risk higher worker compensation insurance premiums or closer MSHA scrutiny. Second, they are generally nonunionized and consequently do not receive the attention that unions give to mines employing their members. Third, small mine operators are less likely to see the need to keep the detailed records needed for reporting and are less likely to understand reporting requirements. Several officials said that confusing MSHA reporting rules contribute to reporting differences between large and small mines.

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As agreed with your office, we did not obtain agency comments on this briefing report. Except for this, we performed our work in accordance with generally accepted government auditing standards. Unless you publicly announce its contents earlier, we plan no further distribution of this document until 30 days after its issue date. At that time we will send copies to the Department of Labor, the organizations that provided views, and other interested parties, as well as making copies available to others upon request.

Should you wish to discuss the information provided, please call me on 275-5365.

Sincerely yours,



W. J. Gainer
William J. Gainer
Associate Director

Table 1
MSHA Hiring
(October 1, 1986 through February 21, 1987)

COAL District	REHIRED			NEW HIRES		
	On Board	Offer	Open	On Board	Offer	Open
Wilkes-Barre, PA				1	2	
Pittsburgh, PA	2				14	
Morgantown, WV			1		2	
Mount Hope, WV	5	2	3	5	2	
Norton, VA	1			1	1	
Pikeville, KY	7				6	
Barbourville, KY	7	1	9	1		
Vincennes, IN	3	1			1	
Denver, CO	3	1	5		4	
Madisonville, KY	3				1	
TOTAL	31	5	18	8	33	0

METAL District	REHIRED			NEW HIRES		
	On Board	Offer	Open	On Board	Offer	Open
Southeastern	2		1	1	3	4
Northeastern				1	10	3
South Central	3		2	3	6	7
North Central	6		1	2	6	2
Rocky Mountain				1		
Western	1			1	6	1
TOTAL	12	0	4	9	31	17

Table 2
Comparison of Penalty Assessments for Not Reporting Injuries
(1982-1985 & 1986)

Assessments of \$20 Penalties	1982-1985	1986
Largest amount of assessments against a mine	\$1,000	\$1,320
Largest number of assessments against a mine	50	66
Number of assessments	713	1,058
Total amount of assessments	\$14,260	\$21,160

Assessments of Higher than \$20 Penalties	1982-1985	1986
Average assessment	\$155	\$85
Largest single assessment against a mine	\$2,600	\$160
Largest amount of assessments against a mine	\$2,600	\$2,500
Largest number of assessments against a mine	16	25
Total number of assessments	87	121
Total amount assessed	\$13,512	\$10,228

Summary of All Penalties	1982-1985	1986
Average assessment	\$35	\$27
Average assessment per mine	\$62	\$94
Largest amount assessed against a mine	\$2,640	\$2,820
Number of mines assessed	446	333
Total number of assessments	800	1,179
Total amount assessed	\$27,772	\$31,388

Table 3
Organizations that Provided Views
on MSHA's Penalty Structure

Associations

- American Mining Congress
- Bituminous Coal Operators Association
- Cotton, Day, and Doyle
- National Independent Coal Operators Association
- National Sand and Gravel Association
- National Stone Association
- Organization Resources Counselors
- Portland Cement Association
- Salt Institute

Unions

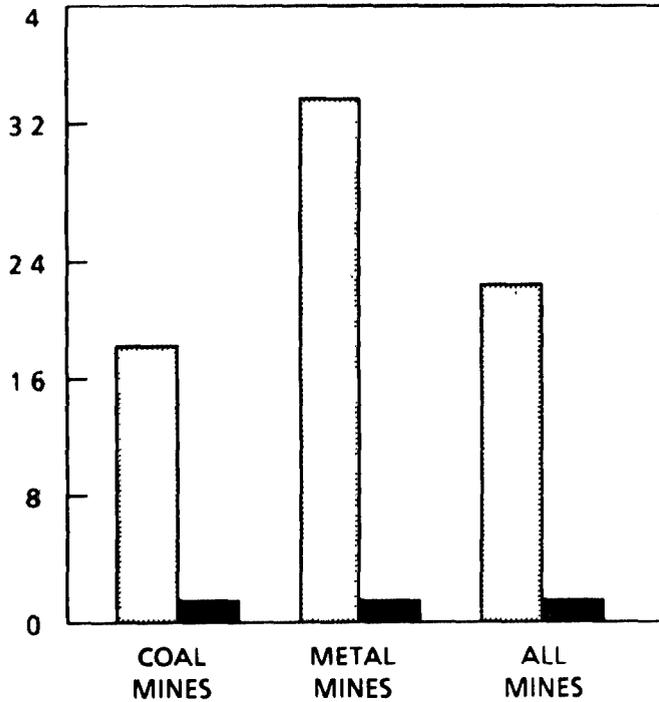
- Heavy Construction and Laborers Union
- International Brotherhood of Boilermakers, Shipbuilders, Blacksmiths, Forgers, and Helpers
- International Brotherhood of Teamsters
- International Chemical Workers Union
- International Union of Operating Engineers
- United Mine Workers of America
- United Steelworkers of America

Public Interest Group

- Occupational Safety and Health Law Center

Table 4.1
Comparison of Mining Fatalities by Mine Size
(January 1, 1983 through September 30, 1986)

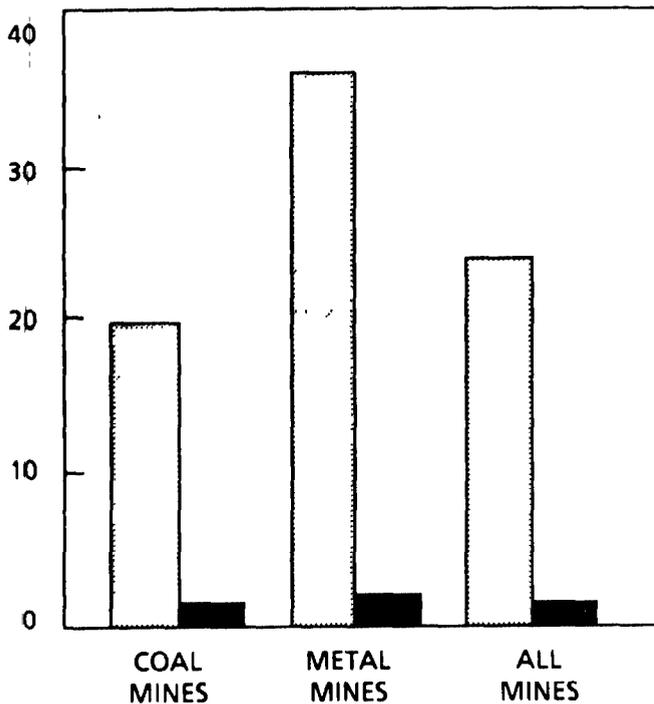
Number of Fatalities per 100 Miners



SMALL MINES			
NUMBER	COAL	METAL	TOTAL
Employees	7,709	2,480	10,189
Fatalities	138	85	223

LARGE MINES			
NUMBER	COAL	METAL	TOTAL
Employees	107,412	83,264	190,676
Fatalities	153	118	271

Percent of Mining Injuries that are Fatal

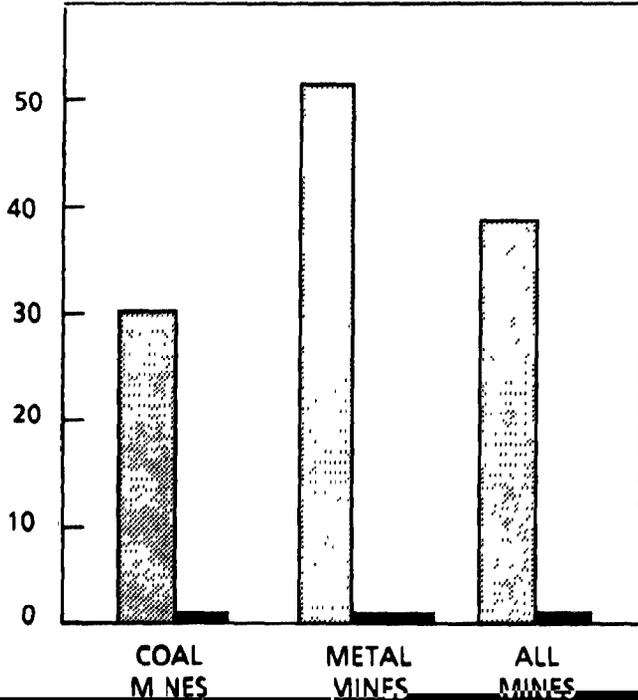


SMALL MINES			
NUMBER	COAL	METAL	TOTAL
Injuries	560	151	711
Fatalities	138	85	223

LARGE MINES			
NUMBER	COAL	METAL	TOTAL
Injuries	8,808	4,965	13,773
Fatalities	153	118	271

Table 4.2
Comparison of Mining Fatalities by Mine Size
(January 1, 1983 through September 30, 1986)

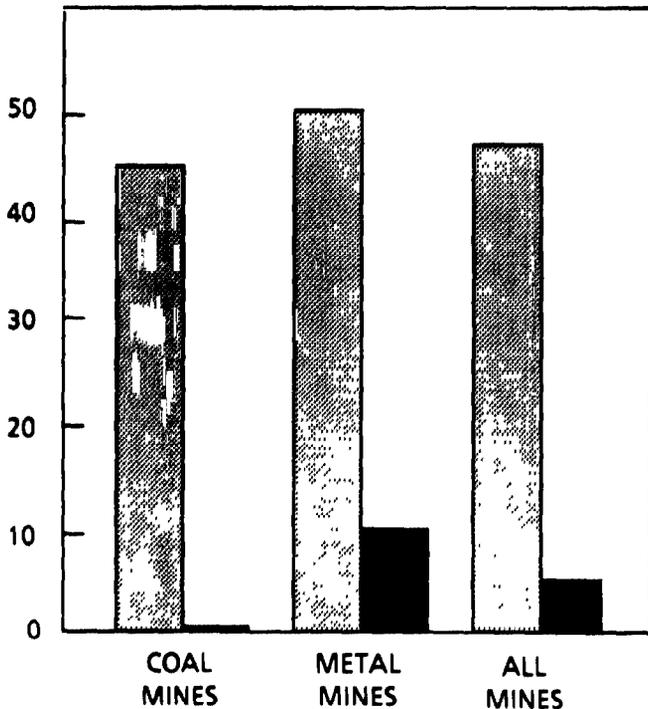
Percent of Mines Reporting Only Fatalities



SMALL MINES			
NUMBER THAT	COAL	METAL	TOTAL
Had at least 1 Fatality	122	84	206
Report Only Fatalities	37	44	81

LARGE MINES			
NUMBER THAT	COAL	METAL	TOTAL
Had at least 1 Fatality	117	106	223
Report Only Fatalities	1	1	2

Percent of Mines Not Reporting Employment



SMALL MINES			
NUMBER THAT	COAL	METAL	TOTAL
Had at least 1 Fatality	122	84	206
Not Reporting Employ.	55	43	98

LARGE MINES			
NUMBER THAT	COAL	METAL	TOTAL
Had at least 1 Fatality	117	106	223
Not Reporting Employ.	1	11	12



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