



November 15, 2012

MEMORANDUM FOR PATRICIA W. SILVEY

Deputy Assistant Secretary for Operations
Mine Safety and Health Administration

THROUGH:

KEVIN G. STRICKLI
Administrator for
Coal Mine Safety and Health

(b) (6)

FROM:

JAY MATTOS
Director, Office of Assessments, Accountability,
Special Enforcement and Investigations

(b) (6)

SUBJECT:

MSHA Office of Accountability Audit, Coal District 3 and the
Bridgeport, WV Field Office, (b) (6)
(b) (6)

Introduction

This memorandum summarizes the Office of Accountability audit of the subject district office, field office, and mine. The audit included MSHA field activities; level of enforcement; conditions and practices at the mine; Field Activity Reviews (FARs); Accompanied Activities (AAs); MSHA supervisory and managerial oversight; and the district's technical division. The audit included evaluations to determine if there were any deficiencies in areas commonly identified during Agency internal reviews of MSHA's actions following past mine disasters.

Positive findings, as well as issues requiring attention are included in this audit report.

Overview

The audit was conducted by Accountability Specialists Arlie A. Webb and Supervisory Accountability Specialist Ted Smith from (b) (6) through (b) (6). The (b) (6) accompanied the accountability specialists during this audit.

The audit team traveled with the inspection party to the (b) (6) (b) (6) on a 103(i) methane liberation spot inspection (E02). After reviewing the mine examination records and conducting a pre-inspection conference, the inspection party traveled to the #2 Section. The team conducted an inspection for imminent dangers on the section, including all face areas. The inspection team took air quality and quantity readings on the section. The inspection team observed roof support, ventilation, ventilation controls, as well as rock dusting and clean-up activities. The team then inspected the 2C Belt Drive, including drive installation and maintenance. The inspection party then traveled to the 2B Seals area and inspected the No. 39 Seal. The inspectors took air quality and quantity readings in this area. The team conducted a post-inspection conference with company officials at the conclusion of the E02 inspection.

Audit Results

This audit revealed positive findings in several areas, including the following:

1. 103(i) spot inspections (E02) were conducted at irregular intervals and within required time frames.
2. Enforcement personnel used appropriate enforcement tools during the mine site visits.
3. Staff and safety meetings at the Bridgeport field office were well documented and show a review of current information regarding MSHA policies and procedures.
4. Inspectors at the Bridgeport field office were courteous and professional in their interactions with miners and mine operators.
5. A manager or supervisor visited all active underground mines in District 3 at least once during FY 2011.
6. During FY 2011, managers and supervisors in District 3 exceeded the required number of mine visits for each position.
7. The Bridgeport field office S&S rate has been consistent with the national average during the review period.
8. The Bridgeport field office has exceeded the national average for onsite time during inspections at their surface mines, facilities, and underground mines during the review period.

9. The office maintains well-organized E01 inspection files that contain checklists that are useful aids for inspectors and supervisors to ensure the inspection file and inspections are complete.
10. The inspection tracking maps for E01 inspections were clearly marked with start and stop dates and areas inspected.
11. The ventilation plan and ventilation maps provide an adequate number of measuring point locations and evaluation points to effectively monitor air quantity and quality in both pillared and non-pillared worked out areas.

This audit revealed one issue that requires corrective action:
(Supporting data can be found in the OA checklist and attachments)

The MSIS database is not being kept up to date with accurate information regarding mine status. The district should review the status for each mine to ensure they are properly coded. The OA team identified the root cause of this deficiency as a need for more detailed guidance from the national office. I suggest we (OAASEI, Coal and Metal and Nonmetal) discuss reviewing and clarifying the procedures for recording changes in mine status, mine type, methane liberation, employment, and other information required in the Mine Information Form.

Attachments

- A. Internal Review Summary
- B. Office of Accountability Checklist
- C. Statistics
- D. Citations/Orders Issued During Audit

No citations were issued during the audit.
- E. Examples of Citations Issued During Previous E01 Inspections

There were no issues identified with previously issued citations.
- F. District Corrective Action Plan

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Attachment A – Internal Review Summary

The table below lists the most common internal review findings following mine disasters. District 3 had one of the most commonly identified issues.

	Common Internal Review Findings	Examples of Deficiencies :
	Failure to identify deviations in approved plans.	Not identifying operator departures from requirements in any plan that requires approval, such as training plans, roof control plans, ventilation plans, emergency response plans, etc.
	Incomplete or inadequate inspections.	Not following policy or procedures for conducting inspections. Failure to cite all violations. Not inspecting all areas and equipment.
	Failure to conduct 103(i) spot inspections according to policy.	Not conducting spot inspections not conducted in a timely manner and at irregular intervals.
	Supervisors did not provide adequate oversight.	No review/lax review of inspection reports. Inadequate review of PKW/SAR forms. Failure to conduct required Field Activity Reviews and Accompanied Activities.
	Improper evaluations of gravity, negligence and type of enforcement action.	Inadequate documentation to support citation and evaluation. Failure to consider and document aggravating or mitigating circumstances.
	Inadequate Peer Reviews	Inadequate district level Peer Reviews. Failure to adopt and follow corrective action plans. Failure to follow up or monitor effectiveness of corrective action plans.
	Weakness in the ACR Program	Not following ACR handbook. Inadequate management oversight. Failure to follow the Mine Act, MINER Act, 30 CFR and MSHA policy.
x	MSHA data not used or reviewed.	Key Indicators, Mine Profile, Inspection completion reports not being used. Failure to keep MSIS data up-to-date and accurate.
	Lack of unwarrantable failure tracking system	No or inadequate unwarrantable failure sequence tracking system.
	Conflict of Interest	Inspecting prior employers, employment of relatives
	Failure to comply with Hazard Complaint Procedures.	Improper coding of inspections. Inadequate documentation of inspections/investigations.
	Investigations of multi-phase plans	Failure to conduct on-site evaluations of plans.
	Failure to observe retreat mining.	Inadequate periodic evaluations when retreat mining is conducted.

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Attachment B – Audit Checklist (with corrective actions)

1. Determine if complete and thorough E01 inspections are being conducted.
Adequate Corrective Action Needed Comments Below

Determine if citations and orders issued during previous inspections were
2. properly evaluated for gravity, negligence, level of enforcement, number of persons affected, and supported by documentation.
Adequate Corrective Action Needed Comments Below

3. Evaluate inspector/specialist examination of required record books and postings for compliance with applicable standards.
Adequate Corrective Action Needed Comments Below

4. Evaluate inspector/specialist examination of the operator's maps (on-site) for accuracy, escapeway locations, etc.
Adequate Corrective Action Needed Comments Below

5. Upon arrival on the working section, accompany and evaluate inspector/specialist examination of all working faces for imminent dangers.
Adequate Corrective Action Needed Comments Below

6. Evaluate the inspector/specialist observation of the work cycle and conditions on the working section during the audit.
Adequate Corrective Action Needed Comments Below

The entire mine was idle and the work cycle could not be observed.

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7. Evaluate the inspector/specialist air quantity, quality, and gas checks during the audit.

Adequate Corrective Action Needed Comments Below

8. Evaluate inspector/specialist examination of equipment electrical cables during the audit.

Adequate Corrective Action Needed Comments Below

The entire mine was idle. Electrical cables were not inspected.

9. Evaluate inspector/specialist examination for permissibility during the audit.

Adequate Corrective Action Needed Comments Below

The entire mine was idle. Permissibility examinations were not observed.

10. Determine if areas deemed too wet for rock dust surveys during previous inspections were re-visited and sampled.

Adequate Corrective Action Needed Comments Below

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. During the audit, evaluate the inspection of at least one set of seals, including methods for obtaining samples from sealed area.

Adequate Corrective Action Needed Comments Below

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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

The Possible willful and knowing forms were not reviewed during this audit. The SI department was audited and found to be in compliance with the recommendations from the last headquarters audit.

15. Evaluate 103(i) spot inspection (E02) reports for the office/district being audited 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

18. Are required Field Activity Reviews (FARs) and supervisory follow-ups being conducted and documented according to agency policy and procedures?

Adequate Corrective Action Needed Comments Below

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19. Are Accompanied Activities (AAs) and supervisory follow-ups being conducted and documented according to agency policy and procedures?

Adequate Corrective Action Needed Comments Below

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

Adequate Corrective Action Needed Comments Below

21. 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

Uniform Mine Files are in an electronic format.

22. Are supervisors thoroughly reviewing Uniform Mine Files at least annually?

Adequate Corrective Action Needed Comments Below

Uniform Mine Files are in an electronic format.

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

Adequate Corrective Action Needed Comments Below

24. Are all sections where retreat mining is occurring (not to include longwall mining) being inspected at least monthly?

Adequate Corrective Action Needed Comments Below

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25. 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

26. After an in-mine visit, evaluate approved plans (ventilation, roof control, training, etc.) for compatibility with mining conditions and equipment.

Adequate Corrective Action Needed Comments Below

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

Adequate Corrective Action Needed Comments Below

28. 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).

Adequate Corrective Action Needed Comments Below

29. 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.

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

Adequate Corrective Action Needed Comments Below

31. 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

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

Adequate Corrective Action Needed Comments Below

The ACRI program was not audited.

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

Adequate Corrective Action Needed Comments Below

The Possible Willful and Knowing forms were not reviewed during this audit.

34. 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

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Determine if Districts are conducting in-depth Peer Reviews in compliance with 35. agency policy and procedures including follow-up to determine the effectiveness of corrective actions.

Adequate Corrective Action Needed Comments Below

Is information (mine status, methane liberation, number of employees, etc) being 36. entered into the MSHA Standardized Information System (MSIS) accurately and in a timely manner?

Adequate Corrective Action Needed Comments Below

The audit identified mines for which the type of mining (Underground, Surface, or Facility) was not identified, and mines that have been in New Mine status for more than 6 years. Examples are:

The mine type for (b) (6) is not identified. This mine ID has been in New Mine status for more than 6 years (b) (6)

The mine type for (b) (6) is not identified. This mine ID has been in New Mine status for more than 6 years (b) (6)

The mine type for (b) (6) is not identified. This mine ID has been in New Mine status for more than 6 years (b) (6)

Surface Facility (b) (6) has been in New Mine status for more than 27 years (b) (6)

Surface Mine (b) (6) has been in New Mine status for more than 17 years (b) (6)

Surface Mine (b) (6) has been in New Mine status for more than 9 years (b) (6)

Surface Mine (b) (6) has been in New Mine status for more than 6 years (b) (6)

Underground mine (b) (6) has been in New Mine status for more than 15 years (b) (6)

Underground mine (b) (6) has been in New Mine status for more than 15 years (b) (6)

MSHA's instructions for completing the Mine Information Form (MSHA Form 2000-209) state, "The Mine Information Form is used to add or change data about a mine and is

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initiated by an Authorized Representative. The Mine Information Form is filled out and entered into the MSIS database.” There are no clarifications or other instructions regarding time frames, data entry into the MSIS, responsibility for oversight or accuracy of the information.

Recent audits show this issue to be systemic to the entire Agency. The Office of Accountability recommends MSHA Headquarters issue a memorandum to all personnel clarifying responsibilities and setting time frames for submission (and data entry) for changes in mine status, mine type, methane liberation, employment, and other information required by the Mine Information Form.

Corrective Action Submitted by District:

A written Standard Operating Procedure (SOP) has been established. A query will be run every six months and identify mines by type and status as well as the status date. The Assistant District Manager for Inspection Programs will assure all mines are assigned to the appropriate field office and their status verified. As you are already aware, there are no guidelines which dictate how long a mine may remain in any of these statuses. We will attempt to use prudent judgment and make necessary changes to the mine type and status date based on the outcome of our reviews.

The Staff Assistant will be responsible for establishing the SOP and assuring the query is generated every six months. The Assistant District Manager for Inspection Programs will assure the mines are assigned timely.

The deficiency has already been corrected.

38. 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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District Coal District 3 Field Office Bridgeport, WV Mine ID (b) (6) Date (b) (6)

Attachment C- Statistics

S&S Rate Comparison

During FY 2010 and FY 2011, the average S&S rate for the Bridgeport field office was above both the district average and the national average.

Fiscal Year	Bridgeport, WV Field Office	Coal District 3	National Average
2010	36%	35%	34%
2011	37%	35%	35%

Time and Activity Comparison

A comparison of FY 2010 and FY 2011 time distribution for regular (E01) inspections at surface facilities inspected by the Bridgeport field office shows time in the other category is lower than the national average and on-site time is higher than the national average.

Time Distribution (%) – E01 Inspections at Surface Facilities							
FY	Area/Office	Travel	**Other	*Total On-Site	Citations Issued On-Site	Citations Issued Off-Site	Total Percent
2010	Bridgeport FO	18%	13%	69%	4%	0%	100%
	Nat'l Avg	18%	15%	67%	5%	0%	100%
2011	Bridgeport FO	18%	13%	68%	7%	0%	100%
	Nat'l Avg	17%	16%	67%	6%	0%	100%

* Includes calibration of gas detectors, respirable dust pumps, preparation and mailing of gas and rock dust samples

**Total On-Site time includes citations written on-site

A comparison of FY 2010 and FY 2011 time distribution for regular (E01) inspections at surface mines inspected by the Bridgeport field office shows time in the other category to be slightly higher than the national average and on-site time to be significantly higher than the national average.

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Time Distribution (%) – E01 Inspections at Surface Mines							
FY	Area/Office	Travel	**Other	*Total On-Site	Citations Issued On-Site	Citations Issued Off-Site	Total Percent
2010	Bridgeport FO	13%	14%	73%	5%	0%	100%
	Nat'l Avg	19%	13%	68%	5%	0%	100%
2011	Bridgeport FO	14%	14%	72%	6%	0%	100%
	Nat'l Avg	19%	13%	68%	5%	0%	100%

* Includes calibration of gas detectors, respirable dust pumps, preparation and mailing of gas and rock dust samples

**Total On-Site time includes citations written on-site

A comparison of FY 2010 and FY 2011 time distribution for regular (E01) inspections at underground mines inspected by the Bridgeport field office shows time in the other category is lower than the national average and on-site time is slightly higher than the national average.

Time Distribution (%) – E01 Inspections at Underground Mines							
FY	Area/Office	Travel	**Other	*Total On-Site	Citations Issued On-Site	Citations Issued Off-Site	Total Percent
2010	Bridgeport FO	18%	14%	68%	7%	0%	100%
	Nat'l Avg	16%	15%	68%	6%	1%	100%
2011	Bridgeport FO	18%	12%	70%	7%	0%	100%
	Nat'l Avg	16%	14%	69%	6%	1%	100%

* Includes calibration of gas detectors, respirable dust pumps, preparation and mailing of gas and rock dust samples

**Total On-Site time includes citations written on-site

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Attachment D – Citations Issued During Audit

No citations were issued during this audit.

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Attachment E – Examples of Citations Issued During Previous Inspections

There were no issues identified with previously issued citations and orders.

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Attachment F – District Corrective Action Plan

November 13, 2012

MEMORANDUM FOR TED SMITH
SUPERVISOR OF ACCOUNTABILITY
MINE SAFETY AND HEALTH ADMINISTRATION

FROM: BOB E. CORNETT, DISTRICT MANAGER,
DISTRICT 3, MINE SAFETY AND HEALTH ADMINISTRATION

SUBJECT: PROPOSED CORRECTIVE ACTION

This is in response to the audit conducted by your office from (b) (6) at the Bridgeport, WV Field Office and the (b) (6) MSHA ID No. (b) (6). The results of your audit identified one deficiency which is required to be addressed by this office.

DEFICIENCY:

Mines were not identified as to the type of mining (Underground, Surface, or Facility) and mines have been in New Mine status for more than 6 years.

ROOT CAUSE:

The root cause is "Management System – Standards/Policies/Administrative Controls Inadequate". Our current process is to periodically check the status date of mines in new mine, temporarily idled, and temporarily abandoned status. Specifically, the IT group runs a query to identify mines in these statuses by field office, and the appropriate field office supervisor is required to verify the status and date. Most of the mines identified in your audit had never been assigned to a field office and therefore did not appear on any of our reports.

PROPOSED CORRECTIVE ACTIONS:

From the time the audit was conducted and this deficiency was identified by your office, an update to MSIS has taken place. Specifically, a mine cannot be assigned a mine

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identification number unless a field office is assigned first. This will eliminate mines not being assigned to a field office and assure they appear on our reports.

The status dates for the mines identified by your office have been corrected.

A written Standard Operating Procedure (SOP) has been established. A query will be run every six months and identify mines by type and status as well as the status date. The Assistant District Manager for Inspection Programs will assure all mines are assigned to the appropriate field office and their status verified. As you are already aware, there are no guidelines which dictate how long a mine may remain in any of these statuses. We will attempt to use prudent judgment and make necessary changes to the mine type and status date based on the outcome of our reviews.

OFFICE RESPONSIBLE FOR IMPLEMENTING:

The Staff Assistant will be responsible for establishing the SOP and assuring the query is generated each six months. The Assistant District Manager for Inspection Programs will assure the mines are assigned timely.

TIMEFRAME FOR COMPLETION:

The deficiency has already been corrected.

METHOD FOR DETERMINING SUCCESS:

Success will be measured by eliminating mines that appear on the report which are in a new mine, temporarily idled, and temporarily abandoned status for an unreasonable time frame.