

News Release



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U.S. Labor Department's MSHA puts eight mine operators on notice *Operators receive letters indicating a potential pattern of violations*

ARLINGTON, Va. – The U.S. Department of Labor's Mine Safety and Health Administration (MSHA) today announced that eight mine operators from around the country have received letters putting them on notice that each has a potential pattern of violations of mandatory health or safety standards under section 104(e) of the Federal Mine Safety and Health Act of 1977. These eight operations represent the first mines to receive such letters under MSHA's enhanced enforcement initiative and, if ultimately issued a pattern of violations notice, would be the first in the history of the agency to be sanctioned as having a pattern of violations.

"The purpose of these letters is to put mine operators on notice about the repercussions they face if they repeatedly disregard mine safety and health regulations," said Richard E. Stickler, assistant secretary of labor for mine safety and health. "The ultimate goal is to restore effective safe and healthy conditions at these mines, and MSHA will not hesitate to use all the tools available to ensure compliance with the law."

A mine operator that has a potential pattern of recurrent significant and substantial (S&S) violations at a mine will receive written notification from MSHA. An S&S violation is one which could reasonably be expected to lead to a serious injury or illness. The operator will have an opportunity to review and comment on the documents upon which the potential pattern of violations is based, and develop a written corrective action plan to reduce S&S violations at the mine and to avoid violations caused by imminent dangers, failure to abate previously cited violations, and unwarrantable failures to comply with standards.

MSHA will closely monitor the affected mine's compliance record during the ensuing 90 days. If the operator significantly reduces its violation frequency rate, it can avoid being issued a Notice of a Pattern of Violations. If the improvement falls short of the criteria, MSHA will issue the notice. For each S&S violation found, MSHA will issue an order withdrawing miners from the affected area until the cited condition has been corrected. An operator can be removed from a pattern of violations when 1) an inspection of the entire mine is completed and no S&S violations are found or 2) no withdrawal order is issued by MSHA in accordance with Section 104 (e)(1) of the Mine Act within 90 days of the issuance of the pattern notice.

MSHA used data from the most recent eight quarters to determine an active mine operation's eligibility for notification of a potential pattern of violations.

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Pattern of Violations Screening Criteria and Scoring Model
November 2007

A computer-generated report is run that retrieves data for the most recent 24 months available for every mine under MSHA's jurisdiction. Mines currently in an "Active" status (on the date the report is generated) are reviewed to determine if a potential Pattern of Violations may exist.

Initial Screening Criteria (30 CFR §104.2)

The following screening criteria are used to perform the initial screening required under 30 CFR §104.2. Mines meeting **all** of the following criteria are further screened to identify mines meeting appropriate specified criteria for the potential Pattern of Violations, among those listed in 30 CFR §104.3.

At least **ten** S&S Citations/Orders, at mines classified as Surface and Facility, **issued** during the 24 month review period.

At least **twenty** S&S Citations/Orders, at mines classified as Underground, **issued** during the 24 month review period.

At least two "elevated enforcement" actions, [i.e. type action is 104 (b), 104 (d) or 107(a)], **issued** during the 24 month review period.

The ratio of Citation/Orders **issued** in the most recent 12 months of the review period to the number of S&S Citations/Orders **issued** during the previous 12 months of the review is 70% or greater.

The mines' rate of S&S Citations/Orders **issued** per 100 inspection hours during the 24 month review period is equal to or greater than 125% of the National rate of S&S Citations/Orders **issued** per 100 inspection hours for that mine type and classification.

The number of S&S Citation/Orders **issued** per 100 inspection hours during the last two quarters is greater than the Industry Average for this mine type and classification **OR** the number of elevated enforcement Citations/Orders **issued** per 100 inspection hours during the last two quarters is greater than the Industry Average for this mine type and classification.

A minimum of two "elevated enforcement" **final orders** of the Commission, [i.e. type action is 104 (b), 104 (d) or 107(a)] during the 24 month review period.

At least one S&S 104 (d) issuance that became a **final order** of the Commission during the 24 month review period.

At least ten S&S Citations/Orders, at mines classified as Surface or Facility, that are **final orders** of the Commission during the 24 month review period.

At least **twenty** S&S Citations/Orders, at mines classified as Underground, that are **final orders** of the Commission during the 24 month review period.

The information used to screen mines includes a **raw weighted score** for each operation meeting the above criteria as follows:

- a. The number of S&S citations and orders issued per 100 Inspection Hrs. that became **final** during the 24 month review period times the weight assigned to this factor; plus
- b. the number of 104(b) (failure to abate) orders issued per 100 Inspection Hrs. for failure to abate an S&S issuance that that became **final** during the 24 month review period and multiplying by a factor of 5; plus
- c. the number of 104(d) (unwarrantable failure) citations and orders issued per 100 Inspection Hrs. that became **final** during the 24 month review period and multiplying by a factor of 5; plus
- d. the number of 107(a) (imminent danger) orders issued¹ per 100 Inspection Hrs. during the 24 month review period and multiplying by a factor of 5.

This **raw weighted score** is increased by:

- e. 5%-20% for operations with injury rates above the national average for the same mine type and industry grouping as follows:

<i>Degree 1-4 Injury Rate Multipliers</i>			
<i>IR Greater than Nat'l. Avg. and less than or equal to 2 times the Nat'l. Avg.</i>	<i>IR Greater than 2 times the Nat'l. Avg. and less than or equal to 3 times the Nat'l. Avg.</i>	<i>IR Greater than 3 times the Nat'l. Avg. and less than or equal to 4 times the Nat'l. Avg.</i>	<i>IR Greater than 4 times the Nat'l. Avg.</i>
5%	10%	15%	20%

¹ Imminent Danger orders are not assessed and thus do not become “final orders” of the Commission. Therefore, the number of Imminent Danger orders issued is used in this score.

- f. 5%-20% for operations with injury severity rates (number of days lost X 200,000 divided by the total work hours reported) above the national average for the same mine type and industry grouping as follows:

Degree 1-4 Injury Severity Rate Multipliers

<i>ISR Greater than Nat'l. Avg. and less than or equal to 2 times the Nat'l. Avg.</i>	<i>ISR Greater than 2 times the Nat'l. Avg. and less than or equal to 3 times the Nat'l. Avg.</i>	<i>ISR Greater than 3 times the Nat'l. Avg. and less than or equal to 4 times the Nat'l. Avg.</i>	<i>ISR Greater than 4 times the Nat'l. Avg.</i>
5%	10%	15%	20%

- g. 5%-20% for operations with citations and orders **issued** per 100 inspection hours (VPIH) above the 24-month national average for the same mine type and industry grouping as follows:

VPIH Multipliers

<i>VPIH Greater than Nat'l. Avg. and less than or equal to 2 times the Nat'l. Avg.</i>	<i>VPIH Greater than 2 times the Nat'l. Avg. and less than or equal to 3 times the Nat'l. Avg.</i>	<i>VPIH Greater than 3 times the Nat'l. Avg. and less than or equal to 4 times the Nat'l. Avg.</i>	<i>VPIH Greater than 4 times the Nat'l. Avg.</i>
5%	10%	15%	20%

The final weighted score must be greater than or equal to the average weighted score for all active mines of the same mine type and industry classification.

Pattern Criteria Screening (30 CFR §104.3)

30 CFR § 104.3 requires that one of the following pattern criteria be met: (1) a history of repeated significant and substantial violations of a particular standard; (2) a history of repeated significant and substantial violations of standards related to the same hazard; or (3) a history of repeated significant and substantial violations caused by unwarrantable failure to comply. Only citations and orders that are final may be considered in determining if these criteria have been met. For the November 2007 Pattern of Violations review, mines must have at least five S&S citations of the same standard that became **final orders** of the Commission during the most recent 12 months.