



OCT - 9 2017

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

THROUGH: TIMOTHY R. WATKINS [REDACTED]
Deputy Administrator for
Coal Mine Safety and Health [REDACTED]

FROM: THOMAS W. CHARBONEAU [REDACTED]
Director, Office of Assessments [REDACTED]

SUBJECT: Mine Safety and Health Administration (MSHA)
Office of Accountability Review, Coal District 4, Madison,
West Virginia Field Office, and [REDACTED]
[REDACTED]

Introduction

This memorandum summarizes the Office of Accountability's (OA) 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; and MSHA supervisory and managerial oversight. The accountability review also included evaluations to determine if there were any issues in areas commonly identified during Agency internal reviews of MSHA's actions following past mining disasters.

Purpose

The purpose of this accountability review is to determine whether MSHA enforcement policies, procedures and guidance are followed consistently; and to assess whether mission critical enforcement activities are accomplished effectively. The accountability review also identifies areas for improvement and the subsequent implementation of effective corrective actions to address any identified issues.

Overview

Office of Accountability (OA) Supervisor Ted Smith and Specialist Troy Davis (Review Team) conducted a review of Coal's District 4 and the Madison, West Virginia Field Office in accordance with the annual accountability review plan schedule. The onsite portion of the review was conducted from [REDACTED]. The review focused on inspection and supervisory oversight activities conducted in FY 2016 and first quarter of FY 2017. The review concentrated on the Regular Safety and Health Inspection (E01), Event No. [REDACTED] conducted during the first quarter of FY 2017 by the Madison, West Virginia Field Office of the [REDACTED] ID No. [REDACTED].

[REDACTED] was selected for review because it is a large underground operation.

Mine Visit

The Review Team accompanied the Field Office Supervisor and an Inspector to the mine on [REDACTED] as part of a Safety and Health Spot Inspection (E16). During the visit, the team evaluated general conditions at the mine; assessed whether conditions at the mine are commensurate with enforcement levels documented in the inspection reports reviewed; and observed work practices at the mine site.

The mine is located in [REDACTED] and employs approximately [REDACTED] miners working two eight-hour production shifts, five days per week. The mine consists of two room and pillar mining sections that use continuous mining machines. The mine produces an average of [REDACTED] of raw coal daily. Coal is transported from the mine by conveyor belts to the surface, and then to the preparation plant onsite.

The mine visit included inspections and observations of the following:

Surface areas:

- mine examination records and postings;
- check-in/check-out system;
- communication and tracking system, and the atmospheric monitoring system for early fire detection;
- posted escapeway maps;
- the Inspector's pre-inspection discussions with the operator; and
- methane de-gas system for sealed areas.

Underground Working Section:

- examinations of the working section (MMUs 004-0 and 009-0) for imminent dangers, methane tests, air readings and evidence of examinations being conducted;
- ventilation, rock dusting, cleanup, and roof and rib conditions;
- mining cycle and work practices;
- function tested the proximity detection system on the continuous mining machine;
- visual observations of the section power center;

- a functional test of the post-accident communication and tracking system;
- self-contained self-rescuers (SCSRs) cache; and
- a refuge alternative and escapeway maps.

Underground Outby areas:

- portions of the primary/alternate escapeways to the working section including lifelines and signage observed;
- 1B panel belt and 1A belt drive and firefighting equipment;
- outby SCSR cache;
- 1 Left Seal set – 5 Minova 120 psi seals; and
- observed general conditions- roof, ventilation, cleanup and rockdusting.

As a result of the inspection, the Inspector issued one enforcement action.

Review Results

The review revealed positive findings in the following areas:

- The inspectors documented the ventilation and roof control plan discussions with miners on each section in the field notes and included both dayshift and evening shift section crews;
The inspectors documented in detail in the field notes the areas traveled;
- The inspectors documented in the field notes areas of the mine that were too wet to sample for rockdust; and
- The District Manager complied with the 30 day requirement to reach decision on Possible Knowing and Willful forms for reports since September 2016. [REDACTED]

The Review Team identified and discussed with the District personnel inspection and procedural best practices as described in the Coal Mine Safety and Health General Inspection Procedures Handbook. A general outline of discussion topics is included in an attachment to this memorandum. (See Attachment C)

As a part of the review, enforcement levels of the mine and Field Office were compared with the District and national averages. The [REDACTED] had the following statistics:

- The mine had an S&S rate of 28% during FY 2016 compared to the Field Office S&S rate of 28%; a District S&S rate of 18%; and the national S&S rate of 22%.

In FY 2016, the S&S rate for the mine was higher than the average S&S rate of the District and the nation average.

The Review Team determined that the enforcement levels for the [REDACTED] are commensurate with existing mining conditions and work practices.

Attachments

A. Office of Accountability Checklist

B. Citations Issued during Mine Visit

- No. [REDACTED] 75.211(d)

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

Determine if citations and orders issued during previous inspections were

3. 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/specialist examination of required record books and postings for compliance with applicable standards.

Adequate Corrective Action Needed Comments Below

5. Evaluate inspector/specialist examination of the operator's maps (on-site) for accuracy, escapeway locations, etc.

Adequate Corrective Action Needed Comments Below

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

District

Coal District 4

Field Office

Madison, WV
Field Office

Mine ID

██████████

Date

██████████

6. Evaluate, upon arrival on the working section, inspector/specialist examination of all working faces for imminent dangers.

Adequate

Corrective Action Needed

Comments Below

7. Evaluate the inspector/specialist observation of the work cycle and conditions on the working section during the review.

Adequate

Corrective Action Needed

Comments Below

8. Evaluate the inspector/specialist air quantity, quality, and gas checks during the review.

Adequate

Corrective Action Needed

Comments Below

9. Evaluate inspector/specialist examination of equipment electrical cables during the review.

Adequate

Corrective Action Needed

Comments Below

10. Evaluate inspector/specialist examination for permissibility during the review.

Adequate

Corrective Action Needed

Comments Below

NA – Not part of this review

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

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

District Field Office Mine ID Date

12. Evaluate, during the review, the inspection of at least one set of seals, including methods for obtaining samples from sealed area.

Adequate Corrective Action Needed Comments Below

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



15. 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

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

Adequate Corrective Action Needed Comments Below

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District

Coal District 4

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Madison, WV
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Date

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

Adequate

Corrective Action Needed

Comments Below

- Determine if required Accompanied Activities (AAs); Field Activity Reviews (FARs) and supervisory follow-ups are being conducted and documented according to agency policy and procedures?
- 18.

19. 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

20. 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

21. Determine if supervisors are thoroughly reviewing Uniform Mine Files at least annually?

Adequate

Corrective Action Needed

Comments Below

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

Adequate

Corrective Action Needed

Comments Below

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Madison, WV
Field Office

Mine ID

████████

Date

████████

23. Determine if all sections where retreat mining is occurring (not to include longwall mining) are being inspected at least monthly?

Adequate

Corrective Action Needed

Comments Below

24. Determine if documentation of staff meetings/safety meetings are effective and relevant to current issues and the Agency's mission.

Adequate

Corrective Action Needed

Comments Below

25. Determine, after an in-mine visit, if approved plans (Ventilation, Roof Control, Training, Emergency Response Plan (ERP), etc.) are compatible with mining conditions and equipment.

Adequate

Corrective Action Needed

Comments Below

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

Adequate

Corrective Action Needed

Comments Below

27. 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

United States Department of Labor
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District

Coal District 4

Field Office

Madison, WV
Field Office

Mine ID

[REDACTED]

Date

[REDACTED]

28. 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.

[REDACTED]

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

Adequate Corrective Action Needed Comments Below

[REDACTED]

30. 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

[REDACTED]

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

Adequate Corrective Action Needed Comments Below

NA – not part of this review

[REDACTED]

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

Adequate Corrective Action Needed Comments Below

[REDACTED]

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

District

Coal District 4

Field Office

Madison, WV
Field Office

Mine ID

[REDACTED]

Date

[REDACTED]

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

Adequate

Corrective Action Needed

Comments Below

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

Adequate

Corrective Action Needed

Comments Below

35. Determine if District Managers are using the Report Center to identify overdue responses from operators and take appropriate actions.

[REDACTED]

36. Determine if a complete permissibility inspection of each longwall system is being conducted by electrical specialists or inspectors who hold a current MSHA electrical qualification card on at least an annual basis.

Adequate

Corrective Action Needed

Comments Below

37. Determine if a proper examination of the Atmospheric Monitoring System (AMS) and/or AMS systems that operate Carbon Monoxide (CO) sensors is being conducted. A complete inspection includes those items in the Coal General Inspection Procedures Handbook (GIPH) AMS checklist.

Adequate

Corrective Action Needed

Comments Below

United States Department of Labor
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Coal District 4

Field Office

Madison, WV
Field Office

Mine ID

[REDACTED]

Date

[REDACTED]

38.

Determine if SSIs are maintaining a memorandum detailing the reasons for not conducting a special investigation when the district manager decides to take no further action, in accordance with the Special Investigations Procedures Handbook.

[REDACTED]

39.

Determine if proper procedures for conducting, documenting, and reviewing MSHA respirable dust surveys are being followed. Proper documentation to include blue cards, 2000-86s, etc.

Adequate

Corrective Action Needed

Comments Below

[REDACTED]

40.

Determine if District Managers and Assistant District Managers are providing acting Field Office Supervisors with the level of oversight necessary to manage their work groups on a temporary basis including an online distance learning training course with a knowledge check for temporarily promoted supervisors. The guidance will be included in each District's Standard Operating Procedure (SOP) for training newly promoted Field Office Supervisors.

[REDACTED]

[REDACTED]

United States Department of Labor
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Madison, WV
Field Office

Mine ID

██████████

Date

██████████

The Roof Control Plan SOP should comply with the established Program Policy Manual requirements as identified by the OIG report to address deficiencies identified in the Internal Review report. The SOPs should account for:

- 41.
- checking that required information is submitted
 - checking for communication with other plan approval groups
 - assuring that designated MSHA personnel contact the operator for additional information
 - discussing results of on-site evaluations with the operator and identified miners' representatives.

Adequate

Corrective Action Needed

Comments Below

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

District Coal District 4 Field Office Madison, WV
Field Office Mine ID [REDACTED] Date [REDACTED]

Attachment B - Citations issued during Mine Visit

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

When examined, a bar for taking down loose material was not provided on the Fletcher roof bolter C/N 412 on the number 1 section MMU 009.

Standard 75.211(d) was cited [REDACTED]

9. Violation	A. Health Safety <input checked="" type="checkbox"/> Other	B. Section of Act	C. Part/Section of Title 30 CFR	75.211(d)
<small>See Continuation Form (MSHA Form 7000-3a)</small>				
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 checked="" type="checkbox"/> Permanently Disabling <input 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 type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>				
12. Type of Action		13. Type of Issuance (check one)		
104(a)		Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>		
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)
			[REDACTED]

Section III - Termination Action:
 17. Action to Terminate: A bar was provided for taking down loose material on the Fletcher roof bolter C/N 412.

18. Terminated	A. Date	Mo Da Yr	B. Time (24 Hr. Clock)
			[REDACTED]

Section IV - Automated System Data			
19. Type of Inspection (activity code)	L16	20. Event Number	[REDACTED]
21. Primary or Mill		[REDACTED]	
22. AR Name		23. AR Number	
[REDACTED]		[REDACTED]	

MSHA Form 7000-3 Apr 88 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1990, 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, 400 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 Field Office Mine ID Date

Attachment C – Discussion Topics

Topics discussed with the District that do not require a corrective action plan are as follows:

- **Documentation of Enforcement Actions for Event [REDACTED] –**
 - Discussed training provided in 2017 required by the Corrective Action Plan. The training corrected the issue of including the plan approval page and the pertinent pages in the inspection report.
 - Gravity and Negligence were not always documented in the field notes to justify the level of negligence and likelihood of injury depicted on the citation.
 - Number persons affected vs. number of persons exposed were not always documented properly on the citation form.

See Citation and Order Writing Handbook For Coal Mines and Metal and Nonmetal Mines, PH13-I-1(1), pages 10-18; Coal Mine Safety and Health General Inspection Procedures Handbook, PH16-V-1 (GIPH), pages 2-17 through 22

- **MSHA Form 2000-22**
 - Item 13f "other samples" - There were 4 diesel surveys conducted during the E01 reviewed (Event [REDACTED]). The 2000-22 form was documented as "0" samples taken. GIPH page 2-17 item 13a
 - Item 17 Remarks - should be used to describe the type of samples taken and recorded in Item 13f.
- **Inspection Tracking System (ITS) –**
 - Discussed documentation of equipment. Not all equipment documented in the field notes were in the ITS. GIPH 3-49
- **Respirable Dust-**
 - One blue card missing in the E01 event [REDACTED]
 - 2000-86 form for MMU 009-0 sampled on [REDACTED] did not have the number of water sprays observed listed in item 19 of the form.