

Week of February 16, 2015

OSHA, MSHA Proposed Budgets Emphasize Enforcement

Enforcement would be strengthened at OSHA and MSHA under the President's proposed fiscal year 2016 budget.

OSHA would receive \$592.1 million, a 7% increase over the \$552.8 million from the FY 2015 budget. The bulk of the increase, \$26.2 million, would go toward federal and state enforcement efforts and whistleblower protections. Federal compliance assistance efforts would increase by just \$4.6 million. The Susan G. Harwood training grants program, described in the budget as a compliance assistance program, would see a \$150,000 infusion, to \$10.7 million.

"The FY 2016 budget request will enable the agency to implement enforcement and whistleblower initiatives designed to have a far reaching impact; work on both longstanding and complex standards, such as the Crystalline Silica rule; and engage in outreach and training activities to enhance worker voice and train vulnerable, hard-to-reach workers in dangerous jobs about their rights and the hazards they face," OSHA said in its budget proposal, released February 2.

OSHA's budget, if enacted, would enable the agency to add 90 new positions, raising total agency employment to 2,314. Sixty new positions would be dedicated to enforcement, and another 22 to the whistleblower protection program. Many of the new enforcement positions would handle the increased workload produced by new injury reporting requirements that took effect January 1, the agency said. The standards development unit would get three new hires; the remaining five would be added to the safety and health statistics group.

OSHA's inspection goal for 2016 was set at 37,785, just 300 more inspections than the agency calculated it would accomplish in 2015. State inspections were predicted to reach 47,567, up 2% from 2015's estimate of 46,675.

The safety agency also seeks a change in its appropriations language to authorize OSHA to conduct targeted safety and health inspections of small establishments that have the potential for catastrophic incidents, specifically those covered by OSHA's Process Safety Management regulations or EPA's Chemical Accident Prevention provisions. The targeted operations would be those with a low injury rate and employing up to 10 employees within the past 12 months. Employers conducting farming, harvesting, or processing operations would be exempt.

Regarding MSHA, the proposed budget calls for a 5.1% increase, which would raise that agency's total allocation to \$394.9 million, from \$375.9 million. The Coal Division would receive a \$7.9 million boost, with about half of the money going to enforce a new respirable coal dust rule and to conduct off-shift inspections. OAASEI, an administrative unit devoted to supporting enforcement efforts, would get \$1.1 million more and six new employees, increasing total agency employment to 2,322.

MSHA's Educational Policy and Development group would get a \$4.1 million lift to strengthen training resources for agency employees and the mining industry in general. In a surprise move, MSHA's budget also includes \$8.4 million for the states, an amount the agency sought unsuccessfully to delete in its 2015 budget. The state funds historically have been used for miner training.

The Occupational Safety and Health Review Commission would receive \$13.2 million and 10 new positions. The Federal Mine Safety and Health Review Commission would get \$17.1 million.

As expected, the White House budget had Democrats praising it and Republicans expressing opposition. Senator Patty Murray (D-WA), ranking member on the Senate Committee on Health, Education, Labor and Pensions, described the White House proposal as "a

strong starting point” for building a “bipartisan budget deal.” Representative Hal Rogers (R-KY), who chairs the

House Appropriations Committee, called it “irresponsible.” Congressional hearings will begin soon.

MSHA Chief Heralds 5 Years of Progress in Mine Safety

Citing recent positive changes in safety, MSHA chief Joe Main said the foundation is being laid for better safety performance and an improved safety culture in mining.

“We are seeing new lows in respirable dust levels in coal mines, significant reductions in the number of chronic violators, improved industry regulatory compliance, successful implementation of new standards and, in recent years, the lowest fatal and injury rates in mining history,” Main told attendees at the West Virginia Coal Association’s annual symposium on January 29.

During recent visits to mines run by Jim Walter Resources, Alpha Natural Resources, and Alliance Resource Partners, Main said he saw “innovative rockdusting of conveyor belt entries to prevent coal dust explosions, state of the art respirable dust controls on longwalls to prevent pneumoconiosis, proximity detection technology on continuous mining machines to protect miners from crushing accidents, innovative and worker friendly roof control systems and well-designed wash down underground coal transfer units to better control coal dust and spillage.”

The Assistant Secretary noted that much of the improvement has come about over the past five years, a period that coincides with his tenure at the agency. While he credited “MSHA, the mining industry, and others” for the improvement, Main devoted most of his talk to agency initiatives launched on his watch.

These include the “End Black Lung - Act Now” campaign, a program called “Rules to Live By” focusing on preventing the most common causes of deaths, more aggressive protection of miners who speak out about allegedly unsafe conditions, a Pattern of Violations (POV) enforcement tool aimed at chronic violators, increasing MSHA stakeholder engagement, encouraging mine operators to take more responsibility to find and fix hazards, and improving MSHA enforcement consistency.

In addition, Main summarized what he referred to as “strategic rulemaking.” Rules now are in place to lower coal miner exposure to respirable dust and require the use of a personal monitoring device that provides respirable dust results in real time, mandate application of a higher percentage of rock dust to prevent coal dust explosions, require coal mine operators to conduct more thorough workplace examinations, and stipulate proximity detection devices on continuous mining machines. An existing POV rule has been updated to close loopholes. Under development is a proposal to extend proximity detection equipment to sectional mining equipment.

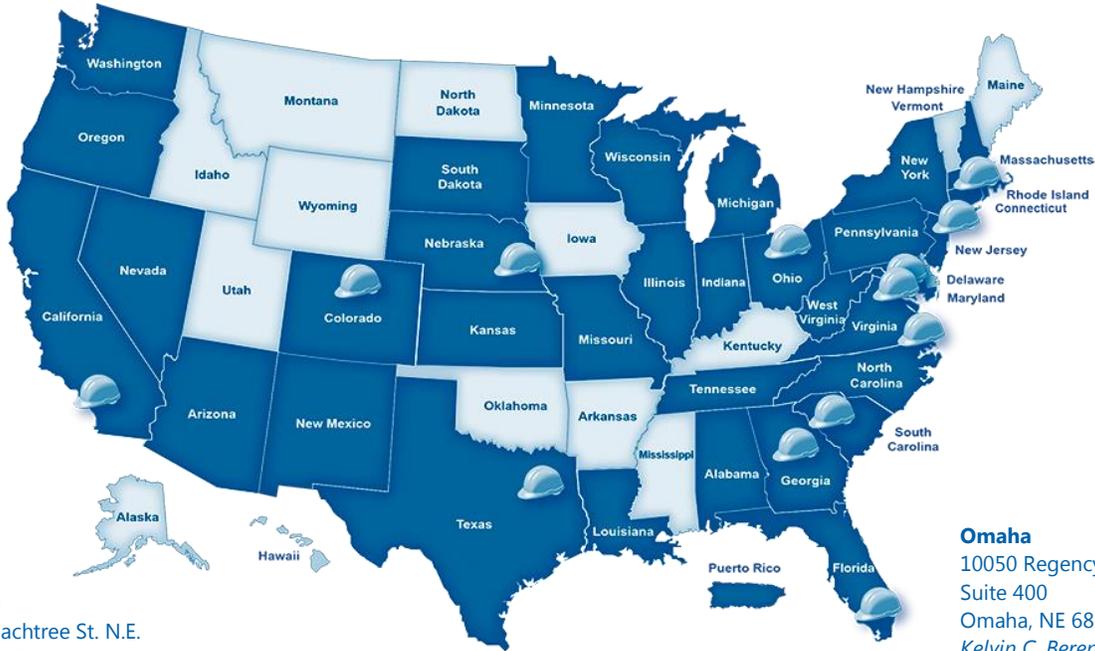
The changes purportedly have brought down the number of enforcement actions and fatalities in the coal sector. Citations and orders issued to coal mine operators have declined from about 96,352 since 2010 to 62,828 in 2014, while there were 16 coal fatalities last year – the lowest “ever recorded in mining history,” Main said.

Main also took the opportunity to reveal several other initiatives underway at the agency. To improve mine emergency response capabilities, MSHA is nearing completion of what Main called state-of-the-art communication, tracking, mapping, and atmospheric monitoring technologies. MSHA’s website is being modernized to provide new web tools mines can use to monitor compliance with Rule to Live By standards, as well as those included in the coal sector’s workplace examination rule.

However, more needs to be done, cautioned Main, noting that the 25 fatalities in the metal/non-metal sector in 2014 exceeded the number who died the year before. To that end, MSHA announced that, effective February 2, it would focus attention, including enforcement, on the types of conditions associated with the fatalities and on the associated categories of work. The initiative also will include educational and outreach activities, such as discussions with miners and mine operators by inspectors and MSHA training personnel.



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