U.S. Department of Labor

Mine Safety and Health Administration
1100 Wilson Boulevard
Arlington, Virginia 22209-3939

August 12, 2013

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

(b) (6)

THROUGH: KEVIN G. STRICKLIN
Administrator for
Coal Mine Safety and Health

(b) (6)

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

SUBJECT: MSHA Office of Accountability Audit, Coal District 2 and the Indiana, Pennsylvania Field Office. (b) (6)
(b) (6)

Introduction

This memorandum summarizes the Office of Accountability audit of the 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); second level reviews; and MSHA supervisory and managerial oversight. 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 Jerry Kissell and Troy Davis and Supervisory Accountability Specialist Ted Smith from (b) (6) through (b) (6) .

The audit team traveled with the inspection party to the (b) (6) (b) (6) on an E01 (regular mine inspection). Areas and activities examined included the primary escapeway, communication and tracking system, escape lifelines and the # 3 Unit (003-0 MMU). The inspection party conducted an examination of all working faces on the unit for imminent dangers and took air readings. The section roof support system and ventilation controls along with rock dusting and cleanup were observed during this inspection.

The outby areas visited included the section belt transfer to the #6 conveyor belt, the #6 conveyor belt and transfer to the #5 conveyor belt. A 50/50 water pressure test was conducted as well as observing waterlines, fire valves, fire hoses, fire hose nozzles and fire suppression systems along the belt conveyor and at the transfer points. Mine communications were tested and SCSR caches, escape lifelines, and signage were inspected along the alternate escape route.

The team inspected the outby ventilation controls and made visual observations of the rock dust applications. A Strata refuge chamber was examined during the mine visit.

Surface areas examined during the audit included the check-in/check-out system, bulletin boards, and mine record books. The audit team observed pre and post inspection conferences conducted by inspectors.

Audit Results

This audit revealed positive findings in several areas as follows:

1. 103(i) spot inspections (E02) were conducted at irregular intervals and within required time frames.
2. Staff and safety meetings at the Indiana field office documented review of current information regarding MSHA policies and procedures.
3. Inspectors at the Indiana field office were courteous and professional in their interactions with miners and mine operators.
4. A manager or supervisor visited all active underground mines in District 2 at least once during FY 2011 and FY 2012.
5. The Indiana field office has equaled or exceeded the national average for onsite time during inspections at their surface mines, facilities, and underground mines during the review period.

6. The Indiana field office supervisor exceeded the minimum FAR and AA activities required to be completed for the review period.
7. The Field Office Supervisor utilized checklists during his review of inspections for management oversight to determine adequacy of complete inspections.
8. Inspectors regularly documented use of the tracking system during the inspections.
9. Inspectors documented their examination of mine records for additional inspection areas not planned at the start of the inspection shift.
10. Arrival time for each day's inspection was prior to the mine's shift start time.
11. Inspectors documented observing some miners underground simulating donning and transferring of SCSRs.
12. The Roof Control Plan was discussed with roof bolting machine operators on the working sections per requirements in CMS&H Memo No. HQ-08-055-A and as referenced in UBB corrective actions. The requirement directs inspectors to question miners on their training related to roof control plans and document such information.

This audit revealed two issues that require corrective action:
(Supporting data for each issue can be found in the Office of Accountability (OA) checklist)

1. On one event during an inspection of the 1st Northwest Seals and the 1st Left Butt Seals, the seals were "ingassing" and there was no documentation as to pumping a sample or air quality being determined behind seals. Both sets of seals were non-120 psi seals. Procedure Instruction Letter No. I11-V-09, dated 07/13/2011, reissue of I08-V-8, page 3, states in part "Sample the sealed atmosphere whether seals are outgassing or ingassing."

2. Air measurements and tests were not being conducted where air enters and leaves the worked-out areas. See General Coal Mine Inspection Procedures and Inspection Tracking System Handbook PH-08-V-1, page 47, item (H)(12). The requirement was also included in the revised CMS&H PH13-V-1, page 3-66, item 13.

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

Attachment A – Internal Review Summary

The table below lists the most common internal review findings following mine disasters. District 2 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.
X	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.
	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.

Attachment B – Audit Checklist (with corrective actions)

1. Determine if complete and thorough E01 inspections are being conducted and/or if policy and procedures were properly followed.

Adequate [ ] Corrective Action Needed [X] Comments Below [X]

The following policy/procedures were not followed:

1. On one event during an inspection of the 1st Northwest Seals and the 1st Left Butt Seals, the seals were "ingassing" and there was no documentation as to pumping a sample or air quality being determined behind seals. Both sets of seals were non 120 psi seals.
Procedure Instruction Letter No. I11-V-09, dated 07/13/2011, reissue of I08-V-8, page 3, states in part "Sample the sealed atmosphere whether seals are outgassing or ingassing."

2. Air measurements and tests were not being conducted where air enters and leaves the worked-out areas. See General Inspection Procedures Handbook PH-08-V-1, page 47 item (H)(12). The requirement was also included in the revised CMS&H PH13-V-1, page 3-66, item 13.

2. Determine if documentation for inspections is complete and thorough.

Adequate [X] 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 [X] Corrective Action Needed [ ] Comments Below [ ]

4. Evaluate inspector/specialist examination of required record books and postings for compliance with applicable standards.

Adequate [X] Corrective Action Needed [ ] Comments Below [ ]

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

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

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

8. Evaluate the inspector/specialist air quantity, quality, and gas checks during the audit.			
Adequate [X]	Corrective Action Needed [ ]	Comments Below [ ]	

9. Evaluate inspector/specialist examination of equipment electrical cables during the audit.			
Adequate [X]	Corrective Action Needed [ ]	Comments Below [ ]	

10. Evaluate inspector/specialist examination for permissibility during the audit.			
Adequate [ ]	Corrective Action Needed [ ]	Comments Below [X]	
Permissibility examinations were not observed.			

11.	Determine if areas deemed too wet for rock dust surveys during previous inspections were re-visited and sampled.
Adequate [X]	Corrective Action Needed [ ] Comments Below [ ]

12.	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 [X]	Corrective Action Needed [ ] Comments Below [ ]

13.	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 [X]
Seals were not observed during this audit	

14.	Determine if adequate close-out conferences are being conducted at the end of each inspection.
Adequate [X]	Corrective Action Needed [ ] Comments Below [ ]

15.	Determine if Possible Knowing/Willful (PKW) Forms are documented and processed according to agency policy and procedures.
Adequate [ ]	Corrective Action Needed [ ] Comments Below [X]
The Possible willful and knowing forms were not reviewed during this audit.	

16.	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 [X]	Corrective Action Needed [ ] Comments Below [ ]

17.	Determine if Hazard Complaint inspections/investigations are being conducted according to policy and procedures.
Adequate [X]	Corrective Action Needed [ ] Comments Below [ ]

18.	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 [X]	Corrective Action Needed [ ] Comments Below [ ]

19.	Are required Field Activity Reviews (FARs) and supervisory follow-ups being conducted and documented according to agency policy and procedures?
Adequate [X]	Corrective Action Needed [ ] Comments Below [ ]

20.	Are Accompanied Activities (AAs) and supervisory follow-ups being conducted and documented according to agency policy and procedures?
Adequate [X]	Corrective Action Needed [ ] Comments Below [ ]

21.	Determine if a 104(d) tracking system is in place and being kept current at the office being audited.
Adequate [X]	Corrective Action Needed [ ] Comments Below [X]
Tracking through ITS and tracking maps.	

22.	Determine if the Uniform Mine File books are being maintained and reviewed according to current agency policy and procedures.
Adequate [X]	Corrective Action Needed [ ] Comments Below [ ]

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

Adequate [X] Corrective Action Needed [ ] Comments Below [ ]

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

Adequate [X] Corrective Action Needed [ ] Comments Below [ ]

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

Adequate [X] Corrective Action Needed [ ] Comments Below [ ]

26. Review documentation of staff meetings/safety meetings to determine their effectiveness and relevance to current issues and the Agency's mission.

Adequate [X] Corrective Action Needed [ ] Comments Below [ ]

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

Adequate [X] Corrective Action Needed [ ] Comments Below [ ]

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

Adequate [X] Corrective Action Needed [ ] Comments Below [ ]

29.	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 [X] Corrective Action Needed [ ] Comments Below [ ]

30.	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.

(b) (6)

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

Adequate [X] Corrective Action Needed [ ] Comments Below [ ]

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

Adequate [X] Corrective Action Needed [ ] Comments Below [ ]

33.	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 [X]

The ACRI program was not audited.

34.	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 [X]

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

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

Adequate [X] Corrective Action Needed [ ] Comments Below [x]

Data reports and FARS

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

Adequate [X] Corrective Action Needed [ ] Comments Below [ ]

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

Adequate [X] Corrective Action Needed [ ] Comments Below [ ]

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

Adequate [X] Corrective Action Needed [ ] Comments Below [ ]

Attachment C- Statistics

S&S Rate Comparison

During FY 2011 and FY 2012, the average S&S rate for the Indiana field office was higher than the district average and lower than the national average.

Fiscal Year	Indiana, PA Field Office	Coal District 2	National Average
2011	28%	25%	35%
2012	27%	24%	32%

Time and Activity Comparison

A comparison of FY 2011 and FY 2012 time distribution for regular (E01) inspections at surface facilities inspected by the Indiana 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
2011	Indiana, PA	15%	13%	72%	6%	0%	100%
	Nat'l Avg	17%	17%	66%	6%	1%	100%
2012	Indiana, PA	10%	13%	77%	4%	0%	100%
	Nat'l Avg	17%	17%	65%	5%	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

A comparison of FY 2011 and FY 2012 time distribution for regular (E01) inspections at surface mines inspected by the Indiana field office shows time in the other category to be about the same or slightly lower than the national average and on-site time to be about the same or slightly higher than the national average.

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
2011	Indiana, PA	18%	14%	68%	5%	0%	100%
	Nat'l Avg	18%	14%	68%	5%	1%	100%
2012	Indiana, PA	15%	13%	72%	2%	0%	100%
	Nat'l Avg	18%	15%	67%	4%	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 2011 and FY 2012 time distribution for regular (E01) inspections at underground mines inspected by the Indiana field office shows time in the other category is higher than the national average for FY 2012 and on-site time is about the same in FY 2011 and slightly higher in FY 2012 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
2011	Indiana, PA	17%	16%	67%	5%	1%	100%
	Nat'l Avg	16%	16%	68%	6%	1%	100%
2012	Indiana, PA	11%	18%	71%	4%	0%	100%
	Nat'l Avg	16%	16%	68%	5%	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

Attachment D – Citations Issued During Audit

No citations were issued during this audit.

Attachment E – Examples of Citations Issued During Previous Inspections

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

Attachment F – District Corrective Action Plan

U.S. Department of Labor

Mine Safety and Health Administration
Coal Mine Safety and Health, District 2
Paladin Professional Center
631 Excel Drive, Suite 100
Mt. Pleasant, Pennsylvania 15666

CMS&H Memo No. 02-13-057

MEMORANDUM FOR TED SMITH (b) (6)
Supervisor of Accountability
Mine Safety and Health Administration

FROM: THOMAS E. LIGHT (b) (6)
District Manager, Coal Mine Safety and Health, District 2

SUBJECT: Proposed Corrective Action

This is a response to the audit conducted by your office from (b) (6) at the Indiana, PA, Field Office and the (b) (6) MSHA ID No. (b) (6) The results of your audit identified two deficiencies which are required to be addressed by this office

DEFICIENCY NO. 1:

On one event during an inspection of the 1st Northwest Seals and the 1st Left Butt Seals, the seals were "ingassing" and there was no documentation as to pumping a sample or air quality being determined behind seals. Both sets of seals were non-120 psi seals. Procedure Instruction Letter No. I-11-V-09, dated 07/13/2011, reissue of I08-V-8, page 3, states in part "Sample the sealed atmosphere whether seals are outgassing or ingassing".

ROOT CAUSE:

Training/Supervisor Oversight.
The (b) (6) did not re-sample the air quality behind the seals when the first attempt was unsuccessful.

PROPOSED CORRECTIVE ACTIONS:

All Coal Mine Inspectors in the Indiana Field Office will be instructed on the required air quality sampling. When the ingassing pressure is too great to obtain the required sample an additional attempt must be made to obtain the sample during the same E01 inspection. If unsuccessful, the inspector must report this to the Field Office Supervisor and record this ventilation plan deficiency on an MSHA plan review form 2000-204

OFFICE RESPONSIBLE FOR IMPLEMENTING:

The Field Office Supervisor will be responsible for providing the required instruction. The Assistant District Manager for Inspection Programs will assure that the instruction was provided.

TIMEFRAME FOR COMPLETION:

The deficiency was corrected on May 21, 2013. The required instruction has been provided. See attachments (1 & 2)

METHOD FOR DETERMINING SUCCESS:

The Field Office Supervisor will review the record of air samples and air quality readings that are maintained in the inspector's hard-copy notes. Further review will be conducted during required Field Activity Reviews.

DEFICIENCY NO. 2:

Air measurements and tests were not being conducted where air enters and leaves the worked-out areas. See General Coal Mine Inspection Procedures and Inspection Tracking System Handbook PH-08-V-1, Page 47, Item (H)(12). The requirement was also included in the revised CMS&H PH13-V-1, Page 3-66, Item 13

ROOT CAUSE:

(b) (6) Oversight:

The District office had not instructed (b) (6) on the proper procedure for conducting air measurements and tests

PROPOSED CORRECTIVE ACTIONS:

All Authorized Representatives in District 2 will be instructed on the required location of air quality and quantity sampling.

OFFICE RESPONSIBLE FOR IMPLEMENTING:

The District 2 Staff Assistant will be responsible for providing the required instruction. The Assistant District Manager for Inspection Programs will assure that the instruction was provided.

TIMEFRAME FOR COMPLETION:

The required instruction will be provided by July 31, 2013

METHOD FOR DETERMINING SUCCESS:

The Field Office Supervisor will review the record of locations of air samples and air quality readings that are maintained in the inspector's hard-copy notes. Further review will be conducted during required Field Activity Reviews.

Jun e 17, 2013

A safety meeting was held with tl e Inspector's the week of May 5, 2013. The training topic covered the Audit review on one (1) issue – PIL I11-V-09 dated 7/13/2013; reissued of I08-V-8, page 3 states in part (sample) the sealed atmosphere where the seals are outgassing or ingassing. And reviewed the Inspection Procedure Manual 3-52 and 3-53 (Seals). All Inspectors were instructed to collect a gas reading behind the Seals.

Training Audit Review
Indiana Field Office
May 2013

(b) (6)

Attachment (2)