

Understanding MSHA's Impact Inspections

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This may say more about how we spend our free time, but we pay considerable attention to the Mine Safety and Health Administration's (MSHA) monthly press releases about their impact inspection results.

Quick Hits

- In 2023, MSHA impact inspections at 176 mines produced 2,739 citations and orders, about 28 percent of which were significant and substantial, which exceeded the national average for all inspections combined.
- Violation history appears to be the key factor MSHA uses when determining whether to initiate an impact inspection.
- Regular inspections and impact inspections by MSHA appear to be conducted on significantly different playing fields when it comes to evaluating conditions found.

We parse the findings and compare the inspection results to the goals emphasized in the release's commentary. It's not that we have a morbid curiosity about which operators get stung each month. Rather, it's that we want to see if the agency's expressed goals for this enforcement tool are being accomplished.

What We've Found

When MSHA resumed its monthly public reporting of [impact inspection results](#) in March 2023, the agency stated that it "conducts impact inspections at mines that merit increased agency attention and enforcement due to factors that include poor compliance history; previous accidents, injuries, and illnesses; and other compliance concerns."

That release went on to document the results of impact inspections conducted at twenty-five mines (metal/nonmetal and coal) in January and February of that year. The impact inspections produced 374 citations—113 of which were marked significant and substantial (S&S).

In addition, the agency noted that thirteen of the citations alleged unwarrantable failures on the part

of the operators.

The 30 percent S&S ratio greatly exceeded the national average that usually hovers around the low 20s, but the great majority of citations (261) were non-S&S. Ten of the thirteen unwarrantable failure citations/orders are currently being contested, so it is difficult to fully evaluate MSHA Assistant Secretary Chris Williamson's conclusion in the release that the impact inspections "uncovered serious violations, demonstrating that they remain an important enforcement tool to address safety and health issues at mines with poor compliance histories."

Across all of 2023, MSHA impact inspections at 176 mines produced 2,739 citations and orders—764 of which were marked S&S. That nearly 28 percent S&S ratio over twelve months was closer to, but still exceeded, the national average for all inspections combined. MSHA also issued a total of fifty-six unwarrantable failure findings, many of which are still in contest.

An admittedly less-than-scientific review of these numbers bears out some of the industry concerns about impact inspections. Specifically, those concerns have been that if three or four inspectors show up at an operation—sometimes with a field office supervisor in tow—there is a greater chance that there will be a higher percentage of S&S and heightened-gravity citations issued than in regular inspections.

It is understandable that if the inspection team is directed to an operation with the prompt that it is a problem site with a high violation history, there is a good chance that that team is going to be more inclined to evaluate a higher likelihood of injury and gravity in greater numbers than in a regular inspection. To be fair, some impact inspections do not produce many citations.

While there are a number of criteria that MSHA considers in determining whether to initiate an impact inspection—violation history, operator tactics, hazard complaints, plan compliance issues, inadequate exams, accident/injury rates, fatal accidents, adverse conditions, respirable dust issues, and operational changes—violation history is clearly the chief factor.

Consequently, when inspectors are evaluating how to write the citation, it often seems that violation history—especially repeat history—overwhelms mitigating factors such as personal protective equipment (PPE), lack of exposure, and lack of knowledge to justify S&S and higher-negligence allegations.

There have been situations in which, for instance, a housekeeping condition that has just occurred—about which management is not aware and in an area with very little exposure to personnel—that would generally, in a regular inspection, be evaluated as non-S&S and low or moderate negligence, may yield different results in the context of an MSHA impact inspection. In an impact inspection, the narrative for that same citation will often stress the number of times the standard has been cited over the last fifteen months and evaluate the citation as S&S and high negligence.

Key Takeaways

The industry is focused on addressing the [fatal accident spike](#) that occurred over the last few years. MSHA sees impact inspections as a tool to handle that crisis.

That may be the case, but a year's worth of numbers appears to indicate that regular inspections and impact inspections are conducted on significantly different playing fields.

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