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Chapter 10

Increased Enforcement and Higher Penalties Under the MINER Act: Do They Improve Worker Safety?

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§ 10.01. Introduction.

Prior to 2006, the mining industry in the United States enjoyed some of its safest years, reflecting a marked increase in the industry-wide promotion of safe practices and a steady decrease in the number of coal-related fatalities. It was widely believed in industry circles that the decrease in coal-related fatalities spoke to the successes of recent advancements in mine safety technology and training, as well as the increased level of cooperation between the mining industry and the Federal Mine Safety and Health Administration (MSHA).

However, in the infant days of 2006, an unprecedented series of mine catastrophes brought national attention to an industry largely taken for granted, and simultaneously called into question the efficacy of underground mine safety. Early in 2006, the nation was rocked by a series of mine disasters that claimed the lives of 19 underground miners over the course of five months, a prelude to a total number of coal related fatalities in a single year that had not been seen in a decade.

The response of Congress, and more importantly MSHA, was to increase penalties under the guise of reinforcing mine safety standards and regaining control of an industry that was now viewed by the general public as unsafe and equally unregulated. Despite the breadth and scope of these "remedial" actions taken by Congress and MSHA to combat a perceived state of emergency in the mining industry that had emerged overnight, any correlation between resulting advancements or improvements in underground mine safety and the developing penalty driven culture fostered by MSHA may be tenuous at best and, at worst, nonexistent.

The purpose of this chapter is to examine the unprecedented climate change in the mining industry in the wake of 2006, the "remedial" steps taken by Congress and MSHA, and what impact — if any — these changes have had on key safety rates used to gauge mine safety.