



JUL - 1 2016

MEMORANDUM FOR PATRICIA W. SILVEY

Deputy Assistant Secretary for Operations
Mine Safety and Health [REDACTED]

THROUGH:

KEVIN G. STRICKLIN
Administrator for
Coal Mine Safety and Health [REDACTED]

FROM:

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

SUBJECT:

MSHA Office of Accountability Review, Coal District 4,
Summersville, West Virginia Field Office and [REDACTED]
[REDACTED]

Introduction

This memorandum summarizes the Office of Accountability's review of the subject district office, field office, and mine. The purpose of the accountability reviews is to determine whether Agency enforcement policies, procedures, and guidance are being followed consistently and whether mission critical enforcement activities are accomplished effectively. This review included MSHA field activities; level of enforcement; conditions and practices at the mine; and MSHA supervisory and managerial oversight. The review also included evaluations to determine if there were any issues in areas commonly identified during Agency internal reviews of MSHA's actions following past mine disasters.

Overview

Office of Accountability (OA) Specialists Jerry Kissell, Mark Odum and Troy Davis conducted this review of Coal District 4 and the Summersville, West Virginia Field Office from [REDACTED]. This review focused on inspection activities during FY 2015 (October 2014 through September 2015). The review concentrated specifically on documentation of the regular E01 inspection, Event No. [REDACTED], conducted by the Summersville, West Virginia Field Office of the [REDACTED].
[REDACTED]

The District 4 and the Summersville, WV Field Office were reviewed in accordance with the CY 2015 annual accountability review plan schedule. The [REDACTED] was selected for review because the mine received [REDACTED] - 104(a) citations; [REDACTED] - 104(b) orders; and [REDACTED] - 104(d) orders in FY 2015. The mine received [REDACTED] - 104(a) citations and no orders during FY 2014.

Mine Visit

As part of this review Troy Davis accompanied the Field Office Supervisor, District Staff Assistant and an inspector to the [REDACTED] as part of a Regular Safety and Health Inspection (E01).

[REDACTED] The mine employs approximately [REDACTED] miners working two nine-hour production shifts per day, five days per week. The mine has [REDACTED] that produces an average of [REDACTED] tons of raw coal daily. The mining process involves the use of continuous mining machines and shuttle car haulage. The coal is extracted using the room and pillar method and retreat pillar recovery. Coal is transported from the mine by conveyor belts to the surface, then to a processing plant via over-the-road trucks where it is processed to be shipped to the customer.

The inspection group traveled to the No.1 Working Section. The section was involved in retreat mining (second mining) during the mine visit. The mine visit included observations of the following: MSHA inspection of the working section, examinations of the working places and all approaches to the pillared area for imminent dangers; methane tests; air readings; ventilation; rock dusting and cleanup; roof and rib conditions; communication and tracking system; the mining cycle while mining on retreat; self-contained self-rescuers (SCSRs) stored on the section and the Strata refuge alternative for the section. The group also observed operation of the continuous mining machine equipped with a proximity detection system. Outby inspections included a portion of the primary escapeway, the No. 16 section belt conveyor and visual observation of associated fire protection along the belt.

Other observations during the inspection included the travelway (track)/alternate escapeway, signage, lifelines and dates, times, and initials. The on-site review also included observations of the check-in/check-out system; escapeway maps located on the surface and at the underground refuge alternative examined, and the inspector's post inspection discussions with the operator. One enforcement action was issued to the mine operator during the mine visit.

Review Results

The accountability review revealed positive findings in several areas, including the following:

- Notes and documentation of the E01 event reviewed were organized, clear and concise

- Inspectors documented respirable dust surveys and conversations with management and miners concerning health risks associated with respirable dust and discussed the importance of designed dust parameters
- Inspectors traveled with on-shift examiners on multiple shifts

As a part of the review, enforcement levels of the mine and field office were compared with the district and national averages. The [REDACTED] had the following statistics:

- A significant and substantial (S&S) issuance rate of 20 percent during the first three quarters of FY 2015 where the mine received [REDACTED] - 104(a) citations; [REDACTED] - 104(b) orders; and [REDACTED] - 104(d) orders; compared to FY 2014 when the [REDACTED] had an S&S rate of 5 percent, received [REDACTED] - 104(a) citations, and no orders.
- An elevated enforcement rate of 13.6 percent for FY 2015 compared to 11.1 percent for FY 2014
- A Violations per Inspection Hour (VPIH) rate of 0.12 for FY 2015 compared to 0.20 for FY 2014

The field office had the following issuance rates related to the Coal sector for FY 2014:

- An S&S rate of 26 percent compared to the district's rate of 26 percent and the national average rate of 28 percent
- An elevated enforcement rate of 5.6 percent compared to the district's rate of 8.7 percent and the national average rate of 6.3 percent
- A VPIH rate of 0.08 compared to the district's rate of 0.15 and the national rate of 0.12

For the first three quarters of FY 2015, the enforcement levels for the field office were:

- An S&S rate of 18 percent compared to the district's rate of 24 percent and the national average rate of 25 percent
- An elevated enforcement rate of 4.9 percent compared to the district's rate of 5.7 percent and the national average rate of 5.6 percent
- A VPIH rate of 0.07 compared to the district's rate of 0.14 and the national rate of 0.12

The comparison of the first three quarters of FY 2015 showed the S&S rate for the mine was higher than the average S&S rate of the field office but lower than the district and national average rates. This was attributed to [REDACTED] which

resulted in a demonstrable increase in production from [REDACTED] tons in 2014 to [REDACTED] tons in the first three quarters of 2015. Aspects of the operation fell short of the required standard during the increased production and MSHA took the appropriate enforcement action to address the company's trend of non-compliance. The elevated enforcement rate for the mine was higher than the average for the field office, district, and nation. The VPIH for the mine was higher than the average rate for the field office, lower than the district average, and the same as the national average.

The inspection event reviewed, Event No. [REDACTED] had [REDACTED] issuances with 22.5% S&S, and [REDACTED] issued with elevated negligence. There were [REDACTED] 104(d) actions issued during the event.

Based on the review results, the slight differences in enforcement levels during the first three quarters of FY 2015 were not significant. Based on observations during the mine visit, enforcement levels were appropriate for the mining conditions and work practices at the mine.

This accountability review did not reveal any significant issues that required corrective actions however; the team did identify some during the review and discussed them with the District. Items discussed included documentation of discussions with miners regarding roof control plan and ventilation plan information; the information tracking system (ITS); tracking map documentation; Accompanied Activities (AAs) and Field Activity Reviews (FARs); the Uniform Mine File (UMF); and some enforcement actions. These did not require a corrective action plan. (See Attachment C)

Attachments

A. Office of Accountability Checklist

B. Citations/Orders issued during this review

Citation No. [REDACTED] 75.380(d)(7)(vii)

C. Discussion Items

United States Department of Labor
Mine Safety and Health Administration
Office of Accountability

District Field Office Mine ID Date

Attachment A - Office of Accountability Checklist

1. Determine if complete and thorough E01 inspections are being conducted and/or if policy and procedures were properly followed.

Adequate Corrective Action Needed Comments Below

2. Determine if documentation for inspections is complete and thorough.

Adequate Corrective Action Needed Comments Below

Determine if citations and orders issued during previous inspections were

3. properly evaluated for gravity, negligence, level of enforcement, number of persons affected, and supported by documentation.

Adequate Corrective Action Needed Comments Below

4. Evaluate inspector/specialist examination of required record books and postings for compliance with applicable standards.

Adequate Corrective Action Needed Comments Below

5. Evaluate inspector/specialist examination of the operator's maps (on-site) for accuracy, escapeway locations, etc.

Adequate Corrective Action Needed Comments Below

6. Evaluate, upon arrival on the working section, inspector/specialist examination of all working faces for imminent dangers.

Adequate Corrective Action Needed Comments Below

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7. Evaluate the inspector/specialist observation of the work cycle and conditions on the working section during the review.

Adequate Corrective Action Needed Comments Below

8. Evaluate the inspector/specialist air quantity, quality, and gas checks during the review.

Adequate Corrective Action Needed Comments Below

9. Evaluate inspector/specialist examination of equipment electrical cables during the review.

Adequate Corrective Action Needed Comments Below

10. Evaluate inspector/specialist examination for permissibility during the review.

Adequate Corrective Action Needed Comments Below

NA – Not part of the mine visit.

11. Determine if previous E01 inspections include examinations of the condition and maintenance of conveyor belts, belt entries, belt drives, fire detection and suppression systems, and separation of belt entries from other air courses.

Adequate Corrective Action Needed Comments Below

12. Evaluate, during the review, the inspection of at least one set of seals, including methods for obtaining samples from sealed area.

Adequate Corrective Action Needed Comments Below

NA – No seals installed in the mine reviewed.

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13. Determine if adequate close-out conferences are being conducted at the end of each inspection.

Adequate Corrective Action Needed Comments Below

14. Determine if Possible Knowing/Willful (PKW) Forms are documented and processed according to agency policy and procedures.

Adequate Corrective Action Needed Comments Below

NA – Not part of this review.

15. Evaluate 103(i) spot inspection (E02) reports for the office/district being reviewed for compliance with agency policies and procedures, including compliance with time frames and separating E02 inspections from other events.

Adequate Corrective Action Needed Comments Below

NA – No 103(i) spot mines inspected out of this field office.

16. Determine if Hazard Complaint inspections/investigations are being conducted according to policy and procedures.

Adequate Corrective Action Needed Comments Below

17. 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 Corrective Action Needed Comments Below

18. Determine if required Accompanied Activities (AAs); Field Activity Reviews (FARs) and supervisory follow-ups are being conducted and documented according to agency policy and procedures?

Adequate Corrective Action Needed Comments Below

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19. Determine if a 104(d) tracking system is in place and being kept current at the office being reviewed.

Adequate Corrective Action Needed Comments Below

20. Determine if the Uniform Mine File books are being maintained and reviewed according to current agency policy and procedures.

Adequate Corrective Action Needed Comments Below

21. Determine if supervisors are thoroughly reviewing Uniform Mine Files at least annually?

Adequate Corrective Action Needed Comments Below

22. Determine if supervisors are visiting each active underground mine at least annually.

Adequate Corrective Action Needed Comments Below

23. Determine if all sections where retreat mining is occurring (not to include longwall mining) are being inspected at least monthly?

Adequate Corrective Action Needed Comments Below

24. Determine if documentation of staff meetings/safety meetings are effective and relevant to current issues and the Agency's mission.

Adequate Corrective Action Needed Comments Below

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Determine, after an in-mine visit, if approved plans (ventilation, roof control, training, Emergency Response Plan (ERP), etc.) are compatible with mining conditions and equipment.

25. Adequate Corrective Action Needed Comments Below

Determine if approved plans are being revised or updated to reflect changes in conditions and/or equipment.

26. Adequate Corrective Action Needed Comments Below

Determine if plan reviews are in compliance with current agency policy and procedures (performed within required timeframes, tracked from the date of submission, properly documented, and contain input from all affected departments and field offices).

27. Adequate Corrective Action Needed Comments Below

Determine if Assistant District Manager is conducting the required second level reviews and holding supervisors accountable for oversight of Field Activity Reviews and Accompanied Activities.

28.

Determine if district management personnel are reviewing work products and reports for accuracy and completeness.

29. Adequate Corrective Action Needed Comments Below

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Determine if District Managers, Assistant District Managers, and supervisors are conducting required mine visits and properly completing the required spreadsheet.

30. Adequate Corrective Action Needed Comments Below

Determine if District Manager is using discretion in granting conferences and monitoring the Alternative Case Resolution (ACR) program to ensure that all decisions (including upholding, modifying or vacating citations) are properly documented and justified by the Conference and Litigation Representatives (CLRs).

31. Adequate Corrective Action Needed Comments Below

NA – Not part of this review.

Determine if District Manager is holding the Supervisory Special Investigator (SSI) accountable for properly evaluating and initiating or denying potential cases.

32. Adequate Corrective Action Needed Comments Below

NA – Not part of this review.

Determine if managers and supervisors are using required standardized reports to review critical data relevant to inspections and investigations.

33. Adequate Corrective Action Needed Comments Below

Determine if Districts are conducting reviews in compliance with agency policy and procedures including follow-up to determine the effectiveness of corrective actions.

34. Adequate Corrective Action Needed Comments Below

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35. 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 Corrective Action Needed Comments Below

36. Determine if District Managers are using the Report Center to identify overdue responses from operators and take appropriate actions.

[REDACTED]

37. Determine if a complete permissibility inspection of each longwall system is being conducted by electrical specialists or inspectors who hold a current MSHA electrical qualification card on at least an annual basis.

Adequate Corrective Action Needed Comments Below

38. Determine if a proper examination of the Atmospheric Monitoring System (AMS) and/or AMS systems that operate Carbon Monoxide (CO) sensors for the purposes of 75.1101 is being conducted. A complete inspection includes those items in the Coal General Inspection Procedures Handbook (GIPH) AMS checklist.

Adequate Corrective Action Needed Comments Below

39. Determine if SSIs are maintaining a memorandum detailing the reasons for not conducting a special investigation when the district manager decides to take no further action, in accordance with the Special Investigations Procedures Handbook.

Adequate Corrective Action Needed Comments Below

NA – Not part of this review.

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Determine if proper procedures for conducting, documenting, and reviewing MSHA respirable dust surveys are being followed. Proper documentation to include blue cards, 2000-86s, etc.

40. Adequate Corrective Action Needed Comments Below

Determine if District Managers and Assistant District Managers are providing acting field office supervisors with the level of oversight necessary to manage their work groups on a temporary basis including an online distance learning training course with a knowledge check for temporarily promoted supervisors. The guidance will be included in each District's Standard Operating Procedure (SOP) for training newly promoted field office supervisors.

41.

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District Coal District 4 Field Office Summersville,
WV Field Office Mine ID [REDACTED] Date [REDACTED]

Attachment B – Citations/Orders Issued During This Review

Mine Citation/Order		U.S. Department of Labor Mine Safety and Health Administration	
Section I--Violation Data			
1. Date Mo Da Yr [REDACTED]	2. Time (24 Hr. Clock) [REDACTED]	3. Citation/ Order Number [REDACTED]	
4. Served To [REDACTED]		5. Operator [REDACTED]	
6. Mine [REDACTED]		7. Mine ID [REDACTED] (Contractor)	
8. Condition or Practice		8a. Written Notice (103g)	
<p>The lifeline leading off of the No.1 Unit (MMU 003) is not equipped with two securely attached cones, installed consecutively with the tapered section pointing inby, to signify an attached branch line is immediately ahead. This condition exists at the sections Refuge Chamber located one crosscut outby survey spad No.3979 in the No. 6 entry.</p>			
See Continuation Form (MSHA Form 7000-3a) <input type="checkbox"/>			
9. Violation	A. Health Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.380(d)(7)(vii)
Section II--Inspector's Evaluation			
10. Gravity:			
A. Injury or illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input checked="" type="checkbox"/> Reasonably Likely <input type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>			
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input checked="" type="checkbox"/>			
C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			D. Number of Persons Affected: 008
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>			
12. Type of Action 104(a)		13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>	
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>		E. Citation/ Order Number	F. Dated Mo Da Yr
15. Area or Equipment			
16. Termination Due			
A. Date Mo Da Yr [REDACTED]		B. Time (24 Hr. Clock) [REDACTED]	
Section III--Termination Action			
17. Action to Terminate The cones were installed on the lifeline.			
18. Terminated			
A. Date Mo Da Yr [REDACTED]		B. Time (24 Hr. Clock) [REDACTED]	
Section IV--Automated System Data			
19. Type of Inspection (activity code) E01	20. Event Number [REDACTED]	21. Primary or Mit	
22. AR Name [REDACTED]		23. AR Number [REDACTED]	

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

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District Coal District 4 Field Office Summersville, WV Field Office Mine ID [REDACTED] Date [REDACTED]

Attachment C – Discussion Items

Items discussed with the district not requiring corrective action plans:

- Documentation of inspection – Discussions with miners on each mechanized mining unit (MMU) inspected regarding their knowledge of roof control and ventilation plans should be documented. Inspectors documented discussions with miners about their knowledge of roof control and ventilation plans for one of the two sections (MMUs). See Coal Mine Safety and Health General Inspection Procedures Handbook, PH13-V-1 (GIPH), p. 3-64.
- Information Tracking System (ITS) – The inspection of all in-use and available-for-use haulage, mobile, and portable equipment should be documented and maintained in the ITS. Some equipment documented as inspected in the notes was not listed in the ITS. See GIPH, p. 3-2, 3-50.
- Tracking map documentation – Section air readings for each working section should be documented on the tracking map. The inspector did not document on the tracking map the section air readings for one of the two sections. See GIPH, p. 3-67.
- Field Activity Reviews (FARs) – The [REDACTED] must document at least one FAR conducted on a completed inspection assignment for each of his/her inspectors and specialists during the first half and during the second half of each fiscal year. The [REDACTED] had missed two FARs for one inspector. See Coal Mine Safety and Health Supervisor's Handbook, AH14-III-4, p. 1-13.
- Uniform Mine File (UMF) – The latest approved plans and documents are required to be maintained in the appropriate sub-divided areas of the UMF and outdated or expired documents are to be routinely removed. Some outdated plans under the roof control tab had not been removed from the plans folder of the UMF. See Coal Uniform Mine File Procedures Handbook, PH14-V-1, p.2-3.