

September 18, 2008

MEMORANDUM FOR: RICHARD E. STICKLER
Acting Assistant Secretary for
Mine Safety and Health

THROUGH: CHARLES J. THOMAS
Director, Office of Accountability

FROM: ARLIE A. WEBB
Accountability Specialist

SUBJECT: MSHA Office of Accountability Audit, McHenry,
Maryland Field Office, and [REDACTED],
[REDACTED]

Introduction

This memorandum summarizes the Office of Accountability audit of the subject mine and MSHA field office. Audit subjects included MSHA field activities, level of enforcement, Field Activity Reviews (FARs), Accompanied Activities (AAs), conditions and practices at the mine, approved plans, Peer Reviews, Uniform Mine File (UMF), and supervisory/managerial oversight. The audit was conducted the week of [REDACTED] by Arlie A. Webb. Both positive findings and issues requiring attention are included in this audit report.

Overview

This audit revealed numerous positive findings related to recent MSHA activities, including supervisory mine visits, monitoring of inspector time usage, level of enforcement, content of plans, and the 104(d) tracking system. There were only 3 issues requiring attention noted during this audit. They were inadequate or incomplete inspections due to a lack of manpower, unavailability of standardized reports due to a lack of training for field office clerical personnel, and a lack of adequate supplies to allow the field office to address highwall issues. There were also several areas that could not be adequately addressed during the audit due to documentation not being provided to the auditor.

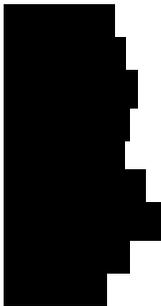
Audit Results

The attached checklist addresses the findings of this audit. Positive issues, issues that need to be addressed, and recommendations are covered in the checklist.

Attachments

- A. OOA Audit Checklist
- B. Citations issued during the audit

cc:



District Field Office Mine ID Date

1. Evaluate supervisory review of inspection reports and documentation for completeness.

Adequate Inadequate Not Applicable Comments Below

Supervisor's initials and dates on inspection reports, citations, and notes, indicate thorough reviews are being conducted.

3. Determine if supervisors are visiting each assigned mine at least annually

Adequate Inadequate Not Applicable Comments Below

Excellent - The McHenry FO supervisor has made 37 visits to mines assigned to his field office since May 01, 2008.

4. Evaluate the quality of Field Activity Review reports (FARs)

Adequate Inadequate Not Applicable Comments Below

A review of Field Activity Reports indicates good attention to detail. However, the FARs do not list inspection deficiencies observed.

Recommendation - FARs should also include documentation of any deficiencies, along with corrections, advice, or other forms of mentoring by the supervisor.

6. Evaluate the quality of Accompanied Inspections

Adequate Inadequate Not Applicable Comments Below

As with the Field Activity Reviews, Accompanied Activity reports indicates good attention to detail, but do not list observed inspection deficiencies or corrective actions taken.

Recommendation - AAs should include documentation of any deficiencies, along with corrections, advice, or other forms of mentoring by the supervisor.

District Field Office Mine ID Date

7. Determine if supervisors are thoroughly reviewing mine files at least annually

Adequate Inadequate Not Applicable Comments Below

Documentation in the UMF, along with an interview of the field office supervisor, revealed the UMF is being reviewed by the field office supervisor on a regular basis.

11. Determine if ADMs and DMs are visiting mines with poor compliance at least monthly

Adequate Inadequate Not Applicable Comments Below

Since May of 2008, district management personnel (District Manager and 2 Assistant District Managers) have participated in at least 16 mine visits.

14. Evaluate supervisory and management review of 103(i) (spot inspection) tracking system for compliance with time frames

Adequate Inadequate Not Applicable Comments Below

Although the McHenry, Maryland field office does not currently have any mines that require inspections under Section 103(i) of the Act, the supervisor is aware of the need to accurately track 103(i) inspections.

17. Determine if supervisors are monitoring inspector time and activity documentation to ensure proper use of time by inspector

Adequate Inadequate Not Applicable Comments Below

Excellent - A review of Time and Activity data from May to September of 2008, along with a review of inspection notes, indicates a very high percentage of event time is being spent on the active mmus (33%) and on-site (65%). In addition, the percentage of "other" time during this period is very low (14%).

District Field Office Mine ID Date

20. Determine if supervisors are adequately evaluating the level of enforcement by visiting each producing mine

Adequate Inadequate Not Applicable Comments Below

Excellent - See Item 3 above. A mine visit conducted during this audit indicated the level of enforcement is commensurate with the conditions and practices at the mine.

23. Determine if second level reviews and Peer Reviews are used to assess supervisory review of enforcement actions

Adequate Inadequate Not Applicable Comments Below

Although the Assistant District Manager for the Inspection Division had been in this position for only 5 months at the time of this audit, several 2nd level reviews were already in various stages of completion. An examination of those reviews indicated compliance with Agency guidelines and an admirable attention to detail. A determination was not possible regarding Peer Reviews due to the documentation being unavailable for review by the auditor.

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

Adequate Inadequate Not Applicable Comments Below

The field office clerk at the McHenry, Maryland field office had only been in that position for approximately one month at the time of this audit. Although some standardized reports are being transmitted from the district to the field office, the field office clerk needs to be able to retrieve data and reports upon request by the supervisor. At present, the clerk is unable to do so.

Recommendation - The Office of Accountability recommends the field office clerk receive training and an access password as soon as feasible regarding data retrieval via the Teradata system, MSIS, and other MSHA data sources.

District Field Office Mine ID Date

29. Determine if complete and thorough inspections are being conducted and adequately documented

Adequate Inadequate Not Applicable Comments Below

Adequate for underground mines, and inadequate for surface mines.

A review of the documentation for E01 event numbers [REDACTED] indicated that observation of the blasting cycle was not included in the inspection. The documentation, along with interviews with the inspector and the field office supervisor, revealed that blasting is done at irregular intervals at most of the surface mines in this area. An on-site visit by the auditor, and interviews with mine officials confirmed the irregular blasting schedule.

Although there are more than 30 surface mines and facilities assigned to this field office, there is only one surface inspector. The lone surface inspector at this field office is not always able to observe the transportation of explosives, loading of drill holes with explosives, and blasting operations during E01 inspections.

The surface-related workload for this field office is such that only 8 spot inspections were conducted at surface operations during FY 2008. During the mine visit conducted by the auditor and field office supervisor, two citations were issued. One of the citations was for abraded hydraulic hoses on a rock drill.

At the time of the audit, the McHenry Field Office consisted of the following personnel:

- 1 Field Office Supervisor
- 1 Surface Inspector
- 2 Underground Inspectors
- 2 Underground Inspector Trainees

Recommendation – Based on the number of surface mines and entities, and the requirement for MSHA to conduct complete and thorough inspections, the Office of Accountability recommends District 3 consider the addition of a second surface inspection FTE at this field office. The ability to conduct complete E01 inspections, along with sufficient spot inspections to ensure operator compliance is critical to the protection of the miners.

District Field Office Mine ID Date

31. Determine that the inspector spent sufficient time on off-shifts and on weekends

Adequate Inadequate Not Applicable Comments Below

34. Determine if all mine record books, postings, and other required materials are examined during the inspection

Adequate Inadequate Not Applicable Comments Below

During the on-site visit portion of this audit, all mine record books, postings, and bulletin board were examined and found to be in compliance.

36. Determine if the amount of time expended on each inspection activity and area of the mine is sufficient to accomplish inspection goals

Adequate Inadequate Not Applicable Comments Below

Adequate for underground mines, and inadequate for surface mines.

See information and recommendation in Item 29 above.

37. Evaluate each citation/order/safeguard for inspector's determination of gravity, negligence, number of persons affected, and the level of enforcement

Adequate Inadequate Not Applicable Comments Below

A review of citations issued during this audit, along with a review of citations included in the inspection reports, indicate that inspector/supervisor determination of gravity and negligence accurately reflects observed violations.

District Field Office Mine ID Date

38. Accompany and evaluate inspector's imminent danger run

Adequate Inadequate Not Applicable Comments Below

Although the inspector was not available due to manpower shortage, the field office supervisor traveled to the mine with the auditor. The imminent danger run was thorough, comprehensive, and efficiently done.

42. Evaluate conditions on working section and observe work cycle

Adequate Inadequate Not Applicable Comments Below

The operating pit was well maintained. Equipment (2 bulldozers, 1 haulage truck, 2 rock drills, and 2 excavators) was well maintained except for two citations issued on one rock drill. Observation of the work cycle revealed safe work habits, including ensuring that equipment placement kept the operator's cab on the side of the equipment away from the highwall.

60. Determine if all required record books are adequately completed and in compliance with applicable standards

Adequate Inadequate Not Applicable Comments Below

A review of the mine record books revealed them to be in compliance with applicable standards. Observed hazards were noted, along with the ensuing corrective actions.

62. Examine mine bulletin board and evaluate adequacy of all required postings

Adequate Inadequate Not Applicable Comments Below

The mine bulletin board contained all required postings. In addition, the bulletin board contained numerous MSHA and equipment manufacturer safety notices, bulletins, and safety posters.

District Field Office Mine ID Date

64.	Determine if approved plans address and are compatible with mining conditions and equipment		
Adequate	<input checked="" type="checkbox"/>	Inadequate	<input type="checkbox"/>
		Not Applicable	<input type="checkbox"/>
Comments Below			
Excellent - This surface mine is operating in an area where deep mining was conducted decades in the past. As a result, mining under these conditions requires special attention to the highwall and other areas. The ground control plan addresses these issues.			

66.	Determine if districts are conducting sufficient, in-depth Peer Reviews		
Adequate	<input type="checkbox"/>	Inadequate	<input type="checkbox"/>
		Not Applicable	<input checked="" type="checkbox"/>
Comments Below			
<u>Unknown at this time</u> - Although the district has conducted at least one review since the March 2008 Office of Accountability audit, the report has not yet been released. Although a request was made to MSHA headquarters, the Office of Accountability has not yet been provided with any information relative to this review. Therefore, an accurate evaluation of this item could not be made during this audit.			

67.	Determine if MSHA headquarters is conducting sufficient, in-depth Peer Reviews		
Adequate	<input type="checkbox"/>	Inadequate	<input type="checkbox"/>
		Not Applicable	<input checked="" type="checkbox"/>
Comments Below			
<u>Unknown at this time</u> - Although headquarters has conducted at least one review in District 3 (Bridgeport FO) since the March 2008 Office of Accountability audit, the report has not yet been released. Although a request was made, the Office of Accountability has not yet been provided with any information relative to this review. Therefore, an accurate evaluation of this item could not be made during this audit.			

District Field Office Mine ID Date

68. Determine if Peer Reviews identify root causes of deficiencies, corrective actions, set time lines for corrections, and identify a method for accurately measuring the success or failure of corrective actions.

Adequate Inadequate Not Applicable Comments Below

Unknown at this time- Although at least one headquarters review (Bridgeport FO) and one district-level review (St. Clairsville FO) have been conducted in District 3 since the March 2008 Office of Accountability audit, those reports have not yet been released. Although a request was made to headquarters, the Office of Accountability has not yet been provided with any information relative to these reviews. Therefore, an accurate evaluation of this item could not be made during this audit.

69. Determine if Peer Reviews are being used to assess supervisors and managers performance

Adequate Inadequate Not Applicable Comments Below

Unknown at this time- Although at least one headquarters review (Bridgeport FO) and one district-level review (St. Clairsville FO) have been conducted in District 3 since the March 2008 Office of Accountability audit, those reports have not yet been released. Although a request was made to headquarters, the Office of Accountability has not yet been provided with any information relative to these reviews. Therefore, an accurate evaluation of this item could not be made during this audit.

70. Determine if Peer Reviews include a visit to the mine, and include observation of the producing section, conveyor belt entries, escapeways and the ERP provisions

Adequate Inadequate Not Applicable Comments Below

Unknown at this time- Although at least one headquarters review (Bridgeport FO) and one district-level review (St. Clairsville FO) have been conducted in District 3 since the March 2008 Office of Accountability audit, those reports have not yet been released. Although a request was made to headquarters, the Office of Accountability has not yet been provided with any information relative to these reviews. Therefore, an accurate evaluation of this item could not be made during this audit.

District Field Office Mine ID Date

71. Determine if Peer Reviews accurately reflect and evaluate MSHA activities at all types of mining (underground/surface/surface facilities) within the district

Adequate Inadequate Not Applicable Comments Below

Unknown at this time- Although at least one headquarters review (Bridgeport FO) and one district-level review (St. Clairsville FO) have been conducted in District 3 since the March 2008 Office of Accountability audit, those reports have not yet been released. Although a request was made to headquarters, the Office of Accountability has not yet been provided with any information relative to these reviews. Therefore, an accurate evaluation of this item could not be made during this audit.

72. Determine if approved plans and the Uniform Mine File books are addressed during each Peer Review

Adequate Inadequate Not Applicable Comments Below

Unknown at this time- Although at least one headquarters review (Bridgeport FO) and one district-level review (St. Clairsville FO) have been conducted in District 3 since the March 2008 Office of Accountability audit, those reports have not yet been released. Although a request was made to headquarters, the Office of Accountability has not yet been provided with any information relative to these reviews. Therefore, an accurate evaluation of this item could not be made during this audit.

75. Evaluate approved training plan after discussion with miners

Adequate Inadequate Not Applicable Comments Below

A review of the training plan and discussion with miners, foremen, and the field office supervisor, indicate the training plan is adequate and addresses mining conditions and equipment.

District Field Office Mine ID Date

77. Evaluate the most recently completed E01 (regular) inspection report

Adequate Inadequate Not Applicable Comments Below

The report is well documented, and appears complete with the exception of observation of loading of explosives into blast holes, and the blasting process. See Item 29 above, including recommendations to correct this deficiency.

Action Required - Inspection activities must include the blasting cycle.

Reference - 1977 Mine Act, Section 103(a)

80. Determine if 104(d) tracking system is in place at the office being audited, and is being kept up to date

Adequate Inadequate Not Applicable Comments Below

The 104(d) tracking system has been incorporated into the Uniform Mine File books, and is up to date. Maintaining this tracking system in the UMF provides an easy access for inspectors, supervisors, and clerical personnel, as well as providing a greater degree of privacy than tracking systems maintained on posters or bulletin boards.

81. Determine if all plans and documents in the Uniform Mine File are legible, and up to date

Adequate Inadequate Not Applicable Comments Below

With the exception of a mine violation history, all plans and documentation in the UMF was up to date and legible. The field office supervisor referred to Headquarters PIL I08-V-01, which correctly and adequately addresses the fact that MSN065 is obsolete, and revises the instructions in the UMF Handbook.

Recommendation - The inclusion of the "Violation History Report" printout from IPAL, is recommended to the team charged with re-writing the UMF Handbook as a means to quickly review the violation history in the event that IPAL is not readily available.

District Field Office Mine ID Date

92. Determine if a copy of the most recent plan is provided for inclusion in the Uniform Mine File

Adequate Inadequate Not Applicable Comments Below

A review of the mine file, along with interviews and a site visit indicate the most recent plans are in the UMF.

99. Determine if the uniform mine file is reviewed for information related to plan adequacy

Adequate Inadequate Not Applicable Comments Below

Notations in the UMF review sheets and interviews with field office personnel, indicate the UMF is reviewed thoroughly.

112. Determine if the plan describes methods for protecting persons from falling material at highwalls and drift openings

Adequate Inadequate Not Applicable Comments Below

Excellent - As noted in Item 64 above, this surface mine is operating in an area where deep mining was conducted decades in the past. As a result, mining under these conditions requires special attention to the highwall and other areas. The current ground control plan addresses these issues on pages 4, 5, and 6.

114. Determine if spreadsheets and/or databases provided for tracking of mine visits by supervisors and managers is kept up to date

Adequate Inadequate Not Applicable Comments Below

Spreadsheets are being completed for mine visits.

District Field Office Mine ID Date

115. Evaluate the effectiveness of management's support of, and communication with, inspectors and specialists

Adequate Inadequate Not Applicable Comments Below

Interview with supervisor indicates excellent lines of communication between inspectors, supervisors, and the district.

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

District Field Office Mine ID Date

Mine Citation/Order

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



Section I--Violation Data

1. Date	<input type="text" value=""/>	3. Citation/Order Number	<input type="text" value=""/>
4. Served To	<input type="text" value=""/>	5. Operator	<input type="text" value=""/>
			(Contractor)
8a. Written Notice (103g) <input type="checkbox"/>			

Hydraulic leaks are present in the main valve bank located behind the operators cab of the Ingersoll Rand s/n 3101 highwall drill operating on the 001 pit drill bench. The hydraulic valve bank distributes oil to all the main hydraulic components including the stabilizer jacks and boom jacks. The equipment was taken out of service until repairs are made.

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	77.404(a)
--------------	--	-------------------	---------------------------------	-----------

Section II--Inspector's Evaluation

10. Gravity:				
A. Injury or illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input type="checkbox"/> Reasonably Likely <input checked="" 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 checked="" type="checkbox"/> Fatal <input type="checkbox"/>				
C. Significant and Substantial: Yes <input checked="" type="checkbox"/> No <input 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 <input type="text" value=""/>	B. Time (24 Hr. Clock) <input type="text" value=""/>
---------------------	--	--

Section III--Termination Action

17. Action to Terminate		
18. Terminated	A. Date Mo Da Yr <input type="text" value=""/>	B. Time (24 Hr. Clock) <input type="text" value=""/>

Section IV--Automated System Data

19. Type of Inspection (activity code) E16	20. Event Number <input type="text" value=""/>	21. Primary or Mill <input type="text" value=""/>
22. Signature <input type="text" value=""/>		

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 20418. 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.

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

District Field Office Mine ID

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

Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr [Redacted]	3. Citation/Order Number (b) (6)
4. Served To [Redacted]	5. [Redacted]	7. Contractor (Contracted) [Redacted]

Section II--Justification for Action

Change	From	To
4. Served To	[Redacted]	[Redacted]
Reason	Issued in error	
7. Contractor		NGY
Reason	wrong contractor ID.	

The Hydraulic leaks were repaired to eliminate the leaks.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr	B. Time (24 Hr. Clock)	<input type="checkbox"/> C. Vacated	<input checked="" type="checkbox"/> D. Terminated	<input checked="" type="checkbox"/> E. Modified
----------------	------------------	------------------------	-------------------------------------	---	---

Section IV--Inspection Data

9. Type of Inspection	E16	10. Event Number	[Redacted]
11. Signature	[Redacted]		

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

District Field Office Mine ID

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

Section I--Violation Data	
1. Date <input type="text" value=""/>	3. Citation/Order Number <input type="text" value=""/>
4. Signed To <input type="text" value=""/>	
(Contractor) <input type="checkbox"/>	

8. Condition or Practice 8a. Written Notice (103g)

An accumulation of combustible oil is present on the Ingersoll Rand s/n 3101 highwall drill on the boom mast and under the hydraulic valve bank located adjacent to the operators cab. The accumulation has pooled under the power pack up to 1/2 inch in thickness and is present on all surfaces of the power pack and hydraulic hoses and fittings. The drill is operating on the 001 pit highwall drill bench.

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 77.1104
--------------	--	-------------------	--

Section II--Inspector's Evaluation

10. Gravity:

A. Injury or illness (has) (is): No Likelihood Unlikely Reasonably Likely Highly Likely Occurred

B. Injury or illness could reasonably be expected to be: No Lost Workdays Lost Workdays Or Restricted Duty Permanently Disabling Fatal

C. Significant and Substantial: Yes No D. Number of Persons Affected: 001

11. Negligence (check one) A. None B. Low C. Moderate D. High E. Reckless Disregard

12. Type of Action 13. Type of Issuance (check one) Citation Order Safeguard Written Notice

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due A. Date B. Time (24 Hr. Clock)

Section III--Termination Action

17. Action to Terminate

18. Terminated A. Date

Section IV--Automated System Data

19. Type of Inspection (activity code) <input type="text" value="E16"/>	20. Event Number <input type="text" value=""/>	21. Primary or Mill <input type="text" value=""/>
22. Signature <input type="text" value=""/>		23. AR Number <input type="text" value=""/>

MSHA Form 7000-3, April 2003. Pursuant to the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National 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.