



SEP - 9 2016

MEMORANDUM FOR PATRICIA W. SILVEY

Deputy Assistant Secretary for Operations
Mine Safety and Health Administration

THROUGH:

NEAL H. MERRIFIELD
Administrator for
Metal and Nonmetal Mine Safety and Health

FROM:

THOMAS W. CHARBONEAU
Director, Office of Assessments

SUBJECT:

Mine Safety and Health Administration (MSHA)
Office of Accountability Review, Metal and Nonmetal South
Central District, Rolla, Missouri Field Office and

Introduction

This memorandum summarizes the Office of Accountability's review of the subject district office, field office, and mine. This review included MSHA field activities; level of enforcement; conditions and practices at the mine; Field Accompanied Reviews (FARs); Office Reviews (ORs) and MSHA supervisory and managerial oversight. The accountability review also 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.

Purpose

The purpose of this accountability review is to determine whether Agency enforcement policies, procedures, and guidance are being followed consistently; whether mission critical enforcement activities are accomplished effectively; and to effectively evaluate and improve the overall performance of MSHA's enforcement program. The major outcome expected from the Office of Accountability review program is the identification of potential or actual areas for improvement and the subsequent implementation of effective corrective actions to address any identified issues.

Overview

Office of Accountability (OA) Specialists Mark Odum and Jim Poynter (Review Team) conducted this review of Metal and Nonmetal's (MNM) South Central District and the Rolla, Missouri, Field Office, from [REDACTED] in accordance with the FY 2016 annual accountability review plan schedule. The OA selected the [REDACTED] an underground [REDACTED] mine and associated surface mill, because the mine is a large operation with several active work areas and was issued [REDACTED] Section 104(d) unwarrantable failure actions during the first quarter of FY 2016.

This review focused on inspection activities at the [REDACTED] during FY 2016 (October 2015 through May 2016), with special emphasis on documentation associated with the regular E01 inspection, Event No. [REDACTED] conducted by the Rolla - North Field Office during the first quarter of FY 2016.

As a part of this review, the OA conducted a mine visit to evaluate general mine conditions; determine whether conditions at the mine correspond with enforcement levels documented in the inspection reports reviewed; and observed work practices at the mine site.

The OA did not identify any major issues that required a corrective action plan; however, the Review Team discussed with district management some minor issues that were noted which could be resolved through implementation of inspection best practices as described in the General Inspection Procedures Handbook (GIPH). A general outline of discussion topics is included in an attachment to this memorandum.

Mine Visit [REDACTED]

OA Specialist Mark Odum accompanied the Little Rock, Arkansas Field Office supervisor and an inspector to the [REDACTED] on [REDACTED] as part of a Regular Health and Safety Inspection (E01) because the Rolla, Missouri Field Office supervisor was not available for the visit.

The [REDACTED] is located in [REDACTED]. It is a large operation that employs approximately [REDACTED] miners working two production shifts per day, five days per week. The mine has several active mining areas which extract an average of [REDACTED] of [REDACTED] per day. Room and pillar mining methods are utilized, where the [REDACTED] is drilled and shot. The [REDACTED] is then transported to the mill where it is processed.

The Review Team traveled to the mill and processing areas where they observed the processing floors, ball mills, and housekeeping activities. The Team also traveled underground to the C1 working area, on the south side of the mine. There they observed loading, hauling, and dumping of the [REDACTED] inspection of a haulage truck, ventilation in the area, an underground explosives storage facility, and a shop. The inspector conducted safety discussions with miners as they were encountered.

The Team also observed travelways, walkways, and the inspector's post inspection discussions with the operator. Two citations were issued to the mine operator during the inspection.

The district informed OA of on-going litigation with [REDACTED] regarding escapeways and refuge areas. The district had issued a citation of 30 CFR Section 57.11050a for several areas within the mine where two or more separate, properly maintained escapeways to the surface were not provided. At the time of the mine visit on [REDACTED] the operator was using designated safe areas for affected underground locations.

Review Results

The accountability review revealed positive findings in several areas, including the following:


1. For the E01 inspection reviewed, notes and documentation were organized, clear and concise, and included pictures;
2. For the E01 inspection reviewed, inspectors used an equipment inventory checklist to assist them with the inspection of equipment;
3. For the E01 inspection reviewed, inspectors documented observations of work practices and conducted safety talks with miners.
4. The district and field office investigated hazardous condition complaints in a timely manner. Documentation clearly covered the investigative activities and subsequent results.
5. The supervisor conducted regular staff meetings with inspectors and documented topics covered. The meetings provided inspectors with pertinent enforcement information and updates, and reviews of MSHA policy and procedures.
6. The review did not reveal any systemic issues that required a corrective action plan.

During the review, the OA identified some minor issues that were later discussed with the district, see Attachment C.

As a part of this review, the enforcement levels for the field office and mine were compared with the district and national rates for the first quarter of FY 2016. For this period, the significant and substantial (S&S) issuance rate for the mine was 47% as compared to 33% for the field office, 29% for the district, and a 26% national rate. This higher rate was attributed to the mine having some ventilation issues and receiving several enforcement issuances for air quality and exposure levels of contaminants. The district subsequently requested a ventilation survey and evaluation by the MSHA Technical Support group. As a result of the enforcement actions by the district, the ventilation survey, and the inspector working with the operator, the mine began using additional auxiliary fans, implemented better ventilation practices, and adjusted calibration checks for air quality detectors. At the time of the mine visit, the mine was using blowing auxiliary ventilation fans and tubing to ventilate working areas. Based on

the review and observations during the mine visit, enforcement levels were appropriate for the mining conditions and work practices at the mine.

Attachments

- A. Office of Accountability Checklist
- B. Citations issued during this review
 -  57.16009
 - 57.14107a
- C. Discussion Topics

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

District

Field Office

Mine ID

Date

Attachment A – Office of Accountability Checklist

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

Adequate

Corrective Action Needed

Comments Below

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

Adequate

Corrective Action Needed

Comments Below

3. Determine if citations and orders issued during previous inspections were properly evaluated for gravity, negligence, level of enforcement, number of persons affected, and supported by documentation.

Adequate

Corrective Action Needed

Comments Below

4. Evaluate inspector(s) examination of required records and postings for compliance with applicable standards.

Adequate

Corrective Action Needed

Comments Below

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

Adequate

Corrective Action Needed

Comments Below

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

Adequate

Corrective Action Needed

Comments Below

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

District Field Office Mine ID Date

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

Adequate Corrective Action Needed Comments Below

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

Adequate Corrective Action Needed Comments Below

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

Adequate Corrective Action Needed Comments Below

Field Office review. PKW forms were not reviewed as a part of this review.

10. Evaluate 103(i) spot inspection (E02) reports for the office/district being reviewed for compliance with agency policies and procedures, including compliance with time frames and separating E02 inspections from other events.

Adequate Corrective Action Needed Comments Below

Not reviewed as a part of this review. The Field Office does not have any mines in a 103(i) spot inspection status.

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

Adequate Corrective Action Needed Comments Below

12. Determine if supervisors are monitoring inspector time and activity to ensure proper use of time, including off-shift and weekend work, by all inspectors.

Adequate Corrective Action Needed Comments Below

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

District Field Office Mine ID Date

13. Are required Office Reviews (ORs) and supervisory follow-up reviews being conducted and documented according to agency policy and procedures?
(One E-01/Inspector/every six months/FY -minimum)

Adequate Corrective Action Needed Comments Below

14. Are Field Accompanied Reviews (FARs) and supervisory follow-up reviews being conducted and documented according to agency policy and procedures?
(one/inspector/year - minimum)

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

Adequate Corrective Action Needed Comments Below

16. Determine if the Mine Files are legible, up to date, and reviewed by supervisors.

Adequate Corrective Action Needed Comments Below

17. Determine if supervisors are visiting active mines.

Adequate Corrective Action Needed Comments Below

18. 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

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

District Field Office Mine ID Date

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

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

Adequate Corrective Action Needed Comments Below

21. 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

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

Adequate Corrective Action Needed Comments Below

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

Adequate Corrective Action Needed Comments Below

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

Adequate Corrective Action Needed Comments Below

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

District Field Office Mine ID Date

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

Adequate Corrective Action Needed Comments Below

26. Determine if inspectors have an understanding of when a violation of Section 103(a) for Advance Notice occurs and whether appropriate citations are issued for Advance Notice.

Adequate Corrective Action Needed Comments Below

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

Adequate Corrective Action Needed Comments Below

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

Adequate Corrective Action Needed Comments Below

Tracked by district personnel.

29. Determine if supervisors are rotating the mine assignments annually among inspectors assigned to their field office.

Adequate Corrective Action Needed Comments Below

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

District South Central Field Office Rolla, MO Mine ID [REDACTED] Date [REDACTED] 6

Attachment B - Citations issued during the review

Mine Citation/Order	U.S. Department of Labor Mine Safety and Health Administration	
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Section I - Violation Data			
1. Date	Mo Da Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number
4. Served To	5. Operator		
6. Mine	7. Mine ID		(Contractor)
8. Citation or Practice			9a. Written Notice (103g)

There is a Knife valve suspended from a chain hoist approx. 12' 8 1/2" above the pump area, where miners travel, in the surface mill basement. This Knife valve weighs approx. 150#. The hazard of a miner being struck by a falling suspended load exists.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR
			57.16009

Section II - Inspector's Evaluation					
10. Gravity:					
A. Injury or illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input checked="" type="checkbox"/> Reasonably Likely <input type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>					
B. Injury or illness could reasonably be expected to bar: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input checked="" type="checkbox"/>					
C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" 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 104a		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	B. Time (24 Hr. Clock)	
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Section III - Termination Action

17. Action to Terminate: The suspended load was removed.

18. Terminated	A. Date Mo Da Yr	B. Time (24 Hr. Clock)	
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Section IV - Automated System Data			
19. Type of Inspection (activity code)	E01	20. Event Number	21. Primary or Mill M
22. AR Name			23. AR Number

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 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.

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

District South Central Field Office Rolla, MO Mine ID [REDACTED] Date [REDACTED]

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 To		5. Operator	
6. Mine		7. Mine ID	
8. Citation or Practice			8a. Written Notice (103g)

The [REDACTED], located in the surface mill building, is not adequately guarded on the south end. This rotating mill is guarded only with a single chain. The moving machine part is approx. 2' 9" in from the chain. This condition creates an entanglement hazard.

Standard 57.14107a was cited [REDACTED]

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR
			57.14107a

Section II--Inspector's Evaluation

10. Gravity:				
A. Injury or illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input checked="" type="checkbox"/> Reasonably Likely <input 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 type="checkbox"/> No <input checked="" type="checkbox"/>			D. Number of Persons Affected: 001	
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input checked="" type="checkbox"/> C. Moderate <input type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>				
12. Type of Action 104a		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 Date	A. Date Mo Da Yr	B. Time (24 Hr. Clock)	
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Section III--Termination Action

17. Action to Terminate A substantial metal guard was installed.

18. Terminated	A. Date Mo Da Yr	B. Time (24 Hr. Clock)	
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Section IV--Automated System Data

19. Type of Inspection (activity code)	20. Event Number	21. Primary or MIM	
E01		M	
22. AR Name			23. AR Number

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

District

South Central

Field Office

Rolla, MO

Mine ID

[REDACTED]

Date

[REDACTED]

Attachment C – Discussion Topics

- Documentation of information for photographs – For the E01 inspection reviewed, several of the photograph documentation forms (MSHA Form 4000-125) did not include the location of the condition or object photographed and a brief description of the photograph image. The forms typically used were dated March 2005 and the most up-to-date form is dated June 2009.

See Metal and Nonmetal General Inspection Procedures Handbook (GIPH), PH13-IV-1, April 2013, page 13, 65, and 78 for reference.

- [REDACTED]

The Metal and Nonmetal Mine Safety and Health Supervisors Handbook, AH09 - III - 1(1), June 2009