
MSHA to Publish Pattern of Violations Final Rule

The Secretary of Labor announced a final rule to strengthen safety in the nation's most dangerous mines. The rule, which revises the Mine Safety and Health Administration's (MSHA) pattern of violations regulation in 30 Code of Federal Regulations Part 104, has been submitted to the Federal Register for publication. It will ensure that mine operators monitor and address the most hazardous safety problems in their mines. It also strengthens MSHA's hand to respond to dangerous mining conditions, and improve safety and health for mining's most important resource — the miner.

Over the last three years, the Labor Department has undergone a serious and comprehensive evaluation of mine safety practices, and that has led to reforms to protect America's miners. The rule will hold mine operators accountable when they disregard life-saving safety measures. This final rule represents one of MSHA's highest priority regulatory initiatives and one that addresses Congress' intent that this regulation encourage chronic violators to comply with the Mine Act and MSHA's health and safety standards.

It promotes consistency in applying the Pattern of Violations (POV) notice as an enforcement tool, provides for a more open and transparent process, emphasizes operators' responsibility to comply with safety and health standards and monitor their own compliance, and more effectively achieves the statutory intent of the Mine Act.

Under the Federal Mine Safety and Health Act of 1977, MSHA is required to issue a POV notice to any mine operator that demonstrates a disregard for the health and safety of miners through a pattern of significant and substantial violations (S&S). An S&S violation is one that contributes to a safety or health hazard that is reasonably likely to result in a reasonably serious injury or illness.

The following are among the final rule's major provisions:

- Allows MSHA to issue a POV notice without first issuing a potential POV notice.
- Eliminates the existing requirement that MSHA can consider only final orders in its POV review.
- Establishes general criteria and procedures that MSHA will use to identify mines with a pattern of S&S violations.
- Reinforces mine operators' responsibility for compliance with MSHA safety and health standards and for monitoring their mines' compliance.
- Clarifies that MSHA will consider a mine operator's effective implementation of an MSHA-approved corrective action program as a mitigating circumstance in its POV review, if the program contains definitive benchmarks implemented prior to POV notice, and the operator has reduced S&S violations.
- Restates the statutory requirement that, for mines in POV status, each S&S violation will result in a withdrawal order until a complete inspection finds no S&S violations.

What This Means For Counties

MSHA launched an online monitoring tool that enables mine operators, miners and the public to determine, based on the most recent data available, how a specific mine matches up with the criteria for a potential pattern of violations. Under the final rule, the online tool will continue to be available to measure compliance performance against POV criteria.

For more information, contact CTSI at 303-861-0507.