

# PUBLIC SUBMISSION

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**Docket:** MSHA-2011-0001  
Proposed Rule on Pattern of Violations

**Comment On:** MSHA-2011-0001-0001  
Federal Register; notice of close of comment period

**Document:** MSHA-2011-0001-0026  
Comment from Morton Satin, Salt Institute

## Submitter Information

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## General Comment

RIN: 1219-AB73

The Salt Institute represents the major rock salt mining companies in the United States and is not in agreement with the Proposed Rule (PR) for the following reasons:

- The PR is deliberately ambiguous, particularly when referring the criteria and mitigating circumstances upon which 'patterns' of violation will be based. How is it possible to adopt rules while the criteria upon which the rules depend remain undefined?
- Salt mines are by nature inherently safer than others because most are not classified as gassy and salt dust is neither explosive nor siliceous. Salt mines should be excluded from the POV regulation because their safety record is almost on par with all industry and is 77% better than mining in general.
- The PR may result in closure orders issued against mine sites before operators have a chance to discuss, assess or contest the validity/merit of the alleged citations, thereby effectively preventing

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legal due process.

- The PR, requiring no S&S citations in any following comprehensive quarter makes it almost impossible for a mine to be removed from POV status once placed on it.

In summary, the Salt Institute does not believe that this flawed Proposed Rule will enhance safety as it stands. It denies the regulated mining community the ability to clearly comprehend its application bypasses well-established procedures aimed at fostering transparent and accountable government, not to mention a globally-competitive industry sector. The Salt Institute urges you to revise and re-propose this rule to address the flaws described above.

Lori Roman  
President  
Salt Institute

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## **Attachments**

**MSHA-2011-0001-0026.1:** Comment from Morton Satin, Salt Institute



**Salt Institute**

2011 MAY 10 A 10:34

May 10, 2011

The Honorable Joseph Main  
Assistant Secretary of Labor for Mine Safety and Health  
c/o The Office of Standards, Regulations and Variances  
US Department of Labor  
1100 Wilson Boulevard, Rm. 2350  
Arlington, VA 22209-3939

Re: Pattern of Violations RIN: 1219-AB73 (30 CFR Part 104)

Dear Assistant Secretary Main:

The Salt Institute represents the major rock salt mining companies in the United States. We are writing to comment upon the Proposed Rule on Pattern of Violations described in 30 CFR Part 104 - RIN 1219-AB73.

We are not in agreement with the Proposed Rule for the following reasons:

- We believe the proposed Rule is deliberately ambiguous, particularly when referring to the criteria and mitigating circumstances upon which 'patterns' of violation will be based. Since they are the functional core of the rule, how is it possible to provide any meaningful comments in the absence of well-defined criteria?
- How is it possible to adopt rules while the criteria upon which the rules depend remain undefined?
- Salt mines by their geologic nature are inherently safer than others because most are not classified as gassy and salt dust is neither explosive nor siliceous. The 'one size fits all' grouping of mines into the Proposed Rule ignores the exemplary safety record of salt mines and commits MSHA resources to a mining sector with an extremely unlikely potential for POV status.
- The Proposed Rule may result in closure orders issued against mine sites, before the operator has an opportunity to discuss, assess or contest the validity or merit of the alleged citations. Inclusion of questionable and contested S&S (significant and substantial) citations effectively prevents a mine operator obtaining legal due process. Since the proposed rule does not allow an appeal process the Proposed Rule would create significant legal activity.
- The proposed Rule states that once a mine site is placed on POV status it must achieve no S&S citations in an ensuing quarterly inspection in order to be removed from that status. For all practical purposes, achievement of no S&S citations in any comprehensive quarterly inspection is virtually unheard of. As it stands, the Proposed Rule is understood by the regulated mining community to mean that once placed on POV status, it will be impossible to be removed.

The Salt Institute understands the need for equitable and effective use of MSHA regulatory tools in order to achieve safety in the mining environment. However, the Proposed Rule as it stands will not achieve these goals. At a very minimum, in good faith, we recommend the following amendments:

- The Proposed Rule should provide clear, explicit POV criteria.
- The Proposed Rule should describe the scope and provide specific parameters for a “written safety and health management program” and codify this in 30 CFR Part 104.
- The Proposed Rule should consider those mine sites which have traditionally achieved exemplary compliance, accident, injury & illness records and thus already demonstrated no POV.
- The Proposed Rule should exclude salt mines from the POV regulation. The salt mining industry safety rate is 77% better than that of the mining industry generally. In fact, the safety record for salt mines is almost on par with all industry. Salt mines should not be evaluated more than once per year and MSHA should develop separate and specific POV criteria for the various mining sectors – coal, metal, nonmetal, surface mines, underground mines, etc.

In summary, the Salt Institute does not believe that this flawed Proposed Rule will enhance safety as it stands. It denies the regulated mining community the ability to clearly comprehend its application bypasses well-established procedures aimed at fostering transparent and accountable government, not to mention a globally-competitive industry sector. The Salt Institute urges you to revise and re-propose this rule to address the flaws described above.

Sincerely,

Lori Roman  
President  
Salt Institute