



**AUG 20 2019**

MEMORANDUM FOR PATRICIA W. SILVEY

Deputy Assistant Secretary for  
Mine Safety and Health Administration

THROUGH:

TIMOTHY R. WATKINS  
Administrator for  
Mine Safety and Health Enforcement

FROM:

THOMAS W. CHARBONEAU  
Director, Office of Assessments

SUBJECT:

Mine Safety and Health Administration (MSHA)  
Office of Accountability Review  
Dallas, Texas District

Introduction

This memorandum summarizes the Office of Accountability's (OA) review of the Dallas, Texas District, [REDACTED]. 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 Accompanied Reviews, Office Reviews and MSHA supervisory and managerial oversight.

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 effectively.

## Overview

Office of Accountability (OA) Supervisor Ted Smith and Specialist Mark Odum (Review Team) conducted the review in accordance with the 2019 annual accountability review plan schedule. The review focused on two Regular Safety and Health Inspections (E01) at the [REDACTED] (ID No. [REDACTED]), Event Nos. [REDACTED] (completed [REDACTED]) and [REDACTED] (completed [REDACTED]). The OA selected this mine because it is a large [REDACTED]. The Review Team conducted the on-site portion of the review from [REDACTED].

## Site Visit

The Review Team accompanied the Assistant District Manager, the Field Office Supervisor and an inspector to the mine on [REDACTED] as part of an E01.

The mine is a [REDACTED] operation with a surface [REDACTED] quarry located in [REDACTED]. It employs approximately [REDACTED] employees working two 12-hour production shifts per day, seven days a week. The [REDACTED] is mined by drilling, blasting and loading the material onto haul trucks for transport to the primary crusher. The crushed material is then sent by conveyor to the plant for processing. The finished product is bagged or otherwise made ready for shipment to the customer. During the mine visit, the Review Team evaluated general conditions at the plant and quarry, assessed whether conditions at the mine corresponded with enforcement levels documented in the inspection reports reviewed, and observed work practices.

The site visit included inspections and observations of the following:

- Pre-inspection discussions with mine management and miners' representative
- Mine office
- Pre-operational records
- Pre-heat processing facility
- Kiln building, floors 6 through 9
- Contractor construction area
- Warehouse
- Quarry pit and haul roads
- Mining cycles (loading, haulage)
- Haul truck
- Work practices
- Use of personal protective equipment
- Safety talks with miners as encountered
- Daily close-out conference

During the accompanied inspection, the inspector issued four enforcement actions (Attachment D).

## Review Results

The review revealed positive findings in the following areas:

1. Inspectors followed procedures for documenting a complete inspection of the site.
2. Inspectors used equipment lists to help in completion of the inspection.
3. Inspectors documented work practices observed.

During this review, the OA identified one issue that required a corrective action plan (Attachment B).

**Issue: Possible Knowing/Willful (PKW) forms were not processed according to agency policy and procedures. (Office of Accountability Checklist Item #9 - Attachment C).**

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District staff and the Review Team analyzed the findings identified during this review to determine the root causes of the late decisions on the PKWs. In this instance, they were caused by a combination of:

1. The high number of reviews; and
2. The failure to identify and correct problems with the initial citation/order issuances and uploads of supplemental documentation.

A corrective action plan from the District Manager addressing the issue is attached to this report (Attachment A).

Based on the review of the inspection reports issued in  and  and from observations during the mine visit on  the enforcement levels were appropriate for existing conditions and work practices.

## Attachments

- A. Corrective Action Plan
- B. Issues Requiring a Corrective Action Plan
- C. Office of Accountability Checklist
- D. Enforcement Actions Issued During the Mine Visit



§ 56.20003(c)  
§ 56.12032  
§ 56.20011  
§ 56.4600(a)(1)

56.20003(c) – Bolts were laying on the floor at level 6 for the pre-heat section of the plant. The bolts were located next to openings on the floor that measured between 2" x 4" and 2" x 16". A pipe had been replaced along with the bolts and they had not been picked up/removed from the area. Vibration could cause the bolts to fall thru the openings to the travel way below. A miner could be struck by one of the bolts. The opening to the floor below was 20 feet.

56.12032 - The cover plate on the conduit for the light fixture was not secured in place. The cover was laying to one side and the individual wires were exposed. continued operation could make the insulation become brittle and crack. A person could be exposed to an electrical hazard. This is located at the 6th level of the pre-heat section for the natural gas line. Standard 56.12032 was cited .

56.20011 - The bottom area for the blend silos had a section that was not provided with flagging tape to keep persons away from the overhead work in progress. A section that did not have the flagging tape had persons traveling through the area. Person are exposed to hazards from above due to work in progress. Standard 56.20011 was cited .

56.4600(a)(1) - Welding and cutting was being conducted at the south blend silo and a fire extinguisher was not provided at the worksite. Work was being conducted on the scaffolding about 3/4 of the way up the silo. Sparks and hot slag were be produced when welding and cutting was being performed. A person could be exposed to a fire hazard.

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District	Dallas	Field Office	[REDACTED]	Mine ID	[REDACTED]	Date	[REDACTED]
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Attachment A – Corrective Action Plan

U.S. Department of Labor

Mine Safety and Health Administration  
1100 Commerce Street, Room 452  
Dallas, TX 75242-0499



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MEMORANDUM FOR THOMAS W. CHARBONEAU  
Director, Office of Assessments

THROUGH: BRIAN GOEPFERT [REDACTED]  
Deputy Administrator for  
Mine Safety and Health Enforcement

FROM: WILLIAM D. O'DELL [REDACTED]  
District Manager  
Dallas District

SUBJECT: Proposed Corrective Action Plan

This is a response to the review conducted by the Office of Accountability from [REDACTED]. The review identified one deficiency that required correction action.

Issue: Possible Knowing/Willful (PKW) forms were not processed according to agency policy and procedures. (Attachment D – Office of Accountability Checklist Item #9)



ROOT CAUSE:

The District identified the following root causes to the deficiency. First, the district initiates a high number of PK&Ws. Second, reviews failed to identify and correct deficiencies with the

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issuances and uploads of supplemental documentation prior to the packet being forwarded for review. This required additional time for the correspondence with the field office personnel.

**PROPOSED CORRECTIVE ACTION:**

MSHA senior level enforcement management reviewed this issue with the district and determined that enforcement personnel were not completing PKW forms in accordance with established policies. Senior management continuously communicated with District management personnel on the requirements of the Special Investigation Handbook. All District enforcement personnel were retrained on the Handbook requirements. The district will hold a call with all Field Office Supervisors discussing initial entry and first level review of PK&Ws.

**TIMEFRAME FOR COMPLETION OF CORRECTIVE ACTION:**

Prior to August 30, 2019, a call was held with all Field Office Supervisors discussing initial entry and first level review of PK&Ws in accordance with established policy.

**METHOD OF DETERMINING SUCCESS:**

The ADM will review the PK&W status report weekly during the remaining CY2019 to ensure the district is meeting the 30 day requirement.

**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 Brian Goepfert, Deputy Administrator for Mine Safety and Health upon completion and evaluation of the corrective actions.

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Attachment B – Issues Requiring a Corrective Action Plan

**Issue: Possible Knowing/Willful (PKW) forms were not processed according to agency policy and procedures (Attachment C - Office of Accountability Checklist Item #9).**



Requirements: Special Investigations Procedures Handbook, PH05-I-4, pages 4-2 through 4-3 - For each citation and/or order required by MSHA Policy to be reviewed, a Possible Knowing/Willful Violation Review Form, MSHA Form 7000-20, shall be completed. Within 30 calendar days of the date of issuance of the citation/order a determination must be made by the DM (with the assistance of the SSI) to either initiate an investigation or take no further action.

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Attachment C - 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's examination of required records and postings for compliance with applicable standards.

Adequate  Corrective Action Needed  Comments Below

5. Evaluate the inspector's physical examination of the active working areas of the mine and inspection of all mining cycles.

Adequate  Corrective Action Needed  Comments Below

6. Evaluate the inspector's on-site contaminant assessment and documentation.

Adequate  Corrective Action Needed  Comments Below

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7. Evaluate inspector's examination of electrical equipment, transformer stations and/or electrical circuits.

Adequate  Corrective Action Needed  Comments Below

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

Adequate  Corrective Action Needed  Comments Below

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

Adequate  Corrective Action Needed  Comments Below

10. 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

Not Applicable – The Field Office does not inspect any mines in a 103(i) status.

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

Adequate  Corrective Action Needed  Comments Below

12. 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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13. Are required Field Accompanied Reviews (FARs), Office Reviews (ORs) and supervisory follow-up reviews being conducted and documented according to agency policy and procedures?  
(ORs – One E01/Inspector/every six months/FY; FARs – One/Inspector/FY)  
Adequate  Corrective Action Needed  Comments Below

14. 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

15. Determine if the Mine Files are legible, up to date and reviewed by supervisors.  
Adequate  Corrective Action Needed  Comments Below

16. Determine if supervisors are visiting active mines.  
Adequate  Corrective Action Needed  Comments Below

17. Review documentation of staff meetings/safety meetings to determine their effectiveness and relevance to current issues and the Agency's mission.  
Adequate  Corrective Action Needed  Comments Below

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

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

Adequate  Corrective Action Needed  Comments Below

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

Adequate  Corrective Action Needed  Comments Below

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

Adequate  Corrective Action Needed  Comments Below

22. Is information (mine status, methane liberation, number of employees, etc.) being entered into the MSHA Standardized Information System (MSIS) accurately and in a timely manner?

Adequate  Corrective Action Needed  Comments Below

23. Determine if inspectors have sufficient equipment and supplies to conduct thorough inspections.

Adequate  Corrective Action Needed  Comments Below

24. Evaluate the overall condition of the mine relative to the level of enforcement documented in previously completed inspections.

Adequate  Corrective Action Needed  Comments Below

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25. 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  Corrective Action Needed  Comments Below

26. Determine if the management resource tracking tool is being used to track resources regarding Special Investigations.

Adequate  Corrective Action Needed  Comments Below

27. Determine if retraining of supervisors, inspectors and specialists is being tracked.

Adequate  Corrective Action Needed  Comments Below

28. Determine if supervisors are rotating the mine assignments annually among inspectors assigned to their Field Office.

Adequate  Corrective Action Needed  Comments Below