



MAY 20, 2022

MEMORANDUM FOR PATRICIA W. SILVEY

Deputy Assistant Secretary for
Mine Safety and Health

[REDACTED]

THROUGH:

NANCY M. ROONEY
Administrator for
Mine Safety and Health Enforcement

[REDACTED]

FROM:

THOMAS W. CHARBONEAU
Director, Office of Assessments

SUBJECT:

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

Introduction

This memorandum summarizes the Accountability Division's review of the Morgantown District and the [REDACTED]. The review focused on enforcement activities at the [REDACTED]. The review also included an evaluation of District and Field Office 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 followed consistently and to assess whether mission-critical enforcement activities were accomplished.

Overview

Accountability Division Specialist Troy Davis conducted the review in [REDACTED]. The review focused on a Regular Safety and Health Inspection (E01) at [REDACTED] Event No. [REDACTED]. The [REDACTED] is an underground coal mine operation located in [REDACTED]. The review also included areas of District and Field Office responsibility as identified in the attached Accountability Division Checklist (Attachment B). Due to travel restrictions resulting from the February 2021 National Emergency and continuing in effect beyond March 1, 2021, the site visit portion of the review could not be performed.

Review Results

Based on the review of the E01 inspection report, Event No. [REDACTED], and discussions with the Field Office and District management, the level of enforcement was appropriate for the mine.

This review identified two issues that required a Corrective Action Plan.

Issue 1: Documentation for inspections did not conform to established inspection procedures (Attachment C).

Issue 2: Hazardous Condition Complaint inspections were not being conducted according to policy and procedures (Attachment C).

The District developed and implemented a Corrective Action Plan (Attachment A). Specialist Davis also discussed with District personnel some inspection and procedural best practices (Attachment D).

Attachment A: Corrective Action Plan

September 17, 2021

MEMORANDUM FOR THOMAS W. CHARBONEAU
Director, Office of Assessments

THROUGH: NANCY M. ROONEY [REDACTED]
Administrator for
Mine Safety and Health Enforcement

THROUGH: MOHAMED ABOELMAGD [REDACTED]
Chief, Accountability Division

FROM: CARLOS T. MOSLEY [REDACTED]
District Manager
East Region, Morgantown District

SUBJECT: Corrective Action Plan

This is a response to the review conducted by the Accountability Division in [REDACTED] for the Morgantown District and [REDACTED]. The results of the review identified two issues, which are required to be addressed.

Issue 1 (Accountability Checklist Question 2): Documentation for inspections did not conform to established inspection procedures.

- Notes for three 103(i) spot inspections did not include documentation of bump tests for multi-gas detectors.

ROOT CAUSE:

Issue 1 was the result of the inspectors failing to follow established notetaking and documentation requirements and procedures as specified in the General Inspection Procedures Handbook.

PROPOSED CORRECTIVE ACTION(S):

The District Manager notified all District Authorized Representatives regarding the requirement to document performance tests (bump test) of multi-gas detectors before use.

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

The District Manager is responsible for ensuring corrective actions are implemented.

TIMEFRAME FOR COMPLETION OF EACH CORRECTIVE ACTION:

All Authorized Representatives were instructed on [REDACTED] to document bump tests of multi-gas detectors as required in the General Inspection Procedures Handbook.

METHOD FOR DETERMINING SUCCESS:

Supervisors will review inspector notes as submitted. Each Assistant District Manager will review five (5) randomly selected inspection events for the next 90 days beginning [REDACTED]. These reviews will be tracked and deficiencies noted.

Issue 2 (Accountability Checklist Question 21): Hazardous Condition Complaint inspections were not being conducted according to policy and procedures.

- The miners whose complaints initiated three 103(g) inspections were not notified of the findings and did not receive a final written report.

ROOT CAUSE:

Management did not fully understand and correctly interpret the Hazardous Condition Complaint Procedures Handbook, PH20-I-2.

PROPOSED CORRECTIVE ACTION(S):

Management received additional training/guidance on the requirements of the Hazardous Condition Complaint Procedures Handbook, PH20-I-2, and page 7.

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

The Staff Assistant and the District Manager are responsible for implementing the corrective actions.

TIMEFRAME FOR COMPLETION OF EACH CORRECTIVE ACTION:

On [REDACTED] supervisors received training on the notification requirements for hazardous condition complaints. Attendance was documented. The attendance roster is maintained in the District with the training records.

METHOD FOR DETERMINING SUCCESS:

All hazardous condition complaints will be evaluated for compliance with Hazardous Condition Complaint Procedures Handbook, PH20-I-2.

A DESCRIPTION OF THE DOCUMENTATION THAT WILL DEMONSTRATE CLOSURE OF THE CORRECTIVE ACTION(S):

The District Manager will send a memorandum to Thomas W. Charboneau, Director, Office of Assessments upon completion and evaluation of the corrective actions.

Attachment B: Accountability Division Checklist

Morgantown District and [REDACTED]

Some questions may not be applicable to the particular mine site or office and are not 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 conforms to inspection procedures.	Adequate: No Corrective Action Needed: Yes Comments: Attachment C
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 Number	Question	Answer
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
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: Yes Corrective Action Needed: No Comments: None
Question 10	Determine if E01 inspections include examinations of the conveyor belts, belt drives, and 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 areas.	Adequate: Yes Corrective Action Needed: No Comments: None
Question 12	Determine if close-out discussions are being conducted.	Adequate: Yes Corrective Action Needed: No Comments: None

Question Number	Question	Answer
Question 13	Evaluate applicable plans for the site (ventilation, roof control, emergency response, ground control, etc.).	Adequate: Yes Corrective Action Needed: No Comments: None
Question 14	Determine if a proper examination of the Atmospheric Monitoring System and Automatic Fire Sensor and Warning Device is being conducted.	Adequate: Yes Corrective Action Needed: No Comments: None
Question 15	Determine if proper procedures for conducting, documenting, and reviewing MSHA health inspections are being followed.	Adequate: Yes Corrective Action Needed: No Comments: None
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 17-34 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
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 Number	Question	Answer
Question 19	Determine if decisions are made to initiate or decline investigations for Possible Knowing/Willful Reviews within 30 calendar days.	<div></div> <div></div> <div></div>
Question 20	Evaluate 103(i) spot inspection (E02) reports for the office being reviewed for compliance with agency policies and procedures.	Adequate: Yes Corrective Action Needed: No Comments: None
Question 21	Determine if Hazardous Condition Complaint inspections/investigations are being conducted according to policy and procedures.	Adequate: No Corrective Action Needed: Yes Comments: Attachment C
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 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
Question 25	Determine if the Electronic Mine Files are maintained and reviewed according to current agency policy and procedures.	Adequate: Yes Corrective Action Needed: No Comments: None

Question Number	Question	Answer
Question 26	Determine if supervisors are rotating the mine assignments 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 mine visits according to the directives.	Adequate: Yes Corrective Action Needed: No Comments: None
Question 29	Determine if six-month plan reviews comply with current agency policy and procedures.	Adequate: Yes Corrective Action Needed: No Comments: None
Question 30	Determine if Assistant District Managers are conducting second-level reviews.	██████████ ██ ████████████████████
Question 31	Determine if District management personnel are reviewing work products and reports for accuracy and completeness.	Adequate: Yes Corrective Action Needed: No Comments: None

Question Number	Question	Answer
Question 32	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 33	Determine if information (mine status, methane liberation, number of employees, etc.) is being entered into the MSHA Standardized Information System accurately and in a timely manner.	Adequate: Yes Corrective Action Needed: No Comments: None
Question 34	<p>Determine if the District's Roof Control Plan Review Standard Operating Procedures 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 	Adequate: Yes Corrective Action Needed: No Comments: None

Attachment C: Issues Requiring Corrective Action Plan with Requirements

Issue 1 (Accountability Checklist Question 2): Documentation for inspections did not conform to established inspection procedures.

Notes for three 103(i) spot inspections did not include documentation of bump tests for multi-gas detectors.

Requirement: Mine Safety and Health Enforcement General Inspection Procedures Handbook, Handbook Number PH19-IV-V-1, December 2019.

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.

Issue 2 (Accountability Checklist Question 21): Hazardous Condition Complaints inspections were not being conducted according to policy and procedures.

The miners whose complaints initiated three 103(g) inspections were not notified of the findings and did not receive a final written report.

Requirement: Hazardous Condition Complaint Procedures Handbook, Handbook Number PH20-I-2, December 2020

Page 7 - If appropriate, the Authorized Representative should discuss the inspection findings with the Section 103(g) complainant either by telephone or personal meeting as soon as possible after the conclusion of the complaint investigation. Subsequently, after review by the District Manager or the Assistant District Manager, the Authorized Representative must provide a written report to the Section 103(g) complainant.

Attachment D: Discussion Items

Accountability Division Specialist Troy Davis conducted the closeout of the review with District Management staff on [REDACTED]. Items discussed included:

E01 Inspection Report Documentation

- Accompanying mine examiner during an inspection
- Discussions with miners on escape routes and evacuation procedures
- Training records reviewed (10%)
- Air measurements within belt entries
- Evaluations of the incombustible content of coal mine dust within belt entries and return air courses
- Sanitary facilities for surface areas

Mine Plan Approvals – Pending Plans Report

- Timeliness for plan approvals in reference to MSHA's Operating Plan for Fiscal Year 2021 goals

Possible Knowing Willful Reviews

- Special Investigations Procedures Handbook (PH20-I-5) revisions in the Possible Knowing/Willful decision process