



**FACT SHEET**  
**FOR MSHA'S FINAL RULE ON PATTERN OF VIOLATIONS**  
**01/17/2013**



MSHA is revising its pattern of violations (POV) regulation in 30 CFR Part 104 to improve the Agency's effectiveness in implementing its POV authority and to allow MSHA to timely focus on mine operators who have demonstrated a disregard for the health and safety of miners through a recurring pattern of significant and substantial (S&S) violations at their mines. This rule will not affect the vast majority of mines that operate in compliance with the Federal Mine Safety and Health Act of 1977 (Mine Act).

**The Final Rule—**

- Eliminates initial screening and the potential POV (PPOV) process.
- 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.
- Increases transparency and promotes a safety culture by posting the specific criteria that MSHA will use in making POV determinations on the Agency's website. MSHA will obtain stakeholder input before revising the specific POV criteria, consistent with the OIG's recommendations.
- Restates the statutory requirement that, for mines in POV status, each S&S violation will result in a withdrawal order until the violation is abated.
- Provides that MSHA's web based monthly Monitoring Tool for POV is available to mine operators and the public. This on-line Monthly Monitoring Tool—
  - Allows mine operators to easily monitor their compliance performance;
  - Reinforces mine operators' responsibility for compliance with MSHA safety and health standards; and
  - Encourages mine operators to take additional measures to reduce S&S violations and improve safety and health protection for miners.
- 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 concrete, meaningful, and measurable benchmarks and reduces S&S violations.
- Consistent with existing policy, allows mine operators to request a safety and health conference to discuss violations, including S&S violations.
- Provides that, after receiving a POV notice, operators can request expedited temporary relief.

## **Background**

- Congress enacted the POV to provide MSHA with an additional enforcement tool to use when other tools had proven ineffective.
- The Mine Act requires MSHA to issue a POV notice to a mine operator who demonstrates a disregard for the health and safety of miners through a recurring pattern of S&S violations. An S&S violation is one that could contribute to a safety or health hazard that is likely to result in a reasonably serious injury or illness.
- The purpose of the POV rule is the restoration of safe and healthful conditions at noncompliant mines.

## **Costs and Benefits**

- MSHA estimates net annualized benefits of approximately \$6.7 million (\$12.6 million benefit – \$5.9 million cost).
- MSHA estimates that the final rule will prevent almost 1,800 injuries over 10 years.