

News Release



U.S. Department of Labor
Office of Public Affairs
Washington, D.C.
Release Number: 10-1641-NAT

For Immediate Release
Nov. 19, 2010
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MSHA puts 13 mines on notice for potential pattern of violations *Mines represent first group to be identified under agency's new screening criteria*

ARLINGTON, Va. – The U.S. Department of Labor's Mine Safety and Health Administration announced today that 13 mines from around the country 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 are the first mining operations to receive such notification since MSHA implemented major reforms to its POV process, including tougher provisions for mines with chronic and persistent health and safety violations. A 14th mine, Upper Big Branch, met the criteria, but actions have been postponed until MSHA's investigation into the April 5 explosion is complete.

"I have been saying since I arrived at MSHA that the POV system is broken," said Joseph A. Main, assistant secretary of labor for mine safety and health. "This screening represents a positive step forward, but it won't be the only step. POV is on MSHA's rulemaking agenda, and there are also statutory changes pending before Congress that would further improve the system."

Main also noted that the review process is not finished. "Once MSHA completes a thorough auditing, there may be more mines put on notice for a potential POV," he said. Audits are being conducted at mine operations that appear close to qualifying for a potential POV to track any underreporting of mine accidents and injuries.

MSHA's screening process, which covers enforcement actions during the 12-month period ending Aug. 31, 2010, identified mines with an elevated rate of significant and substantial, or S&S, violations. It also identified those that have been subject to closure orders, including closure orders for serious issues such as failing to correct violations after MSHA cites them, unwarrantable failures to comply with health or safety standards, failure to provide miners with required training and imminent dangers in the mine. Under the new criteria, MSHA also considered whether a mine has a high percentage of S&S violations involving elevated negligence, as well as a mine's injury severity rate, targeting operations with an above-average injury severity measure.

Mine operators can choose to institute a corrective action program with concrete, meaningful measures to reduce their 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. Mines that implement a corrective action program will be required to meet the prescribed goals within a maximum of 110 days of receiving potential POV notification, depending upon when a corrective action program is submitted to MSHA.

Operators that do not choose to implement a corrective action program will be required to achieve the prescribed goals set by MSHA within 50 days of receiving a potential POV notification.

MSHA has established S&S violation rate-reduction goals for each mine that received a potential POV notification. In order to avoid receiving a POV notice, mines that do implement an appropriate corrective action program must reduce the S&S frequency rate per 100 inspection hours by 50 percent from the mine's rate during the 12-month review period, or to a rate within the top 50 percent for all mines of similar type and classification. Mines that do not implement an appropriate corrective action program must reduce the S&S frequency rate per 100 inspection hours by 70 percent from the mine's rate during the 12-month review period, provided such reduction is below the national rate for all mines of similar type and classification during the same period, or to a rate within the top 35 percent for all mines of similar type and classification.

Previously, mine operators were required to achieve only a 30 percent reduction to avoid POV actions and were not required to meet benchmarks where corrective action programs were used. Mines that failed to meet the requirements would be subject to the POV, at which point every S&S violation would result in an automatic closure order until the violation was abated. Mines would remain on POV status until a complete inspection found the mine free of S&S violations.

“Along with impact inspections and injunction actions, POV represents an important enforcement method for MSHA to change the behavior of mine operators who don't take seriously the health and safety of miners,” said Main.

Editor's note: A complete list of the 13 mines can be found at <http://www.dol.gov/opa/media/press/msha/20101119-PPOV-Mines.pdf>. The applicable S&S frequency rate goals, POV screening criteria and procedures, and copies of letters sent to mine operators are posted on MSHA's POV Single Source Page at <http://www.msha.gov/POV/POVsinglesource.asp>.

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