



## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

[OMB Control No. 1219-0150]

#### Proposed Extension of Information Collection: Pattern of Violations

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Request for public comments.

**SUMMARY:** The Department of Labor (DOL), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program for all information collections, to provide the public and Federal agencies with an opportunity to comment on proposed collections of information, in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection titled Pattern of Violations.

**DATES:** All comments must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below. Please note that comments received after the deadline will not be considered.

- Federal E-Rulemaking Portal: <https://www.regulations.gov>. Follow the on-line instructions for submitting comments for docket number MSHA-2025-0013.
- Mail/Hand Delivery: DOL-MSHA, Office of Standards, Regulations, and Variances, 200 Constitution Avenue NW, Room C3522, Washington, DC 20210. Before visiting MSHA in person, call 202-693-9455 to make an appointment.

- MSHA will post all comments as well as any attachments, except for information submitted and marked as confidential, in the docket at <https://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** S. Aromie Noe, Director, Office of Standards, Regulations, and Variances, MSHA, at [MSHA.information.collections@dol.gov](mailto:MSHA.information.collections@dol.gov) (email); (202) 693–9440 (voice); or (202) 693–9441 (facsimile). These are not toll-free numbers.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

**A. Legal Authority**

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act) as amended, 30 U.S.C. 813(h), authorizes the Mine Safety and Health Administration (MSHA) to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811(a), authorizes the Secretary of Labor (Secretary) to develop, promulgate, and revise, as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal, metal and nonmetal mines.

The Paperwork Reduction Act (PRA) governs paperwork burdens imposed by Federal agencies on the public for using identical questions to collect information from 10 or more persons. Paperwork burden is defined in 44 U.S.C. 3502(2) as time, effort, or financial resources expended to generate, maintain, or provide information to or for a Federal agency. Under 44 U.S.C. 3507, policies and procedures of information collection are established for controlling paperwork burdens imposed by Federal agencies on the public, including evaluating public comments.

**B. Information Collection**

To fulfill the statutory mandates to promote miners' health and safety, MSHA requires information under the information collection request (ICR) titled "Pattern of Violations". The information collection is intended to use the written corrective action programs (CAP) developed

by mine operators to monitor the progress and effectiveness of operators' efforts to avoid the issuance of pattern of violations (POV) and to restore safe and healthful working conditions in their mines.

The Mine Act requires mine operators to take the ultimate responsibility of ensuring the safety and health of miners. Under 30 CFR part 104, the criteria and procedures to determine whether a mine operator has established a recurring pattern of significant and substantial (S&S) violations of mandatory health and safety standards at the mine. An S&S violation is a type of violation that is regarded to be reasonably likely to result in a serious injury or illness. 30 CFR part 104 implements section 104(e) of the Mine Act, 30 U.S.C. 814(e), regarding POV by addressing mines with an inspection history of recurrent S&S violations that demonstrate a mine operator's disregard for the health and safety of miners. MSHA uses the POV provisions to effectively restore safe and healthy conditions at mines with an established pattern of S&S violations.

Burden costs associated with the ICR includes:

1. Mine operators developing and reviewing caps for MSHA approval and progress review;
2. MSHA issuing POV notices and withdrawal orders;
3. Mine operators posting POV notices; and
4. MSHA posting POV criteria.

Authorization and the associated rule text are described below.

### **1. Mine Operators Developing and Reviewing CAPs for MSHA Approval and Progress Review**

Under 30 CFR 104.2(a), at least once each year, MSHA will review the compliance and accident, injury, and illness records of mines to determine if any mines meet the POV criteria.

MSHA's review to identify mines with a pattern of S&S violations will include:

- (i) Citations for S&S violations;

- (ii) Orders under section 104(b) of the Mine Act for not abating S&S violations;
- (iii) Citations and withdrawal orders under section 104(d) of the Mine Act, resulting from the mine operator's unwarrantable failure to comply;
- (iv) Imminent danger orders under section 107(a) of the Mine Act;
- (v) Orders under section 104(g) of the Mine Act requiring withdrawal of miners who have not received training and who MSHA declares to be a hazard to themselves and others;
- (vi) Enforcement measures, other than section 104(e) of the Mine Act, that have been applied at the mine;
- (vii) Other information that demonstrates a serious safety or health management problem at the mine, such as accident, injury, and illness records; and
- (viii) Mitigating circumstances.

A POV notice could result in a temporary closure of the mine or sections of the mine.

When a mine operator determines that the mine is likely to be issued a POV notice soon (a POV calculator is available on MSHA website, <https://www.msha.gov/data-and-reports/data-sources-and-calculators/pov-calculator>), the operator usually chooses to work with MSHA to develop and submit a written CAP to the District Manager for approval.

An approved CAP is one of the mitigating circumstances of 30 CFR 104.2(a)(8) that MSHA considers when determining whether to issue a POV notice. The CAP is submitted to MSHA to demonstrate planned actions by the operator to address known health and safety violations. The CAP encourages operators to take proactive measures to bring their mines into compliance. Positive CAP results in reducing S&S violations will allow MSHA to monitor demonstrated progress of operator efforts to restore safe and healthful conditions.

## **2. MSHA Issuing POV Notices and Withdrawal Orders**

Under 30 CFR 104.3(a), when a mine has a POV, the District Manager will issue a POV notice to the mine operator that specifies the basis for the Agency's action. The District Manager will also provide a copy of this notice to the representative of miners.

Under 30 CFR 104.3(c), if MSHA finds any S&S violation within 90 days after issuance of the POV notice, MSHA will issue an order for the withdrawal of all persons from the affected area, except those exempted persons referred to in section 104(c) of the Mine Act, until the violation has been abated.

Under 30 CFR 104.3(d), if a withdrawal order is issued, any subsequent S&S violation will result in a withdrawal order that will remain in effect until MSHA determines that the violation has been abated.

### **3. Mine Operators Posting POV Notices**

Under 30 CFR 104.3(b), the mine operator must post the POV notice on the mine bulletin board. The POV notice must remain posted at the mine until terminated by MSHA.

### **4. MSHA Posting POV Criteria**

Under 30 CFR 104.2(b), MSHA will post the specific pattern criteria on its website. The criteria has been posted (<https://www.msha.gov/compliance-and-enforcement/pattern-violations-pov>) and no further cost is involved.

## **II. Desired Focus of Comments**

MSHA is soliciting comments concerning the proposed information collection titled "Pattern of Violations". MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and

- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The information collection request is available on <https://www.regulations.gov>. MSHA cautions commenters against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on <https://www.regulations.gov> and <https://www.reginfo.gov>.

The public may also examine publicly available documents at DOL-MSHA, Office of Standards, Regulations and Variances, 200 Constitution Avenue NW, Room C3522, Washington, DC 20210. Before visiting MSHA in person, call 202-693-9455 to make an appointment.

Questions about the information collection requirements may be directed to the person listed in the FOR FURTHER INFORMATION CONTACT section of this notice.

### **III. Current Actions**

This information collection request concerns provisions for Pattern of Violations. MSHA has updated the data with respect to the number of respondents, responses, time burden, and burden costs supporting this information collection request from the previous information collection request.

*Type of Review:* Extension, without change, of a currently approved collection

*Agency:* Mine Safety and Health Administration

*OMB Number:* 1219-0150

*Affected Public:* Business or other for-profit

*Number of Annual Respondents:* 15

*Frequency:* On occasion

*Number of Annual Responses:* 21

*Annual Time Burden: 1,664 hours*

*Annual Other Burden Costs \$2,801*

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the proposed information collection request; they will become a matter of public record and be available at <https://www.reginfo.gov>.

**Song-ae Aromie Noe,**

*Certifying Officer,*

*Mine Safety and Health Administration.*

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