

February 10, 2009

MEMORANDUM FOR: NAME GOES HERE
Acting Assistant Secretary for
Mine Safety and Health Administration

THROUGH: CHARLES J. THOMAS
Director of Accountability for
Mine Safety and Health Administration

FROM: ARLIE A. WEBB
Accountability Specialist

SUBJECT: MSHA Office of Accountability Audit, Norton, Virginia, Field
Office, and the [REDACTED]
[REDACTED]

Introduction

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

Overview

The auditor traveled to the Norton, Virginia field office and to [REDACTED] to observe and evaluate enforcement activities and mine conditions. Accompanying the auditor were [REDACTED]

[REDACTED] Areas of the mine examined during this audit included main and secondary access roads, berms, the active pit, highwalls, spoil banks, repair shop areas. Selected pieces of equipment on the property were inspected during this audit. The ground control plan was compared to the conditions and practices in the mine.

The audit revealed positive findings in several categories, including the following:

1. Even though the interval between the surface mine and underlying abandoned workings averages more than 700 vertical feet, the surface mine operator still maintains an up to date map of the location of all underlying mine workings.
2. Both the inspector and [REDACTED] demonstrated excellent communication with the miners and mine operator.
3. The [REDACTED] and the District Manager have visited numerous mines during the time period covered by this audit.
4. The level of enforcement appears commensurate with the conditions and practices observed.
5. Inspection documentation indicated thorough and complete inspections.
6. The 104(d) tracking system is well maintained and up to date.

The audit also revealed several issues that require corrective actions or clarification (some of which are not within the control of the district), including the following:

1. The current Retention Schedule for underground mine files (MSHA Form 2000-166) and the Retention Schedule for surface mines (MSHA Form 2000-167) were last updated in December 1992 and May 1989 respectively. (HQ)
2. The Uniform Mine File Procedures Handbook (PH94-V-9(2)), is not compatible with the current type, number, or nature of plans and information required for inspector review. (HQ)
3. There is no policy to support requests for stability analysis for spoil banks and highwalls, as well as ARMPS analysis, regarding ground control plans. (HQ)
4. Most of the surface and impoundment inspection personnel do not have durable rain gear to allow for more efficient inspection activities in foul weather and to prevent health issues. (HQ/District)

Audit Results

The attached checklist addresses the findings of the audit. Positive issues as well as issues requiring action are covered in detail in the checklist.

Attachments

- A. Office of Accountability Checklist, with comments, recommendations, and references
- B. Citation issued during this audit - [REDACTED] 77.1606(c)

District Field Office Mine ID Date

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

Adequate Inadequate Not Applicable Comments Below

2. Determine if supervisors address report deficiencies immediately

Adequate Inadequate Not Applicable Comments Below

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

Adequate Inadequate Not Applicable Comments Below

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

Adequate Inadequate Not Applicable Comments Below

Although the [REDACTED] has only been in that position since [REDACTED] his Field Activity Review reports show great attention to detail. In each of the six FARs reviewed during this audit, the [REDACTED] correctly noted positive findings as well as areas where the [REDACTED] needed to improve the work product. Each notation for needed improvement was accompanied by a corrective action and follow up.

5. Determine if supervisors/managers are identifying and addressing performance or behavior based issues during and after accompanied inspections are conducted

Adequate Inadequate Not Applicable Comments Below

District Field Office Mine ID Date

6. Evaluate the quality of Accompanied Inspections

Adequate Inadequate Not Applicable Comments Below

Although the [REDACTED] has only been in that position since [REDACTED], his Accompanied Activity Reports show an impressive attention to detail. In each of the six AAs reviewed during this audit, the [REDACTED] noted at least one positive finding and at least one area where the [REDACTED] needed to improve. Each notation for needed improvement was accompanied by a corrective action.

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

Adequate Inadequate Not Applicable Comments Below

8. Determine if Assistant District Manager is holding supervisor accountable for general mine visits, FARs, and accompanied activities

Adequate Inadequate Not Applicable Comments Below

9. Determine if District Manager is using Performance Management System to hold ADMs accountable for oversight of subordinates

Adequate Inadequate Not Applicable Comments Below

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

Adequate Inadequate Not Applicable Comments Below

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

District Field Office Mine ID Date

13. Evaluate the location, workload, and availability of specialists (roof control, ventilation, electrical, etc.) within the district

Adequate Inadequate Not Applicable Comments Below

16. Determine if supervisors, staff assistants, and other management personnel are reviewing work products for accuracy and completeness

Adequate Inadequate Not Applicable Comments Below

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

18. Determine if Standard Operating Procedures (SOPs) are in place, current, and in compliance with MSHA policies and procedures

Adequate Inadequate Not Applicable Comments Below

19. Determine if supervisors are using the Performance Management System to hold inspectors accountable for properly evaluating gravity and negligence, termination due dates, and timely termination of citations

Adequate Inadequate Not Applicable Comments Below

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

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

Adequate Inadequate Not Applicable Comments Below

25. Evaluate inspector/specialist knowledge of documentation required and process for completing PKW Forms.

Adequate Inadequate Not Applicable Comments Below

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

Adequate Inadequate Not Applicable Comments Below

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

Adequate Inadequate Not Applicable Comments Below

District Field Office Mine ID Date

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

Adequate Inadequate Not Applicable Comments Below

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

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

38. Accompany and evaluate inspector's imminent danger run

Adequate Inadequate Not Applicable Comments Below

39. Check adequacy of preshift/onshift examinations

Adequate Inadequate Not Applicable Comments Below

The operator has developed and is using a form for use in conducting Pre-Operational Checks of equipment. (see attachment)

District Field Office Mine ID Date

42. Evaluate conditions on working section and observe work cycle

Adequate Inadequate Not Applicable Comments Below

66. Determine if districts are conducting sufficient, in-depth Peer Reviews

Adequate Inadequate Not Applicable Comments Below

The required district-level peer (accountability) review was conducted during 2008. However, there were no additional reviews conducted within the district.

Recommendation - The Office of Accountability recommends that additional internal audits be conducted within the district as a means of providing follow-up, evaluation, and monitoring of corrective actions.

67. Determine if MSHA headquarters is conducting sufficient, in-depth Peer Reviews

Adequate Inadequate Not Applicable Comments Below

There were no headquarters-level reviews conducted in District 5 during FY 2008.

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

The district-level review identified root causes. District 5 personnel developed, implemented, and documented corrective actions and methods for measuring their success or failure.

District Field Office Mine ID Date

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

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

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

Adequate Inadequate Not Applicable Comments Below

75. Evaluate approved training plan after discussion with miners

Adequate Inadequate Not Applicable Comments Below

77. Evaluate the two most current completed E01 (regular) inspection reports (two quarters)

Adequate Inadequate Not Applicable Comments Below

79. Citations, orders, and safeguards issued during previous two quarters

Adequate Inadequate Not Applicable Comments Below

District Field Office Mine ID Date

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

Tracking system and the SOP are maintained in each Uniform Mine File book.

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

Adequate Inadequate Not Applicable Comments Below

83. Determine if plan review and approval process provides reasonable assurance that miners are protected

Adequate Inadequate Not Applicable Comments Below

There is no policy to support requests for stability analysis for spoil banks and highwalls, as well as ARMPS analysis, regarding ground control plans.

The district has documented two separate requests ([REDACTED]) for stability analysis regarding spoil material angle of repose, maximum highwall height, and retreat mining pillar stability (ARMPS-HW). However, Part 77 does not grant MSHA the approval/disapproval authority with regard to ground control plans.

Recommendation - The Office of Accountability strongly recommends a proactive review of MSHA policy regarding ground control plans with an emphasis on providing assurance of highwall, spoil bank, and haulage road stability, to prevent failures of highwalls and surface haul roads due to close proximity of underground workings.

Reference - MSHA Report of Investigation - Fatal Fall of Highwall, Job #3, Tri-Star Mining, Inc. (CAI-2007-5&6).

District Field Office Mine ID Date

87. Determine if district management reviewed the final version of all approved plans

Adequate Inadequate Not Applicable Comments Below

91. Determine if copies of the plan are distributed as per an established list

Adequate Inadequate Not Applicable Comments Below

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

94. Determine if required information is submitted in the plan

Adequate Inadequate Not Applicable Comments Below

See Item Number 83 above with regard to stability analyses for ground control plans.

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

Adequate Inadequate Not Applicable Comments Below

District Field Office Mine ID Date

100. Determine if all plan approval groups communicate to prevent conflicting elements of plans

Adequate Inadequate Not Applicable Comments Below

102. Determine if input is solicited from field office inspectors/supervisors, and recommendations are addressed prior to approval

Adequate Inadequate Not Applicable Comments Below

Plans are scanned and placed on the district LAN server, and an email sent to the respective field office. This ensures an efficient means for inspectors, specialists, and supervisors to provide valuable information and comment on plans prior to approval/disapproval.

108. Determine if projected mining relative to overlying, underlying, and adjacent workings was checked

Adequate Inadequate Not Applicable Comments Below

Even though the interval between the surface mine and underlying abandoned workings averages more than 700 vertical feet, this surface mine operator still maintains an up to date map of the location of all underlying mine workings.

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

Adequate Inadequate Not Applicable Comments Below

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

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

117. Are MSHA Forms 7000-1 accurately reviewed for proper information and potential violations, unsafe practices, or conditions?

Adequate Inadequate Not Applicable Comments Below

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

Adequate Inadequate Not Applicable Comments Below

Most of the surface and impoundment inspection personnel do not have durable rain gear to allow for more efficient inspection activities in foul weather and to prevent health issues.

Recommendation - The Office of Accountability recommends that headquarters consider the purchase of durable, effective rain gear for all surface and impoundment inspectors as a proactive means to improve inspection efficiency and prevent loss of work time due to illnesses related to exposure.

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

Adequate Inadequate Not Applicable Comments Below

120. Determine if E01 inspections at surface mines includes an observation/evaluation of blast hole drilling, loading, and blasting operations.

Adequate Inadequate Not Applicable Comments Below

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 Mo Da Yr	2. Time (24 Hr. Clock)	3. Citation/ Order Number
4. Section Title	5. Operator	
	7. Mine ID	(Contractor)
8. Condition or Practice		8a. Written Notice (103g)

The required hand rail on the right side of the Caterpillar Loader 994 # L-65, between the loader frame and loader wheel near the ladder leading to the top of the deck was missing.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR
			77.1606(c)

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 104(a) 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 Mo Da Yr B. Time (24 Hr. Clock)

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) 20. Event Number 21. Primary or Mill

22. Signature 23. AR Number

MSHA Form 7000-3a, 10/1/99. Pursuant to 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.