

News Release



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MSHA announces tougher POV provisions, responds to OIG audit

ARLINGTON, Va. – The U.S. Department of Labor’s Mine Safety and Health Administration today announced the second phase in major reforms to its pattern of violations process, which includes tougher provisions for mines with chronic and persistent violations of significant health and safety regulations. This announcement coincides with the release of an independent analysis prepared by the Labor Department’s Office of Inspector General: “In 32 years MSHA Has Never Successfully Exercised its Pattern of Violation Authority.” Earlier this week, MSHA publicized new screening criteria for the POV enforcement program.

“We agree with the final recommendations in the OIG report and welcome that input, which we believe will help us improve the process already underway at MSHA,” said Joseph A. Main, assistant secretary of labor for mine safety and health. “Our efforts are focused on ensuring that future potential POV and POV determinations are an effective part of MSHA’s enforcement strategy and advance Congress’s intent – that mine operators find and fix the root causes of violations before they become a hazard to miners.”

As noted earlier this week, work on the current potential POV process is a stopgap measure to be used until other regulatory or legislative reforms occur.

Mines that have received potential POV notification will have the opportunity to submit a corrective action program, which must contain: concrete, meaningful measures to reduce their significant and substantial, or S&S, violations; achievable benchmarks and milestones for implementing the program; management oversight to ensure the program is being instituted and followed; and measures to find and fix the mine’s specific compliance problems.

The new procedures include more meaningful corrective action programs and measures to help ensure long-term compliance on the part of mine operators. A mine placed on a potential POV must meet more stringent goals to avoid the sanctions of a POV. Mines that implement appropriate corrective action programs will need to achieve a 50 percent reduction in the rate of S&S violations or a rate within the top 50 percent for all mines of similar type and classification. Mines that do not choose to implement corrective action programs will need to achieve a 70 percent or more reduction in their S&S issuance rates or a rate within the top 35 percent for all mines of similar type and classification.

If a mine fails to meet the requirements of a potential POV and is placed on a POV, each violation that is determined to be an S&S violation will be an automatic closure order. To avoid that enforcement action, the mine operator must have a complete inspection of the mine by MSHA without a single S&S violation being found.

Any decision not to place a mine on POV status will be documented, and the mine will be closely monitored for backsliding. Mines that do meet reductions will also be monitored and subject to future potential POV screenings.

A POV panel consisting of personnel from three separate divisions of MSHA will review any questions raised on mitigating factors regarding mines selected for potential POV action. This panel will help ensure consistency of application of both the quantitative and qualitative criteria.

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