



NOV 19, 2020

MEMORANDUM FOR PATRICIA W. SILVEY

Deputy Assistant Secretary for
Mine Safety and Health Administration

THROUGH:

[REDACTED]
TIMOTHY R. WATKINS
Administrator for
Mine Safety and Health Enforcement

FROM:

[REDACTED]
THOMAS W. CHARBONEAU
Director, Office of Assessments

SUBJECT:

Mine Safety and Health Administration (MSHA)
Accountability Division Review
Warrendale District and [REDACTED]
[REDACTED]

Introduction

This memorandum summarizes the Accountability Division's review of the Warrendale District and the [REDACTED]. The review focused on enforcement activities at the [REDACTED]. The review also included evaluation of District and Field Office field activities, level of enforcement, and MSHA supervisory and managerial oversight activities.

Purpose

The purpose of this accountability review was to determine whether MSHA enforcement policies, procedures and guidance were being followed consistently and to assess whether mission critical enforcement activities were accomplished.

Overview

Accountability Division Specialist Troy Davis conducted the review in [REDACTED] in accordance with the annual accountability review plan schedule. The review focused on a Regular Safety and Health Inspection (E01) at the [REDACTED], Event No. [REDACTED] completed in [REDACTED]. The review also included other areas of District and Field Office oversight as identified in the attached Accountability Division Checklist (Attachment C). Due to travel restrictions resulting from the March 2020 National Emergency Declaration, the site visit portion of the review could not be performed.

Mine Site Information

The mine is an [REDACTED] mining operation located in [REDACTED]. It employs approximately [REDACTED] employees working two ten-hour shifts per day, five days a week. The material is drilled, blasted, and transported to an on-site processing facility.

Review Results

In December 2019, the inspection procedures handbooks for metal and nonmetal and coal mines were combined into one handbook, Mine Safety and Health Enforcement General Inspection Procedures Handbook, PH19-IV/V-1, December 2019 (GIPH).

For the E01 reviewed, the inspector completed a thorough inspection of the entire mine. The inspector issued six enforcement actions for violations observed, documented the operator's timely correction of the conditions, and terminated the citations.

Positive findings for this review included:

- Inspectors documented with detail the inspection areas and equipment.
- [REDACTED] Supervisor thoroughly documented Field Activity Reviews (FARs) and Office Reviews (ORs) identifying both strengths and areas where improvement is needed.

- [REDACTED]

This accountability review identified three issues that required a corrective action plan. District staff along with Specialist Davis analyzed the findings identified during this review to determine the root causes of the issues. The corrective action plan memorandum outlining the root causes of the issues and corrective actions implemented is included in an attachment to this memorandum (Attachment A).

Issue 1 - Documentation for inspections were not documented according to inspection procedures (Attachment D).

- For ten inspection reports reviewed (Nine E02 spot inspections and the E01 inspection report) the results for air samples were not included in inspections reports.
- There was no documentation in the notes that the multi-gas detector used four days during the E01 inspection reviewed had been calibrated or performance (bump) tested prior to use.
- For six inspection reports reviewed the Inspection Summary Report page was incorrect. Air samples were taken during the inspections and the summary report depicted zero samples taken. On one event the citation count was incorrect; eight citations had been issued and the summary report depicted five.

Issue 2 - Hazard Complaint inspections/investigations were not being conducted according to policy and procedures (Attachment D).

- For three of ten hazardous condition complaint inspection reports reviewed, seven citations were issued unrelated to the complaint allegations.

Issue 3 – The Mine Information Form (MSHA Form 2000-209) had not been updated during the E01 inspection reviewed (Attachment D).

- The mine had reductions in the workforce and changes in work schedule since the last regular inspection and the 2000-209 was not updated during the inspection.

Specialist Davis discussed with District personnel some inspection and procedural best practices. A general outline of discussion topics is included in an attachment to this memorandum (Attachment B).

Based on the review of the E01 inspection report, Event No. [REDACTED], and discussions with District management, the enforcement levels appeared to be appropriate for the mine.

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Attachment A – Corrective Action Plan

U.S. Department of Labor

Mine Safety and Health Administration
Thorn Hill Industrial Park
178 Thorn Hill Road, Suite 100
Warrendale, PA 15086
Phone: (724) 772-2334



October 22, 2020

MEMORANDUM FOR THOMAS H. CHARBONEAU
Director, Office of Assessments

THROUGH: SAMUEL K. PIERCE [REDACTED]
Regional Administrator for East Region
Mine Safety and Health Enforcement

FROM: PETER J. MONTALI [REDACTED]
District Manager
East Region, Warrendale District

SUBJECT: Proposed Corrective Actions Plan

This is a response to the review conducted by the Accountability Division [REDACTED] for the Warrendale District and [REDACTED]. The results of your review identified three deficiencies, which are required to be addressed by this district.

Issue 1 – Inspection documentation was not in accordance with inspection procedures. (Accountability Division Checklist Item #2)

- Ten inspection reports reviewed (nine E02 spot inspections and the E01 inspection report) did not include the air sample reports.
- The notes for the reviewed E01 inspection did not document any calibration or performance (bump) testing for the multi-gas detector used during four days of the inspection.
- Inspection Summary Report pages were incorrect for six reviewed reports. The summary report did not reflect the correct air sampling activity, and one summary report indicated five citations had been issued, when eight citations had been issued.

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ROOT CAUSE:

Air sample analysis results are generally received after an inspection has been completed and the Inspector has submitted the associated report. The analysis reports are delivered through email and added to the inspection report by the [REDACTED] upon receipt. The [REDACTED] did not have an [REDACTED] [REDACTED] Various personnel assisted with the [REDACTED] duties while the position was vacant, but not all analysis reports received from the lab were added to previously filed inspection reports.

All multi-gas detectors at the [REDACTED] are calibrated regularly and in accordance with manufacturer's specifications. Current calibration certificates are provided with each gas detector available for use. The inspector did not include a copy of the calibration certificate in the report or note bump tests in the inspection notes.

After the January, 2020 incorporation of the Mine Inspection Summary Report (MISR) page into the Inspection Application System, programming issues prevented a portion of the automated summaries from accurately updating on the page. Issuance counts would not update until after all Authorized Representatives (AR) had uploaded their final batch, all batches had been released from staging into MSHA Standardized Information System (MSIS) and the Lead AR had updated from MSIS again. In addition, the air sample count was not updating as designed and currently only updates after laboratory analysis has been completed and uploaded. Since these were known programming issues, inspectors were directed to make note of the correct counts in their reports, including on the 4000-49A form which was still included in the inspection reports, but did not always update the MISR page as well.

PROPOSED CORRECTIVE ACTIONS:

The [REDACTED] will be added to the analysis report email distribution list, will receive the results from the lab and will place them in the appropriate inspection report upon receipt.

Multi-gas detectors will continue to be calibrated and maintained in accordance with manufacturer's specifications. A copy of the current calibration certificate provided with each multi-gas detector will be included in each inspection report in which the detector was used. Inspection notes for an event where a multi-gas detector is used will include a notation indicating the gas detector number, a copy of the calibration certificate and a specific notation indicating the bump test conducted.

Inspectors will continue to update the 4000-49A form already included in inspection reports to accurately reflect the total issuance and sample counts. The MISR page will have handwritten updates prior to submitting the inspection report or will be re-printed

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and added to the existing file after all laboratory analysis is completed and all samples have been entered into MSIS.

OFFICE OR POSITION RESPONSIBLE FOR IMPLEMENTING THE CORRECTIVE ACTION(S):

The Assistant District Manager with oversight responsibilities over the [REDACTED] will ensure the following:

- Analysis reports are placed in the appropriate inspection reports upon receipt.
- Multi-gas detector numbers, calibration certificates and bump tests are documented and included in the inspection reports when a multi-gas detector is utilized during an inspection.
- Inspectors will continue to complete the 4000-49A form including notations indicating sample and citation counts and will ensure pen and ink changes are made, when necessary, on the MISR to accurately reflect the count summaries on the page if the MISR did not electronically update.

TIMEFRAME FOR COMPLETION OF EACH CORRECTIVE ACTION:

The [REDACTED] has already been added to the analysis report email distribution list and receives the reports. All analysis reports, including air sample reports, are added to the corresponding inspection reports upon receipt.

Inclusion of multi-gas detector unit numbers, calibration certificates and bump test annotations will be implemented immediately for calendar year 2020 Fourth Quarter underground inspections.

Inspectors will continue to complete the 4000-49A form including notations indicating sample and citation counts as they did prior to the January, 2020 General Inspection Procedures Handbook (GIPH) update and have continued to do since. Effective immediately, inspectors will ensure handwritten updates are made, when necessary, on the MISR.

METHOD FOR DETERMINING SUCCESS:

The [REDACTED] Supervisor reviewed each inspection report submitted for underground mines during the period of time in which the [REDACTED] position was vacant and verified that the applicable gas sample analytical reports have been included in the inspection report. The Supervisor will continue to review each report to ensure the analytical results have been added to the reports.

The [REDACTED] Supervisor will review each inspection report submitted for underground mines to ensure inspectors are including the multi-gas detector unit number,

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calibration certificate and bump test notation in the report. The Assistant District Manager with oversight responsibilities over the [REDACTED] will spot check 25% of the underground inspection reports prepared by the [REDACTED] to ensure compliance.

The [REDACTED] Supervisor will review each inspection report submitted to ensure handwritten updates have been made, when necessary, on the MISR and inspectors have completed the 4000-49A form, including notations indicating sample and citation counts, as they did prior to the January, 2020 GIPH update and have continued to do since.

Issue 2 - Hazard Complaint inspections/investigations were not being conducted according to policy and procedures (Accountability Division Checklist Item #21)

For three of ten hazardous condition complaint inspection reports reviewed, seven citations were issued unrelated to the complaint allegations.

ROOT CAUSE:

Inspectors had not opened a separate event on which to address violative conditions they observed during their complaint investigations. This resulted in citations being issued under the incorrect event code.

PROPOSED CORRECTIVE ACTIONS:

Authorized Representatives will ensure that only conditions specific to the allegations contained in the complaint are cited on the Hazard Complaint Investigation Event.

OFFICE OR POSITION RESPONSIBLE FOR IMPLEMENTING THE CORRECTIVE ACTION(S):

The Warrendale District Office Staff Assistant issued notification to the entire District to remind all Authorized Representatives that only conditions specific to the allegations contained in the complaint are to be cited on the Hazard Complaint Investigation.

TIMEFRAME FOR COMPLETION OF EACH CORRECTIVE ACTION:

All Authorized Representatives within the District have been instructed to ensure that only conditions specific to the allegations contained in the complaint are cited on the Hazard Complaint Investigation. An additional reminder of this instruction has been included on each email containing a hazard complaint assignment since this issue was discovered.

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METHOD FOR DETERMINING SUCCESS:

The [REDACTED] Supervisor will review all issuances contained in each Hazard Complaint inspection report submitted to ensure the issuances are related to the complaint. In addition, the Warrendale District Office Staff Assistant will randomly check no less than 10% of the submitted Hazard Complaint investigation reports to ensure all associated issuances are relevant to the complaint. The Warrendale District Staff Assistant will report to the Assistant District Manager with oversight responsibilities over the [REDACTED] when this is complete.

Issue 3 – The Mine Information Form (MSHA Form 2000-209) had not been updated during the E01 inspection reviewed (Accountability Division Checklist Item #34)

The mine had reductions in the workforce since the last regular inspection and the 2000-209 was not updated during the inspection.

ROOT CAUSE:

A number of mine employees had been temporarily furloughed in April, 2020, as a result of the COVID-19 pandemic. Since this furlough was not expected to be long-lasting and the mine was expected to return to normal operations as soon as possible, a 2000-209 form was not submitted to change the number of mine employees. Part 50 employment reporting for the Second Quarter 2020 showed no significant decrease in the average number of employees working at the mine.

PROPOSED CORRECTIVE ACTIONS:

The 2000-209 form will continue to be reviewed for accuracy during each regular inspection. Given the ambiguous nature of the direction given in Chapter 2, Subpart C of the GIPH, if any inconsistencies between the number of miners at the mine on that specific inspection day and the number of miners listed in the current 2000-209 form exist, the difference will be noted and an update will be submitted upon return to the Field Office after completion of that inspection.

OFFICE OR POSITION RESPONSIBLE FOR IMPLEMENTING THE CORRECTIVE ACTION(S):

The Assistant District Manager with oversight responsibilities over the [REDACTED] will require inspectors to review the 2000-209 forms, complete an updated form when necessary and submit it to the Field Office Supervisor upon return to the Field Office after completing the inspection. After the Field Office Supervisor has reviewed and approved the update request, the Field Office Assistant will enter the update into MSIS.

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TIMEFRAME FOR COMPLETION OF EACH CORRECTIVE ACTION:

Beginning immediately, inspectors will submit an updated 2000-209 form after each regular inspection in which any inconsistencies exist between the number of miners at the mine on that inspection day and the number of miners listed in the current 2000-209 form.

METHOD FOR DETERMINING SUCCESS:

The [REDACTED] Supervisor will review each 2000-209 update request and compare the number of employees listed in the inspection report to the number of employees listed on the form. In addition, the [REDACTED] Supervisor will verify that the updated 2000-209 forms have been processed by logging into MSIS and spot checking no less than 10% of the submitted update forms to ensure the number of miners listed on the 2000-209 form matches the number of miners listed in MSIS. The Assistant District Manager with oversight responsibilities over the [REDACTED] will verify that this is being completed by spot checking reports submitted with Field Accompanied Reviews and Desk Reviews that are submitted for second level review.

A DESCRIPTION OF THE DOCUMENTATION THAT WILL DEMONSTRATE CLOSURE OF THE CORRECTIVE ACTIONS:

The District Manager will send a memorandum to Thomas W. Charboneau, Director, Office of Assessments through Mohamed Aboelmagd, Supervisor, Office of Accountability, and through Samuel Pierce, Regional Administrator for Mine Safety and Health Enforcement upon completion and evaluation of the corrective actions.

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Attachment B – Discussion Topics

The follows topics were discussed during the close-out with District staff:

- Inspection on all shifts
- Accompanying the examiner during the course of the inspection
- Discussions with miners on health and safety, work practices, accident history, mine specific hazards, to include the location of talks and number of miners
- Observation of work practices
- Accurate completion of MSHA Forms 4000-49A and B
- Discussions with miners to determine if familiar with escapeway routes and evacuation procedures
- Discussed inspector use of the mine operator's multi-gas detector for air quality measurements during the first day of inspection underground.

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Attachment C - Accountability Division Checklist

Some questions may not be applicable to the particular mine site or office and would not be a part of this review.

Questions 1-16 apply to the regular mine inspection report reviewed and the mine site visit.

Question Number	Question	Answer
Question 1	Determine if complete and thorough E01 inspections are being conducted and/or if policy and procedures were properly followed.	Adequate – Yes Corrective Action Needed – No Comments – None
Question 2	Determine if documentation for inspections are documented according to inspection procedures.	Adequate – No Corrective Action Needed – Yes Comments – See attachment D
Question 3	Determine if citations and orders issued during previous inspections were properly evaluated for gravity, negligence, level of enforcement, number of persons affected, and supported by documentation.	Adequate – Yes Corrective Action Needed – No Comments – None
Question 4	Evaluate examination of required record books and postings for compliance with applicable standards.	Adequate – Yes Corrective Action Needed – No Comments –None
Question 5	Evaluate examination of the required mine maps.	Adequate – Yes Corrective Action Needed – No Comments – None
Question 6	Evaluate the observation of the mining cycle and conditions in the active working area during the review.	Adequate – Yes Corrective Action Needed – No Comments – None

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Question Number	Question	Answer
Question 7	Evaluate the air quantity, quality, and gas checks during the review.	Adequate – Yes Corrective Action Needed – No Comments – None
Question 8	Evaluate the examination of electrical equipment, transformer stations, and/or electrical circuits.	Adequate – Yes Corrective Action Needed – No Comments –None
Question 9	Evaluate examination for permissibility during the review.	Adequate – Not applicable Corrective Action Needed – No Comments – This item does not apply to the mine reviewed.
Question 10	Determine if E01 inspections include examinations of the conveyor belts, belt drives, belt entries.	Adequate – Yes Corrective Action Needed – No Comments – None
Question 11	Evaluate, during the review, the inspection of at least one set of seals, including methods for obtaining samples from sealed area.	Adequate – Not applicable Corrective Action Needed – No Comments – This item does not apply to the mine reviewed.
Question 12	Determine if close-out discussions are being conducted.	Adequate – Yes Corrective Action Needed – No Comments - None

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Question Number	Question	Answer
Question 13	Determine, for coal mines only, after an in-mine visit, if approved plans (Ventilation, Roof Control, Emergency Response Plan (ERP), etc.) are compatible with mining conditions and equipment.	Adequate – Not Applicable Corrective Action Needed – No Comments – This item does not apply to the mine reviewed.
Question 14	Determine if a proper examination of the Atmospheric Monitoring System (AMS) and Automatic Fire Sensor and Warning Device is being conducted.	Adequate – Not applicable Corrective Action Needed – No Comments – This item does not apply to the mine reviewed.
Question 15	Determine if proper procedures for conducting, documenting, and reviewing MSHA health inspections are being followed.	Adequate – Not Applicable Corrective Action Needed – No Comments – No health sampling conducted in the E01 inspection reviewed.
Question 16	Evaluate the overall condition of the mine relative to the level of enforcement documented in previously completed inspections.	Adequate – Yes Corrective Action Needed – No Comments – None

Questions 17-35 apply to Field Office and District specific items.

Question Number	Question	Answer
Question 17	Determine if inspectors have sufficient equipment and supplies to conduct thorough inspections.	Adequate – Yes Corrective Action Needed – No Comments – None

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Question Number	Question	Answer
Question 18	Determine if inspectors have an understanding of when a violation of Section 103(a) for Advance Notice occurs and whether appropriate citations are issued for Advance Notice.	Adequate – Yes Corrective Action Needed – No Comments - None
Question 19	Determine if the District Manager has made a determination to initiate or decline investigation within 30 calendar days for Possible Knowing/Willful (PKW) Reviews.	
Question 20	Evaluate 103(i) spot inspection (E02) reports for the office/district being reviewed for compliance with agency policies and procedures.	Adequate – Yes Corrective Action Needed – No Comments – None
Question 21	Determine if Hazard Complaint inspections/investigations are being conducted according to policy and procedures.	Adequate – No Corrective Action Needed – Yes Comments – See attachment D
Question 22	Determine if supervisors are monitoring inspector time and activity to ensure proper use of time, including off-shift and weekend work, by all inspectors.	Adequate – Yes Corrective Action Needed – No Comments – None
Question 23	Determine if required supervisory accompanied activities and office reviews are being conducted and documented according to agency policy and procedures.	Adequate – Yes Corrective Action Needed – No Comments – None
Question 24	Determine if a 104(d) tracking system is in place and being kept current at the office being reviewed.	Adequate – Yes Corrective Action Needed – No Comments – None

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Question Number	Question	Answer
Question 25	Determine if the Electronic Mine Files are being maintained and reviewed according to current agency policy and procedures.	Adequate – Yes Corrective Action Needed – No Comments – None
Question 26	Determine if supervisors are rotating the mine assignments at least annually among inspectors assigned to their Field Office.	Adequate – Yes Corrective Action Needed – No Comments – None
Question 27	Determine if retraining for supervisors, inspectors, and specialists is up to date and being tracked.	Adequate – Yes Corrective Action Needed – No Comments – None
Question 28	Determine if District Managers, Assistant District Managers, and supervisors are conducting required mine visits and properly completing the required spreadsheet.	Adequate – Not applicable Corrective Action Needed – No Comments – This item does not apply to the field office reviewed.
Question 29	Determine if supervisors are visiting each active underground mine at least annually.	Adequate – Not applicable Corrective Action Needed – No Comments – This item does not apply to the field office reviewed.
Question 30	Determine if plan reviews are in compliance with current agency policy and procedures.	Adequate – Not applicable Corrective Action Needed – No Comments – Not part of this review.
Question 31	Determine if Assistant District Managers are conducting the required second level reviews.	<div style="background-color: black; width: 100px; height: 15px;"></div> <div style="background-color: black; width: 200px; height: 15px;"></div> <div style="background-color: black; width: 80px; height: 15px;"></div>
Question 32	Determine if district management personnel are reviewing work products and reports for accuracy and completeness.	Adequate – Yes Corrective Action Needed – No Comments – None

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Question Number	Question	Answer
Question 33	Determine if managers and supervisors are using standardized reports to review critical data relevant to inspections and investigations.	Adequate – Yes Corrective Action Needed – No Comments – None
Question 34	Determine if information (mine status, methane liberation, number of employees, etc.) is being entered into the MSHA Standardized Information System (MSIS) accurately and in a timely manner.	Adequate – No Corrective Action Needed – Yes Comments – See attachment D
Question 35	<p>Determine if the District’s Roof Control Plan Review Standard Operating Procedures (SOP) follow established Program Policy Manual requirements and include guidance to follow the Roof Control Plan Review Handbook to include:</p> <ul style="list-style-type: none"> • Checking that required information is submitted • Checking for communication with other plan approval groups • Assuring that designated MSHA personnel contact the operator for additional information • Discussing results of on-site evaluations with the operator and identified miners’ representatives 	<p>Adequate – Not applicable</p> <p>Corrective Action Needed – No</p> <p>Comments – This question applies to districts with underground coal mines.</p>

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Attachment D – Issues Requiring a Corrective Action Plan

Issue 1 - Documentation for inspections were not documented according to inspection procedures. (Checklist question 2)

- For ten inspection reports reviewed (Nine E02 spot inspections and the E01 inspection report) the results for air samples were not included in inspections reports.

Requirement: GIPH page 4-6: The results of all air samples sent to the MSHA laboratory for analysis will be emailed to the appropriate field and district office supervisor and assistant. The results shall be included with the inspection report.

- There was no documentation in the notes that the multi-gas detector used four days during the E01 inspection reviewed had been calibrated or performance (bump) tested prior to use.

Requirement: GIPH page 2-3: Multi-gas detectors used by enforcement personnel will be performance- (“bump”) tested before use. Instruments that fail the “bump” test must be recalibrated prior to use in the field. “Bump” tests will be documented in the notes.

- For six inspection reports reviewed the Inspection Summary Report page was incorrect. Air samples were taken during the inspections and the summary report depicted zero samples taken. On one event the citation count was incorrect; eight citations had been issued and the summary report depicted five.

Requirement: GIPH page 2-3: The inspector will generate an Inspection Summary Report to submit as a cover page for the inspection report once the event is closed. The report is maintained in the IAS system and may be updated as needed until the event is closed. The Inspection Summary Report will contain: number of samples collected and inspection results.

Issue 2 - Hazard Condition Complaint inspections/investigations were not being conducted according to policy and procedures. (Checklist question 21)

- For three of ten hazardous condition complaint inspection reports reviewed, seven citations were issued unrelated to the complaint allegations.

Requirement: Hazardous Condition Complaint Procedures Handbook, PH15-I-08(2) May 20, 2020 page 7: The authorized representative (AR) shall cite all observed violations related to the allegations of the hazardous condition complaint. The AR shall cite on a separate event, violations observed during the investigation not related to conditions or practices alleged in the complaint.

Issue 3 – The Mine Information Form (MSHA Form 2000-209) had not been updated during the E01 inspection reviewed. (Checklist question 34)

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- The mine had reductions in the workforce and changes in work schedule since the last regular inspection and the 2000-209 was not updated during the inspection.

Requirement: GIPH page 2-1: The Mine Information Form (MSHA Form 2000-209) must be updated and submitted whenever a change or update in the mine status occurs. Any time information is updated, complete the first four items plus the information that is being changed. All other items on this form shall be reviewed for completeness and accuracy during each regular inspection of the mine and updated accordingly.