

OSC 10
Ohio Safety Congress & Expo

Your next MSHA inspection...Saving lives, saving money

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Wednesday, March 31, 2010 10:30 to 11:30 a.m.

YOU GET A CALL FIRST THING IN THE MORNING...BOSS, MSHA IS ON SITE!

- **WHAT DO YOU DO? PANIC OF COURSE!**



OR DO YOU?

- WITH A LOT OF LUCK, AND BEING PREPARED, YOU MAY BE ABLE TO REST A LITTLE EASIER.



LET'S LOOK AT A BIT OF HISTORY

- SINCE 1911, WHEN RECORDS FOR M/NM WERE KEPT...
- ***23,586 M/NM MINERS HAVE DIED AT WORK IN THE U.S., MINDING THEIR OWN BUSINESS, TRYING TO PROVIDE FOR THEIR FAMILIES!***

220 MINERS DIED IN 1977, BUT ONLY 17 IN 2009, WHY THE REDUCTION?

**PUBLIC LAW 95-164
NOVEMBER 9, 1977
THE FEDERAL MINE SAFETY & HEALTH ACT OF 1977**

THE MINE ACT ESTABLISHED AN AGENCY CHARGED WITH PROTECTING THE HEALTH AND SAFETY OF AMERICA'S MINERS-MSHA!

- The mine act in section 104.a says that if an inspector believes that a violation of the act has occurred, he "shall" issue a citation to the operator." Not maybe, but shall.
- We all know that they do this, and they do it very well.

NEW WORDS THAT CHANGED
THE FACE OF THE MINING
INDUSTRY..

SAGO January 2006 - **12 COAL
MINERS KILLED**

Effective June 16, 2006, thanks to Kennedy, Byrd, Murray, others, we have the "Miner Act, these folks in congress viewed our industry as incorrigible nails in need of a bigger hammer. They got it. Criminal penalties hiked from \$25,000 to \$250,000 plus more

PART 50 REPORTING, \$5000
PENALTY FOR NOT REPORTING
CERTAIN EVENTS WITHIN 15
MINUTES

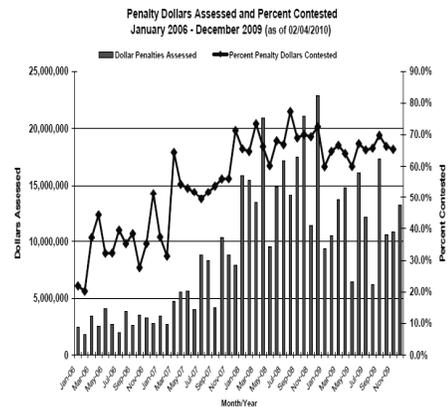
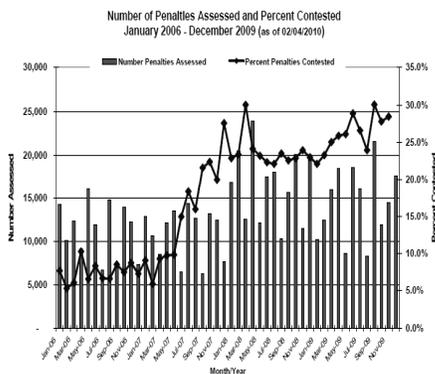
**FLAGRANT VIOLATIONS
CAPPED AT \$220,000, AS
OPOSED TO THE
PREVIOUS \$60,000**

THEN THINGS REALLY GOT BAD!

- After passing the MINER Act, comes...
- CRANDALL CANYON- SIX **COAL MINERS**, THREE **RESCUERS** KILLED IN COLLAPSE OF AN UNDERGROUND **COAL MINE**.
- OUR GOOD FRIENDS IN CONGRESS PASSED S-MINER ACT OF 2007
- NEW MINIMUM PENALTIES AND A LITANY OF OTHER CRAZY RULES.

Why can't our government differentiate between mines, and reward the good actors rather than assume we are all bad.

Why did we allow all mining types to be lumped together as one lump of coal? Well we did!



NEXT ON THE AGENDA, THE MSHA RULES TO LIVE BY PROGRAM

- The benefit of this program is that the agency has given us a template for inspections, focusing on 13 most frequently cited standards.



PRIORITY STANDARDS FOR ENHANCED ENFORCEMENT

- OPERATING SPEEDS AND CONTROL OF EQUIPMENT
- WORK ON POWER CIRCUITS
- BRAKE PERFORMANCE
- PROCEDURES DURING REPAIR
- SEAT BELTS EQUIPMENT OPERATORS
- MACHINERY & TOOLS USED BEYOND DESIGN
- PARKING PROCEDURES
- SAFETY BELTS & LINES
- BINS HOPPERS & SILOS
- STAYING CLEAR OF SUSPENDED LOADS
- BARRICADES & SIGNS
- GROUND SUPPORT

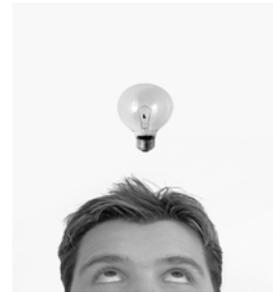
SO WHEN DOES THE INSPECTION BEGIN?

- IT BEGINS RIGHT NOW, NOT AT 8:00, ON MONDAY, WHEN THE INSPECTOR SHOWS UP!



DO THIS NOW!

- INSPECT YOUR PLANT
- REVIEW ALL REQUIRED DOCUMENTS, AND POSTINGS. BE SURE QUARTERLY REPORTS ARE FILED, LEGAL ID CURRENT
- CHECK ALL PART 46 RECORDS
- CHECK EVERYTHING IN DETAIL



YOU GET THAT CALL, NOW WHAT?

- YOU DROP WHAT YOU ARE DOING, AND GREET THE INSPECTOR.
- START THE INSPECTION ON A CORDIAL NOTE
- IF YOU HAVE A MINERS REP, CALL HIM TO THE OFFICE
- MOST IMPORTANTLY, ACCOMPANY THE INSPECTOR THROUGHOUT THE INSPECTION



DON'T FORGET TO CALL YOUR SAFETY REP

- AN EFFECTIVE SAFETY PROGRAM IS THE BEST DEFENSE AGAINST ENFORCEMENT ACTIONS, AND THIS PERSON SHOULD KNOW THE PROGRAM AND THE LAW, BETTER THAN ANYONE.



TALK UP YOUR SUCCESSES

- USE OF SLAM PROCESS
- USE OF INSPECTION TEAMS
- SAFETY AWARDS
- TRAINING
- USE OF BBS



PARTICIPATING IN THE INSPECTION

- ALWAYS HAVE A CAMERA, THEY DO
- TAKE NOTES, AND RESOLVE ISSUES IMMEDIATELY
- ASSIST THAT A DECISION TO ISSUE A CITATION BE MADE IMMEDIATELY, INCLUDING S&S, ETC.
- ARRANGE ABATEMENT
- COLLECT ALL EVIDENCE, WITNESS STATEMENTS, MEASUREMENTS
- DO NOT EDITORIALIZE ON YOUR NOTES, THIS CAN HAUNT YOU.
- DOES THE CITED STANDARD COVER THE CONDITION INVOLVED

PARTICIPATING IN THE INSPECTION

- IS THE STANDARD VAGUE OR REASONABLE
- WERE THERE PRIOR INSPECTIONS WITH DIFFERENT INTERPRETATIONS
- CHECK THE PROGRAM POLICY MANUAL
- MINERS REPS ARE A GOOD SOURCE OF REBUTTAL
- ARE THERE ANY MSHA REQUIRED RECORDS OR COMPANY KEPT RECORDS THAT RELATE TO THE VIOLATION AND HELP DISPROVE IT (PRE-SHIFT RECORDS, WORKPLACE EXAMS).

MOST IMPORTANTLY, NEVER LIE!

IF YOU DECIDE TO LIE OR HAVE AN EMPLOYEE LIE FOR YOU, YOU WILL POSSIBLY SEE SOMEONE YOU DON'T WANT TO SEE...A SPECIAL INVESTIGATOR



SPECIAL INVESTIGATIONS ARE A VERY BAD THING



- THEY CAN COME FROM VOLUNTERY STATEMENTS MADE BY YOU OR AN EMPLOYEE
- RECORDS OR DOCUMENTS THAT INDICATE MANAGEMENT KNEW OF THE VIOLATION
- IF YOU COME TO THIS POINT, YOU NEED AN ATTORNEY

CLOSE OUT CONFERENCE

- THIS IS YOUR SECOND BITE AT THE APPLE
- SIT DOWN WITH THE INSPECTOR AND DISCUSS ALL CITATIONS
- TRY TO BE POLITE, I KNOW THIS CAN BE HARD TO DO.
- IF S&S DISCUSS THE VALIDITY WITH THE INSPECTOR, OF HIS EVALUATION OF THE CONDITION.
- WHY HE FEELS THE CIRCUMSTANCES CREATE A LIKELIHOOD THAT THE RESULTING INJURY WILL BE REASONABLY LIKELY & SERIOUS

WHEN ALL ELSE FAILS...

- YOUR NEXT STEP IS THE INFORMAL CONFERENCE PROCESS
- I FIND THIS, FOR THE MOST PART, TO BE USELESS.
- YOU HAVE AN OPPORTUNITY TO LAY OUT YOUR CASE WITH AN ACRI REP
- AFTER STATING YOUR CASE, YOU WILL RECEIVE A CALL, INDICATING WHETHER YOU HAVE PREVAILED.
- YOU WON'T
- FROM THERE, YOU GO TO THE SOLICITORS OFFICE. MUCH FUN MUCH PAPER

WHEN YOU RECEIVE YOUR ASSESSMENT..

- BE SURE TO INDICATE WHICH CITATIONS YOU PLAN TO CONTEST AND PAY THE REST
- SCRUTINIZE ALL CHECK BOXES FOR NEGLIGENCE, SEVERITY, AND CITATION DESIGNATION
- DON'T LET THIS DOCUMENT SIT ON YOUR DESK. YOU LOSE IF YOU MISS THE DEADLINES

QUESTIONS?

