



MEMORANDUM FOR PATRICIA W. SILVEY

Deputy Assistant Secretary for  
Mine Safety and Health

THROUGH:

[REDACTED]  
NANCY M. ROONEY  
Administrator for  
Mine Safety and Health Enforcement

FROM:

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

SUBJECT:

Mine Safety and Health Administration (MSHA)  
Accountability Division Review  
Norton District and [REDACTED]  
[REDACTED]

## Introduction

This memorandum summarizes the Accountability Division's review of the Norton District and the [REDACTED]. The review focused on enforcement activities at the [REDACTED]. The review also included an evaluation of District and Field Office activities, level of enforcement, and MSHA supervisory and managerial oversight activities.

## Purpose

The purpose of this accountability review was to determine whether MSHA enforcement policies, procedures, and guidance were followed consistently and to assess whether mission-critical enforcement activities were accomplished.

## Overview

Accountability Division Specialist Troy Davis conducted the review in [REDACTED]. The review focused on a Regular Safety and Health Inspection (E01) at [REDACTED] [REDACTED], Event No. [REDACTED], completed in [REDACTED]. [REDACTED] is a [REDACTED] located in [REDACTED]. The review also included areas of District and Field Office responsibility, as identified in the attached Accountability Division Checklist (Attachment B). Due to travel restrictions resulting from the February 2021 National Emergency and continuing in effect beyond March 1, 2022, the site visit portion of the review could not be performed.

## Review Results

Based on the review of the E01 inspection report, Event No. [REDACTED], and discussions with the Field Office and District management, the level of enforcement was appropriate for the mine.

This review identified two issues that required a Corrective Action Plan.

Issue 1: The District did not provide the [REDACTED] bump test equipment necessary for inspectors to safely and effectively complete underground inspections (Attachment C).

Issue 2: Hazardous Condition Complaint inspections are not being conducted according to the Hazardous Condition Complaint Procedures Handbook Number PH20-I-2 (Attachment C).

The District developed and implemented a Corrective Action Plan to address the issues (Attachment A).

Attachment A: Corrective Action Plan

April 20, 2022

MEMORANDUM FOR      THOMAS W. CHARBONEAU  
Director, Office of Assessments

THROUGH:              [REDACTED]  
NANCY M. ROONEY  
Administrator for  
Mine Safety and Health Enforcement

MOHAMED ABOELMAGD  
Chief, Accountability Division

FROM:                  BENJAMIN S. HARDING  
District Manager  
Eastern Region, Norton District

SUBJECT:              Corrective Action Plan

This is a response to the review conducted by the Accountability Division in [REDACTED], for the Norton District and the [REDACTED]. The results of your review identified two issues that must be addressed by the District.

Issue 1: The District did not provide the Staunton Field Office bump test equipment necessary for inspectors to safely and effectively complete underground inspections. Multi-gas detector bump test kits were not made available to inspectors conducting multiple-day underground inspections at a non-local underground mine. The [REDACTED] has responsibility for [REDACTED] travel time from the Field Office. The inspectors stay in the area of the assigned mine to conduct inspections during the week and cannot feasibly return to the Field Office to bump-test multi-gas detectors before use each day.

ROOT CAUSE:

The District did not have procedures in place to assure adequate equipment was provided and on hand in the [REDACTED] to cover the daily bump-test requirements where detectors were in use.

PROPOSED CORRECTIVE ACTION(S):

The District will procure the equipment necessary to bump-test multi-gas detectors. Upon delivery, it will be distributed to the appropriate inspection personnel at the Field Office. Inspectors will receive instruction on the use and care in accordance with the manufacturer's instructions.

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

The District Manager is responsible for ensuring the implementation of the corrective actions.

TIMEFRAME FOR COMPLETION OF EACH CORRECTIVE ACTION:

The District anticipates the necessary materials and equipment will arrive before July 1, 2022.

METHOD FOR DETERMINING SUCCESS:

The Assistant District Managers will follow up with each of their assigned Field Offices within 30 days of receipt to ensure the multi-gas performance bump test materials and equipment was distributed to the appropriate personnel and is being used as needed. The District Manager will confirm the multi-gas performance bump test materials and equipment were distributed, and documentation of the performance bump test is being completed as required.

Issue 2: Hazardous Condition Complaint inspections are not being conducted according to Hazardous Conditions Complaint Procedures Handbook Number PH20-I-2.

Three of 10 hazardous condition complaint inspections were reviewed and were coded as E04 Non-Miner and/or Anonymous Complaints when the complainants identified themselves as miners and provided their contact information.

One other hazardous condition complaint inspection only addressed one out of two allegations made by the complainant.

ROOT CAUSE:

Issue 2 was the result of the inspectors failing to follow established procedures as specified in the Hazardous Conditions Complaint Handbook.

PROPOSED CORRECTIVE ACTION(S):

The Assistant District Manager will conduct retraining on the requirement in the Hazardous Conditions Complaint Handbook. Documentation will be kept of the training and a list of attendees.

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

The District Manager and Assistant District Manager.

TIMEFRAME FOR COMPLETION OF EACH CORRECTIVE ACTION:

Corrective action related to training will be completed by July 1, 2022.

METHOD FOR DETERMINING SUCCESS:

Determine effectiveness by review with supervision and periodic evaluation of documentation by District management. The supervisor will review five random hazardous conditions complaint inspection reports. In addition, District management will review hazardous conditions complaint reports as part of the electronic filing of the report.

A DESCRIPTION OF THE DOCUMENTATION THAT WILL DEMONSTRATE CLOSURE OF THE CORRECTIVE ACTION(S):

The District Manager will send a memorandum to Thomas W. Charboneau, Director, Office of Assessments upon completion and evaluation of the corrective actions.

Attachment B: Accountability Division Checklist

Norton District and [REDACTED]

Some questions may not be applicable to the particular mine site or office and are not a part of this review.

**Questions 1-16 apply to the regular mine inspection report reviewed and the mine site visit.**

Question Number	Question	Answer
Question 1	Determine if complete and thorough E01 inspections are being conducted and/or if policy and procedures were properly followed.	Adequate: Yes Corrective Action Needed: No Comments: None
Question 2	Determine if documentation for inspections conforms to inspection procedures.	Adequate: Yes Corrective Action Needed: No Comments: None
Question 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: Yes Corrective Action Needed: No Comments: None
Question 4	Evaluate examination of required record books and postings for compliance with applicable standards.	Adequate: Yes Corrective Action Needed: No Comments: None
Question 5	Evaluate examination of the required mine maps.	Adequate: Not Applicable Corrective Action Needed: No Comments: The question does not apply to the mine under review.

Question Number	Question	Answer
Question 6	Evaluate the observation of the mining cycle and conditions in the active working area during the review.	Adequate: Yes  Corrective Action Needed: No  Comments: None
Question 7	Evaluate the air quantity, quality, and gas checks during the review.	Adequate: Not Applicable  Corrective Action Needed: No  Comments: The question does not apply to the mine under review.
Question 8	Evaluate the examination of electrical equipment, transformer stations, and/or electrical circuits.	Adequate: Yes  Corrective Action Needed: No  Comments: None
Question 9	Evaluate examination for permissibility during the review.	Adequate: Not Applicable  Corrective Action Needed: No  Comments: The question does not apply to the mine under review.
Question 10	Determine if E01 inspections include examinations of the conveyor belts, belt drives, and belt entries.	Adequate: Yes  Corrective Action Needed: No  Comments: None
Question 11	Evaluate, during the review, the inspection of at least one set of seals, including methods for obtaining samples from sealed areas.	Adequate: Not Applicable  Corrective Action Needed: No  Comments: The question does not apply to the mine under review.

Question Number	Question	Answer
Question 12	Determine if close-out discussions are being conducted.	Adequate: Yes  Corrective Action Needed: No  Comments: None
Question 13	Evaluate applicable plans for the site (ventilation, roof control, emergency response, ground control, etc.).	Adequate: Not Applicable  Corrective Action Needed: No  Comments: The question does not apply to the mine under review.
Question 14	Determine if a proper examination of the Atmospheric Monitoring System and Automatic Fire Sensor and Warning Device is being conducted.	Adequate: Not Applicable  Corrective Action Needed: No  Comments: The question does not apply to the mine under review.
Question 15	Determine if proper procedures for conducting, documenting, and reviewing MSHA health inspections are being followed.	Adequate: Yes  Corrective Action Needed: No  Comments: None
Question 16	Evaluate the overall condition of the mine relative to the level of enforcement documented in previously completed inspections.	Adequate: Yes  Corrective Action Needed: No  Comments: None



**Questions 17-34 apply to Field Office and District-specific items.**

Question Number	Question	Answer
Question 17	Determine if inspectors have sufficient equipment and supplies to conduct thorough inspections.	Adequate: No Corrective Action Needed: Yes Comments: Attachment C
Question 18	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: Yes Corrective Action Needed: No Comments: None
Question 19	Determine if decisions are made to initiate or decline investigations for Possible Knowing/Willful Reviews within 30 calendar days.	<div>██████████</div> <div>██</div> <div>████████████████</div>
Question 20	Evaluate 103(i) spot inspection (E02) reports for the office being reviewed for compliance with agency policies and procedures.	Adequate: Not Applicable Corrective Action Needed: No Comments: The question does not apply to the Field Office under review.
Question 21	Determine if Hazardous Condition Complaint inspections/investigations are being conducted according to policy and procedures.	Adequate: No Corrective Action Needed: Yes Comments: Attachment C

Question Number	Question	Answer
Question 22	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: Yes Corrective Action Needed: No Comments: None
Question 23	Determine if required supervisory accompanied activities are being conducted and documented according to agency policy and procedures.	Adequate: Yes Corrective Action Needed: No Comments: None
Question 24	Determine if a 104(d) tracking system is in place and being kept current at the office being reviewed.	Adequate: Yes Corrective Action Needed: No Comments: None
Question 25	Determine if the Electronic Mine Files are maintained and reviewed according to current agency policy and procedures.	Adequate: Yes Corrective Action Needed: No Comments: None
Question 26	Determine if supervisors are rotating the mine assignments annually among inspectors assigned to their Field Office.	Adequate: Yes Corrective Action Needed: No Comments: None
Question 27	Determine if retraining for supervisors, inspectors, and specialists is up to date and being tracked.	Adequate: Yes Corrective Action Needed: No Comments: None
Question 28	Determine if District Managers, Assistant District Managers, and supervisors are conducting mine visits according to directives.	Adequate: Yes Corrective Action Needed: No Comments: None

Question Number	Question	Answer
Question 29	Determine if six-month plan reviews comply with current agency policy and procedures.	Adequate: Yes Corrective Action Needed: No Comments: None
Question 30	Determine if Assistant District Managers are conducting the required second-level reviews.	██████████ ██ ████████████████████
Question 31	Determine if District management personnel are reviewing work products and reports for accuracy and completeness.	Adequate: Yes Corrective Action Needed: No Comments: None
Question 32	Determine if managers and supervisors are using standardized reports to review critical data relevant to inspections and investigations.	Adequate: Yes Corrective Action Needed: No Comments: None
Question 33	Determine if information (mine status, methane liberation, number of employees, etc.) is being entered into the MSHA Standardized Information System accurately and in a timely manner.	Adequate: Yes Corrective Action Needed: No Comments: None

Question Number	Question	Answer
Question 34	<p>Determine if the District's Roof Control Plan Review Standard Operating Procedures follow established Program Policy Manual requirements and include guidance to follow the Roof Control Plan Review Handbook to include:</p> <ul style="list-style-type: none"> <li>• Checking that required information is submitted</li> <li>• Checking for communication with other plan approval groups</li> <li>• Assuring that designated MSHA personnel contact the operator for additional information</li> <li>• Discussing results of on-site evaluations with the operator and identified miners' representatives</li> </ul>	<p>Adequate: Yes</p> <p>Corrective Action Needed: No</p> <p>Comments: None</p>

## Attachment C: Issues Requiring Corrective Action Plan

Issue 1 (Accountability Checklist Question 17): The District did not provide the [REDACTED] [REDACTED] bump test equipment necessary for inspectors to safely and effectively complete underground inspections.

Multi-gas detector bump test kits were not made available to inspectors conducting multiple-day underground inspections at a non-local underground mine. The [REDACTED] has responsibility for [REDACTED] travel time from the Field Office. The inspectors stay in the area of the assigned mine to conduct inspections during the week and cannot feasibly return to the Field Office to bump-test multi-gas detectors before use each day.

Requirement: Mine Safety and Health Enforcement General Inspection Procedures Handbook, Handbook Number PH19-IV-V-1, December 2019

Page 1-2 - Inspection personnel will be provided equipment and supplies sufficient to safely and effectively complete the assigned inspection and will be properly trained in the use of such equipment.

Issue 2 (Accountability Checklist Question 21): Hazardous Condition Complaint inspections are not being conducted according to the Hazardous Condition Complaint Procedures Handbook Number PH20-I-2.

Three of 10 hazardous condition complaint inspections were reviewed and were coded as E04 Non-Miner and/or Anonymous Complaints when the complainants identified themselves as miners and provided their contact information.

One other hazardous condition complaint inspection only addressed one out of two allegations made by the complainant.

Requirement: Hazardous Condition Complaint Procedures Handbook, Handbook Number PH20-I-2, December 2020

Page 2 - A 103(g) complaint is communicated to MSHA by a person identified as a miner or a representative of miners. A 103(g) complaint in addition to the name of the miner or representative of miners, for MSHA administrative purposes, the complaint should include at least one type of contact information, such as an e-mail address or a telephone number.

Page 6 - Activity codes E03 (for Section 103(g) Complaints) and E04 (for Non-Miner and/or Anonymous Complaints) are designated for hazardous condition complaint investigations, while activity code E26 is designated for other complaints.

Page 4 - A single complaint may include more than one allegation. The Authorized Representative's evaluation must include a review of every condition or practice alleged by the complainant.