



AUG 21 2018

MEMORANDUM FOR PATRICIA W. SILVEY
Deputy Assistant Secretary for
Mine Safety and Health Administration

THROUGH: TIMOTHY R. WATKINS [REDACTED]
Deputy Administrator for
Coal Mine Safety and Health [REDACTED]

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

SUBJECT: Mine Safety and Health Administration (MSHA)
Office of Accountability Review
Coal District 2, Indiana, Pennsylvania Field Office
[REDACTED]
[REDACTED] ID No. [REDACTED]

Introduction

This memorandum summarizes the Office of Accountability's (OA) review of Coal's District 2 Indiana, Pennsylvania Field Office. The review focused on enforcement activities at the [REDACTED]. This review included MSHA field activities, level of enforcement, conditions and practices at the mine, Field Activity Reviews, Accompanied Activity Reviews, and MSHA supervisory and managerial oversight activities.

Purpose

The purpose of this accountability review is to determine whether MSHA enforcement policies, procedures and guidance are being followed consistently and to assess whether mission critical enforcement activities are accomplished effectively. The accountability review also identifies areas for improvement and the subsequent implementation of effective corrective actions to address any identified issues.

Overview

Office of Accountability (OA) Supervisor Ted Smith and Specialist Troy Davis (Review Team) conducted the review in accordance with the annual accountability review plan schedule. The review concentrated on one Regular Safety and Health Inspection (E01) of the [REDACTED] (ID No. [REDACTED], Event No. [REDACTED]). The mine was selected for review because it is a surface mine operation with five producing pits. Mr. Smith and Mr. Davis conducted the on-site review from [REDACTED]. The review focused on inspection activities conducted in FY 2017 and included review of supervisory oversight activities.

Mine Visit

The Review Team accompanied the Field Office Supervisor and an inspector to the mine on [REDACTED] as part of a Safety and Health Spot Inspection (E16). During the mine visit, the team evaluated general conditions at the mine; assessed whether conditions at the mine are commensurate with enforcement levels documented in the inspection reports reviewed; and observed work practices at the mine site.

The mine is located in [REDACTED] and employs approximately [REDACTED] miners working one nine-hour production shift, five days per week. The mine produces an average of [REDACTED] of raw coal daily. Coal is mined with conventional surface mining methods and machines (drilling, blasting, truck and tractor pits). The coal is loaded and transported by truck to an offsite preparation plant for processing and shipment to the customer.

The mine visit included inspections and observations of the following:

Surface areas: (Brink Pit 053-0 and Foundry Run Pit 054-0 located in separate counties)

- pre-inspection discussions with mine operator
- mine examination records and postings
- map of the individual pit and permit area for that pit
- roads, ramps and berms
- highwalls
- fuel containment installation
- two front-end loaders
- one tractor (bull dozer)
- one contractor on property (over the road coal haul truck and training records)

As a result of the inspection, the inspector issued two enforcement actions.

Review Results

The review revealed positive findings in the following areas:

- For E01 Event [REDACTED] the inspection report was organized and documented per procedures.

- The Field Office Supervisor developed an electronic map which depicts all mines assigned to the Field Office. The map would assist the supervisor in quicker response times during an emergency and provides a satellite image of the mine site for local access and emergency planning.

This accountability review did not identify any issues that required a corrective action plan.

(See Attachment A for Office of Accountability Checklist Items)

The Review Team identified and discussed with District personnel inspection and procedural best practices as described in the Coal General Inspection Procedures Handbook. A general outline of discussion topics is attached. (See Attachment C)

Based on the review of the E01 Event No. [REDACTED] discussions concerning the mine's operations, and observations made during the mine visit, the Review Team determined that the enforcement levels for the [REDACTED] are commensurate with existing mining conditions and work practices.

As a part of the review, the OA compared enforcement levels of the mine with the Field Office, District, and national averages. The mine had a Significant and Substantial (S&S) rate of 0.0 percent in FY 2017 compared to the Field Office S&S rate of 15 percent; a District S&S rate of 25 percent; and the national S&S rate of 22 percent. While the S&S rate for the mine was lower than the average S&S rates of the Field Office, District and nation, the enforcement levels were appropriate with existing mining conditions and work practices based on the review and observations made at two of the mine's five pits during the mine visit.

Attachments

A. Office of Accountability Checklist

B. Citations Issued during Mine Visit

- No. [REDACTED] 77.1606(c)
- No. [REDACTED] 77.1606(c)

C. Discussion Topics

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

District	Coal District 2	Field Office	Indiana, PA Field Office	Mine ID	██████	Date	██████
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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

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 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 to the working section, inspector/specialist examination of all working areas and highwalls 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 in the active 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

Not Applicable – Surface mine

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

Adequate Corrective Action Needed Comments Below

Not Applicable – Surface mine

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

Adequate Corrective Action Needed Comments Below

Not Applicable – Surface mine

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

Not Applicable – Surface mine

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

Not Applicable – Surface mine

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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

Corrective actions from previous OA audit are effective.

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

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

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

Adequate Corrective Action Needed Comments Below

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

Adequate Corrective Action Needed Comments Below

31. 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).

Adequate Corrective Action Needed Comments Below

Not Applicable – not part of this review

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

Adequate Corrective Action Needed Comments Below

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

Adequate Corrective Action Needed Comments Below

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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 Corrective Action Needed Comments Below

See Attachment C

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

36. 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

37. Determine if a proper examination of the Atmospheric Monitoring System (AMS) and/or AMS systems that operate Carbon Monoxide (CO) sensors 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

38. 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.

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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.

Adequate Corrective Action Needed Comments Below

Surface mine reviewed – No 2000-86 required

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.

Adequate Corrective Action Needed Comments Below

The Roof Control Plan SOP should comply with the established Program Policy Manual requirements as identified by the OIG report to address deficiencies identified in the Internal Review report. The SOPs should account for:

41.

- 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 Corrective Action Needed Comments Below

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Attachment B - Citations issued during Mine Visit

Mine Citation/Order U.S. Department of Labor
Mine Safety and Health Administration 

Section I - Violation Data	
1. Date Mo Da Yr ██████	2. Time (24 Hr. Clock) ██████
4. Served To ██████	3. Citation/ Order Number ██████
6. Mine ██████	5. Operator ██████
	7. Mine ID ██████ (Contractor)
8. Condition or Practice	8a. Written Notice (103g) <input type="checkbox"/>

The Caterpillar 988B Front End Loader company number C3, serial number 50W4196, being operated in the 054 pit was missing the keeper off the wheel lock on the front right wheel. All equipment defects affecting safety shall be corrected before the equipment is used.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health <input type="checkbox"/> Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 77.1606 (c)
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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 checked="" type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input type="checkbox"/>	
C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	D. Number of Persons Affected: 001
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
15. Area or Equipment	

16. Termination Due	A. Date Mo Da Yr ██████	B. Time (24 Hr. Clock) ██████
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Section III - Termination Action		
17. Action to Terminate		
18. Terminated	A. Date Mo Da Yr ██████	B. Time (24 Hr. Clock) ██████

Section IV - Automated System Data		
19. Type of Inspection (activity code) E1G	20. Event Number ██████	21. Primary or Mill
22. AR Name ██████	23. AR Number ██████	

MSHA Form 7000-3, Apr 06 (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 (1-888-754-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 408 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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Mine Citation/Order

U.S. Department of Labor
 Mine Safety and Health Administration



Section I—Violation Data

1. Date Mo Da Yr ██████	2. Time (24 Hr. Clock) ██████	3. Citation/ Order Number ██████
4. Served To ██████	5. Operator ██████	
6. Mine ██████	7. Mine ID ██████ (Contractor)	
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

The Kawasaki 95Z Front End Loader company number P40 being operated in the 054 pit was missing the keeper off the wheel lock on both rear wheels. All equipment defects affecting safety shall be corrected before the equipment is used.

Standard 77.1606(c) was cited ██████████

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health <input type="checkbox"/> Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 77.1606(c)
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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 checked="" type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input type="checkbox"/>			
C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			D. Number of Persons Affected: 001
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 ██████	B. Time (24 Hr. Clock) ██████
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Section III—Termination Action

17. Action to Terminate		
18. Terminated	A. Date Mo Da Yr ██████	B. Time (24 Hr. Clock) ██████

Section IV—Automated System Data

19. Type of Inspection (activity code) E16	20. Event Number ██████	21. Primary or Mill
22. AR Name ████████████████████		23. AR Number ██████

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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Attachment C - Discussion Topics

Topics discussed with the District that do not require a corrective action plan are as follows:

- Noise Surveys - Twelve samples were taken during the E01 Inspection for the ██████████. No sound level readings were recorded or indicated that any were taken by the inspector during the inspection.
- Training Record Documentation Inspection of the training records was documented in the Inspection Tracking System (ITS). There was no documentation in the field notes of the type or number of records examined.
- Enforcement Action Review – During the mine visit, the team observed chains being used and accepted for the bottom step on loading and haulage equipment. The Assistant District Manager (ADM) during the mine visit notified the operator that this practice would not be accepted in future inspections, thereby giving the operator “fair notice.” The ADM will address this practice with District personnel and provide written notification to all mine operators.
- Mine Information Form 2000-209 (MIF) – The Mine Information Form 2000-209 (MIF) that is updated by the inspector during each E01 inspection listed six producing pits for the ██████████. The MSHA Standardized Information System and the Mine Activity Data Form 2000-22 were inconsistent with the number of producing pits listed on the 2000-209. The ITS lists the producing pits as six consistent with the form 2000-209 but two of the six were not pits but identified as a shop and a scale house. The inspectors’ field notes described two additional pits inspected as final reclamation completed were not included in the counts. Also, the MIF submitted by the inspector did not include the date the form was completed. All other information is being updated as required.
- 103i Spot Inspections (E02) – The spot calendars do not include the shift the inspection was conducted. All other information is being recorded on the calendar.
- 2nd Level Reviews of Accompanied Activity / Field Activity Review – There were minor errors in the completion of the required forms, i.e. dates of uniform mine file certification being recorded and list of corrective actions as part of the report.
- Six Month Plan Reviews - OA reviewed the Uniform Mine File for ██████████ underground mine. The appropriate 2000-204 forms were included for both quarterly and six month plan reviews of the ventilation and roof control plans. 7

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Six month reviews of the Emergency Response Plan (ERP) were not conducted for all the District mines during the period December 2016 through June 2017. The ERP six month reviews are currently up to date.

- Multiple pits assigned to a single Mine ID No. - The ██████████ has multiple pits. The pits are several miles apart and the two pits visited during the review were approximately a one hour drive apart. Each pit operates as its own entity. The pits are located in multiple areas of the county and in some cases in adjoining counties. The District Manager had identified and issued a letter to mine operators addressing this practice prior to OA's review.