



MAY 24 2019

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

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

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

SUBJECT: Mine Safety and Health Administration (MSHA)
Office of Accountability Review
Metal and Nonmetal North Central District
[REDACTED]

Introduction

This memorandum summarizes the Office of Accountability's (OA) review of the North Central District, [REDACTED]. The review focused on enforcement activities at the [REDACTED]. 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.

Purpose

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

Overview

Office of Accountability Supervisor Ted Smith and Specialist Troy Davis (Review Team) conducted the review in accordance with the annual accountability review plan schedule. The review concentrated on a Regular Safety and Health Inspection (E01) of the [REDACTED] Event No. [REDACTED]. The mine was selected because it is a large surface facility with complex processes. The on-site review was conducted from [REDACTED] [REDACTED]. The review focused on enforcement activities during [REDACTED] [REDACTED] FY 2019 and included review of supervisory oversight activities.

Mine Visit

The Review Team accompanied the Field Office Supervisor and the inspector to the mine on [REDACTED] as part of a Spot Inspection (E16).

The mine is a large surface facility that processes [REDACTED] located in [REDACTED]. The mine employs approximately [REDACTED] working three eight-hour production shifts per day, seven days a week. The [REDACTED] is first crushed in a roller mill and then transferred to a ball mill for additional processing. The plant has a packaging system to prepare the product for shipment to the customer. During the visit, the Review 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 visit included inspections and observations of the following:

Surface areas:

- Pre-inspection discussions with the mine operator
- Mine office
- Pre-operational records
- All floors of the ball mill processing facility
- Plant control room
- Motor Control Center electrical installation
- Bagging and packaging area
- Fork lift (mill)
- Safety talks with miners as encountered
- Enforcement action discussions with the operator and miner's representative

During the inspection, the accompanying inspector issued six enforcement actions. (Attachment E).

Review Results

The review revealed positive findings in the following areas:

- Inspectors conducted a complete inspection of the mine.
- Inspections were conducted on all work shifts.

- FARs, ORs and 2nd level reviews were completed and documented thoroughly.

This accountability review identified two issues that required a corrective action plan. District staff along with the Review Team analyzed the findings identified during this review to determine the root causes of the issues. The corrective action plan memorandum outlining the root causes of the issues and corrective actions implemented is included in an attachment to this memorandum. (Attachment A)

Issues Requiring Corrective Action (Attachment B)

Issue 1: The documentation reviewed for the Regular Safety and Health Inspection (E01), Event No. [REDACTED] was not complete. (Office of Accountability Checklist Item #2, Attachment D)

- The inspector's departure time from the mine was not documented in the field notes for seven days of inspection.

Issue 2: The documentation for negligence was not adequate for all citations/orders reviewed for the Regular Safety and Health Inspection (E01), Event No. [REDACTED] (Office of Accountability Checklist Item #3, Attachment D)

- The documentation for "moderate negligence" does not meet the criteria defined in the citation order writing handbook. No mitigating circumstance was documented.

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

Based on the [REDACTED] mine visit, the enforcement levels were appropriate for existing mining conditions and work practices.

Attachments

- A. Corrective Action Plan
- B. Issues Requiring Corrective Action
- C. Discussion Topics
- D. Office of Accountability Checklist
- E. Enforcement Actions Issued During the Mine Visit

- No. [REDACTED] 56.12032
- No. [REDACTED] 56.12004
- No. [REDACTED] 56.12004
- No. [REDACTED] 47.44(b)
- No. [REDACTED] 56.12004
- No. [REDACTED] 56.14112(b)

56.12032 - There was an electrical box cover not secured in place for the timer that operates the automatic oiler pump of the 27 mill. The mill was not operating at the time and there is no power to the oiler when the mill is down. A miner is at risk of contacting a 120 volt wire when covers to electrical boxes are not secured in place causing an electrical type shock or burn injury. The conditions in the area are usually dry by the box. Management did not know the box had been opened and the cover not secured in place. There was no record of this condition reported on a work exam when checked.

56.12004 - The power cord for the Wulftec bag wrap machine #PQL14-0001 had mechanical damage to the outer jacket of the cord. The damaged area was about 3/8 inches long approximately. There was no apparent damage to the inner conductors when checked. The wrapper was plugged in and the cord lies on the concrete floor by the wrapping machine. There were foot prints on the cord where it was lying on the concrete, and the condition was not easy to see. The start button is at about shoulder high. A miner is exposed to an electrical shock if the 120 volt power cord becomes further damaged and the cord is handled to move out of the way causing an electrical shock or burn type injury. The condition had not been found and reported on a work place exam and the condition had not been recognized by the person who last ran the machine. Management knows the requirement of this standard.

56.12004 - The control switch on the backside of the cart 26 bagging station had pulled out of the bushing exposing inner conductors to mechanical damage. There was wire mesh restraint holding the cord from pulling out of the box further and the inner conductors were not touching any metal and appeared not to be damaged. The area is inside and normally dry conditions exist. A miner is exposed to if the cord were to pull further out and become damaged this could result in the 120 volt electrical cable causing shock or burn type injury. This condition had not been reported on a work place exam when checked and the miner operating the cart had not noticed the condition. Management knows the requirement of this standard.

47.44(b) - There was a 2 gallon plastic jug used to recover oil at the cart 26 area that was not labeled as such. There was no label to identify the oil type liquid it contained. The jug was setting on the back area of cart 26. A miner is exposed to not being able to identify the contents if it were splatter or splashed on the person which could result in a skin irritation or burn type injury. Management did not know of this condition, but knew that all containers were to be labeled.

56.12004 - There was mechanical damage to an extension type cord coming directly from a receptacle box by the bag stacker area for cart 26. The cord had been cut and was at about 48 inches or mid chest high. The inner conductors when checked did not have any apparent damage to them. This area is inside and usually dry conditions exist. The damaged area was easy to see if this area was looked at when walking by this side of the bag stacker. A miner is exposed to grabbing the cord to move and contacting this area. Through further use this condition increases the chance of damage to the inner conductors allowing electrical shock or burn type injury. This condition was easy to see and should have been noticed and reported to management and safely corrected.

56.14112(b) - The underneath area guard of the chain drive sprocket that operates 28ils007 and 008 flat belt for the bag stacker delivery belts was not secured in place. The guard was located under the belt and on the back side of the chain drive sprocket. The distance from the concrete floor below measured 40 inches to this guard. The guard appeared to have gotten bent or partly broken off. A miner brooms under this area of the belt. A miner is exposed to a permanently disabling injury if a hand or finger were to come into contact with the chain and sprocket. The condition had not been noticed and reported on a work place exam and was not in an easy to see area.

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District	North Central	Field Office	[REDACTED]	Mine ID	[REDACTED]	Date	[REDACTED]
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Attachment A – Corrective Action Plan

US. Department of Labor

Mine Safety and Health Administration
Duluth Federal Bldg., U.S. Courthouse
515 W. First Street, Rm. 323
Duluth, Minnesota 55802-1302



April, 15, 2019

MEMORANDUM FOR THOMAS W. CHARBONEAU
Director, Office of Assessments

THROUGH: [REDACTED]
TED SMITH [REDACTED]
Supervisor, Office of Accountability

[REDACTED]
BRIAN GOEPFERT [REDACTED]
Deputy Administrator for
Metal and Nonmetal Mine Safety and Health

FROM: [REDACTED]
CHRISTOPHER HENSLER
District Manager
North Central District

SUBJECT: Proposed Corrective Actions

This is a response to the review conducted by the Office of Accountability from [REDACTED] at the [REDACTED] and the [REDACTED]. The results of your review identified two deficiencies, which are required to be addressed by this district.

Issue 1: The documentation reviewed for the Regular Safety and Health Inspection (E01), Event No. [REDACTED] was not complete. (Office of Accountability Checklist Item #2)

- The inspector's departure time from the mine was not documented in the field notes for seven days of inspection.
- ROOT CAUSE:

Inspectors failed to follow procedures in the Metal and Nonmetal Mine Safety and Health General Inspection Procedures Handbook, PH13-IV-1, April 2013 (GIPH), and supervisors failed to properly review and ensure proper documentation.

- PROPOSED CORRECTIVE ACTIONS:

The supervisors involved in the inspection reviewed will conduct the training. All inspectors and specialists will receive training specific to the requirements for documenting departure time in their field notes as described in the (GIPH), page 62. A copy of material covered will be provided to the inspectors/specialists. The training will be

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documented with a memorandum to the District Manager to be attached to the signed Office of Accountability report as documentation of the training.

- OFFICE OR POSITION RESPONSIBLE FOR IMPLEMENTING THE CORRECTIVE ACTION(S):

The Assistant District Manager (ADM) and Field Office Supervisor with responsibility of oversight in the area with the observed deficiency will be responsible to ensure adequate training is provided, and verified with a memorandum to the District Manager.

- TIMEFRAME FOR COMPLETION OF EACH CORRECTIVE ACTION:

The training will be conducted for all inspectors and specialists within two weeks of the Corrective Action Plan being approved.

- METHOD FOR DETERMINING SUCCESS:

Supervisors will review all incoming reports for a period of two weeks following the training. The supervisors will report to the ADM with a memorandum stating the completeness of the review and adherences to the procedures, ensuring the training was effective.

Issue 2: The documentation for negligence was not adequate for all citations/orders reviewed for the Regular Safety and Health Inspection (E01), Event No. [REDACTED] (Office of Accountability Checklist Item #3)

- The documentation for "moderate negligence" does not meet the criteria defined in the citation order writing handbook. No mitigating circumstance was documented.

- ROOT CAUSE:

Inspectors failed to maintain proper and effective documentation and supervisors failed to effectively identify and correct the deficiencies.

- PROPOSED CORRECTIVE ACTIONS:

The ADM and Supervisor will reinstruct specialists and inspectors in the identified areas on effective documentation for negligence as provided in the citation order writing handbook, along with providing additional samples of well documented citation notes.

Following completion of the training a memorandum will be provided to the District Manager to verify the training was completed.

- OFFICE OR POSITION RESPONSIBLE FOR IMPLEMENTING THE CORRECTIVE ACTION(S):

The ADM and Field Office Supervisor with responsibility of oversight in the area with the observed deficiency will be responsible to ensure adequate training is provided, and verified with a memorandum to the District Manager.

- TIMEFRAME FOR COMPLETION OF EACH CORRECTIVE ACTION:

The training will be conducted for all inspectors and specialists within two weeks of the Corrective Action Plan being approved.

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- METHOD FOR DETERMINING SUCCESS:

Supervisors will review all incoming reports for a period of two weeks following the training. The supervisors will report to the ADM with a memorandum stating the completeness of the review and adherences to the procedures, ensuring the training was effective.

A DESCRIPTION OF THE DOCUMENTATION THAT WILL DEMONSTRATE CLOSURE OF THE CORRECTIVE ACTIONS:

The District Manager will send a memorandum to Thomas W. Charboneau, Director, Office of Assessments through Ted Smith, Supervisor, Office of Accountability, and through Brian Goepfert, Deputy Administrator for Metal and Nonmetal Mine Safety and Health upon completion and evaluation of the corrective actions.

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Attachment B – Issues Requiring Corrective Action

Issue 1: The documentation reviewed for the Regular Safety and Health Inspection (E01), Event No. [REDACTED] was not complete. (Office of Accountability Checklist Item #2, Attachment D)

- The inspector’s departure time from the mine was not documented in the field notes for seven days of the inspection.

Requirements: Metal and Nonmetal Mine Safety and Health General Inspection Procedures Handbook, PH13-IV-1, April 2013 (GIPH), page 62 – Inspectors shall document, at a minimum, the following information in their general field notes: Daily arrival and departure times from the mine or mill site.

Issue 2: The documentation for negligence was not adequate for all citations/orders reviewed for the Regular Safety and Health Inspection (E01), Event No. [REDACTED] (Office of Accountability Checklist Item #3, Attachment D)

- The documentation for “moderate negligence” does not meet the criteria defined in the citation order writing handbook. No mitigating circumstance was documented.

Requirements: Citation and Order Writing Handbook for Coal Mines and Metal and Nonmetal Mines, PH13-I-1(1), December 2013, page 16 states in part:

Negligence - Negligence is defined in § 100.3(d) as “...conduct, either by commission or omission, which falls below a standard of care established under the Mine Act to protect miners against the risks of harm. Under the Mine Act, an operator is held to a high standard of care. A mine operator is required to be on the alert for conditions and practices in the mine that affect the safety or health of miners and to take steps necessary to correct or prevent hazardous conditions or practices. The failure to exercise a high standard of care constitutes negligence.” The degrees of negligence are defined in § 100.3 (d) as follows:

Moderate negligence - The operator knew or should have known of the violative condition or practice, but there are mitigating circumstances.

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Attachment C – Discussion Topics

The following topics were discussed with District management:

- Enforcement actions pertaining to the proper standard cited for the condition and practice observed.
- Health citations at the [REDACTED] regarding nuisance dust at bagging area.
- MSHA policy concerning citations for nuisance dust are not to be marked as significant and substantial (S&S).
- Documentation and completion of MSHA Subsequent Action Form 7000-3A.
- Check appropriate boxes on the Regular Inspection Information Form 4000-49A.

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Attachment D - 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

See Attachment B

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

See Attachment B

4. Evaluate inspectors' examination of required records and postings for compliance with applicable standards.

Adequate Corrective Action Needed Comments Below

5. Evaluate the inspectors' 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 inspectors' on-site contaminant assessment and documentation.

Adequate Corrective Action Needed Comments Below

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7. Evaluate inspectors' 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

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 Applicable – The Field Office does not have any mines in a 103(i) 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

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13. Are required Field Accompanied Reviews (FARs), Office Reviews (ORs) and supervisory follow-up reviews being conducted and documented according to agency policy and procedures?

(ORs – One E01/Inspector/every six months/FY; FARs – One/Inspector/FY)

Adequate Corrective Action Needed Comments Below

14. 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

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

Adequate Corrective Action Needed Comments Below

Not Applicable – Mine files maintained in the

16. Determine if supervisors are visiting active mines.

Adequate Corrective Action Needed Comments Below

17. 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

18. 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.

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

Adequate Corrective Action Needed Comments Below

20. 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

21. 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

22. 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

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

Adequate Corrective Action Needed Comments Below

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

Adequate

Corrective Action Needed

Comments Below

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

Adequate

Corrective Action Needed

Comments Below

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

Adequate

Corrective Action Needed

Comments Below

28. Determine if supervisors are rotating the mine assignments annually among inspectors assigned to their Field Office.

Adequate

Corrective Action Needed

Comments Below