

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074
MINORITY (202) 225-5051

<https://oversight.house.gov>

October 3, 2023

The Honorable Christopher Williamson
Assistant Secretary
Mine Safety and Health Administration
U.S. Department of Labor
201 12th Street South
Arlington, VA 22202-5450

Assistant Secretary Williamson,

It has come to our attention that the Mine Safety and Health Administration (MSHA) has not adhered to its own regulations and procedures concerning the recent Pattern of Violations (POV) notice issued to Morton Salt Inc.'s Weeks Island Mine and Mill in New Iberia, Louisiana. This action, the first of its kind since 2014, raises concerns about the procedures and criteria used by the MSHA in its decision-making process.

Upon identifying a pattern of violations, MSHA's standard procedure includes notifying the mine operator and providing it with the opportunity to implement a Corrective Action Program (CAP). Morton Salt proactively engaged with MSHA to implement corrective measures as early as May 2022, even before submitting a CAP to MSHA for its approval in June of 2022. These efforts resulted in a significant reduction in enforcement actions before MSHA formally approved the CAP in October 2022.

The International Chemical Workers Union Council of the UFCW, the union at Weeks Island, noted significant improvements and urged MSHA to allow the CAP to be fully implemented. However, MSHA did not follow its own regulations, ignored mitigating circumstances, and prematurely issued a POV notice, which Congress authorized MSHA to use only as a "last resort." MSHA's actions and forthcoming decisions will have profound implications for Morton Salt and the livelihood of its employees.

To assist our efforts in conducting oversight of this matter, please provide a staff-level briefing as soon as possible, but no later than October 13, 2023. Briefers should be prepared to adequately address the following questions and provide supporting documentation:

1. Given that mine operators have access to a POV monitoring tool and the ability to implement an MSHA-approved CAP, please specify the metrics used to assess the

ineffectiveness of corrective adjustments before issuing a POV notice.

2. Weeks Island has a commendable safety and health record over the course of its operation. Please provide the data and supporting materials to back the allegation Morton exhibited a consistent disregard for the safety and health of miners at Weeks Island.
3. Why was the POV enforcement tool, which is intended by Congress to be used as a “last resort,” invoked almost immediately after MSHA’s approval of the CAP? What data did MSHA use to make this decision?
4. Morton received a POV less than six weeks after MSHA formally approved the CAP. Is six weeks considered to be an adequate “opportunity” for CAP implementation?
5. If a mine operator like Morton with a solid safety record is implementing an MSHA-approved CAP, what other options are available to an operator to address the root causes of a spike in enforcement?
6. Why wasn’t the MSHA-approved CAP considered a mitigating circumstance to postpone the issuance of the POV notice?
7. MSHA is required to conduct reviews under 30 C.F.R. Part 104 at least once a year. When were these reviews conducted in 2022 and 2023 to determine if any mines met POV criteria? Who conducted these reviews and how were the review periods determined?
8. We understand that when MSHA issued the POV notice to Weeks Island on December 1, 2022, the Weeks Island mine did not even meet the specific pattern criteria publicly listed on MSHA’s website. Did MSHA consider this as a mitigating circumstance before issuing the POV Notice?
9. In the past five years, how many mines under MSHA’s regulation met the POV criteria during any 12-month screening period and were not issued a POV notice? Of those mines, how many implemented a CAP approved by MSHA?
10. How many citations and orders issued during the screening window have been contested or challenged by Morton and subsequently modified or vacated? How many alleged violations are currently in contest before the Federal Mine Health and Safety Commission? We understand MSHA relied heavily on non-final or unadjudicated enforcement actions to justify the POV notice. What did MSHA do to evaluate the merit of the alleged violations it relied on to justify the issuance of the POV notice?
11. How often does MSHA complete regular inspections of large (>100 miners) underground metal/non-metal mines without issuing any citations or orders? How often does MSHA complete regular inspections of large (>100 miners) underground metal/non-metal mines without issuing any citations or orders alleging significant and substantial violations?

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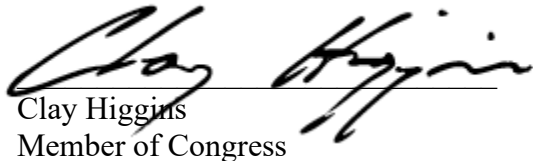
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Please provide specific examples. For each example of a “clean” inspection, provide the number of all citations and orders, including Significant & Substantial violations MSHA issued to the mine during the next regular inspection after the “clean” inspection.


12. Please detail MSHA’s conflict of interest policy for inspectors.

The Committee on Oversight and Accountability is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X. Thank you in advance for cooperating with this inquiry.

Respectfully,



Clay Higgins
Member of Congress



James Comer
Chairman
Committee on Oversight and Accountability

cc: The Honorable Jamie Raskin, Ranking Member
Committee on Oversight and Accountability