



INSIGHTS JANUARY 2012 - ADMINISTRATION/CONGRESS

SEC MINE SAFETY DISCLOSURE RULE

The Securities and Exchange Commission (SEC) issued a final rule in December on requirements for publicly traded mining companies to report MSHA enforcement actions, fatalities and legal actions on quarterly and annual financial disclosure statements. The regulation was mandated by Wall Street reform legislation enacted following the economic meltdown which began in 2007.

Under the requirements, reporting companies must provide information on each of their mines. Enforcement information consists of Mine Act Sec. 104 citations and orders classified as S&S, failure to abate orders, warrantable failure citations and orders, flagrant violations, imminent danger orders and the dollar value of proposed assessments, whether contested or not, during the reporting period. Notices of a pattern or potential pattern of violations are also reportable, as are mining-related fatalities.

In reporting pending legal actions before the Review Commission, disclosure must include the total number of legal actions pending as of the last day of the reporting period and the aggregate number of legal actions instituted and resolved during the reporting period. In addition, mining companies must file a Form 8-K within four business days if they receive notice of an imminent danger order or notice of a pattern or potential pattern of violations. The rule becomes effective January 27. The new rule was the subject of a *Patton Boggs Client Alert* issued January 4. For more information on the new requirements, contact Henry Chajet (hchajet@pattonboggs.com, 202-457-6511), or Mark Savit (msavit@pattonboggs.com, 303-894-6117).

Important Note: This document does not constitute legal advice and counsel should be consulted regarding specific factual situations which will determine the compliance advice applicable to any particular question regarding the subject matter. If you would like additional information or advice and counsel on training, compliance or audits, please let us know.
