

# U.S. Department of Labor

Office of Inspector General—Office of Audit

**MINE SAFETY AND HEALTH  
ADMINISTRATION**



## **MSHA's ACCOUNTABILITY PROGRAM FACES CHALLENGES, BUT MAKES IMPROVEMENTS**

Date Issued: September 28, 2012  
Report Number: 05-12-002-06-001

**U.S. Department of Labor  
Office of Inspector General  
Office of Audit**

## **BRIEFLY...**

Highlights of Report Number 05-12-002-06-001, issued to the Assistant Secretary for Mine Safety and Health.

### **WHY READ THE REPORT**

The Assistant Secretary for Mine Safety and Health directed the administrators for Coal Mine and Metal and Nonmetal Safety and Health to implement an accountability program to validate management's effectiveness by conducting reviews of field activities and programs. In response, MSHA established an accountability program in 1989. The purpose of the accountability program is to better focus accountability review activities on key indicators of MSHA's performance and to prioritize limited accountability review resources based on risk.

On June 3, 2011, Representative John Kline (R-MN), Chairman of the United States House of Representatives Committee on Education and the Workforce, requested that the OIG evaluate MSHA's accountability program to determine if it had implemented the recommendations and corrected the deficiencies identified in the OIG's 2007 audit report and in its own accountability reviews.

### **WHY OIG CONDUCTED THE AUDIT**

As part of our audit oversight responsibility and in response to the congressional request we received, the OIG performed work to answer the following questions:

1. Did MSHA implement corrective actions to address the recommendations in the OIG's 2007 audit report?
2. Did MSHA implement corrective actions to address the recommendations in its own accountability review reports?

Our audit covered all 14 recommendations from our 2007 audit report and a statistical sample of 153 findings and related corrective actions from MSHA accountability reviews conducted during calendar years 2009-2011.

### **READ THE FULL REPORT**

To view the report, including the scope, methodology, and full agency response, goes to:

<http://www.oig.dol.gov/public/reports/oa/2012/05-12-002-06-001.pdf>.

**September 2012**

## **MSHA'S ACCOUNTABILITY PROGRAM FACES CHALLENGES, BUT MAKES IMPROVEMENTS**

### **WHAT OIG FOUND**

MSHA continues to face challenges in administering a successful accountability program. To its credit, MSHA has made recent changes to its organizational and reporting structure and several revisions to policies and procedures to improve its accountability program. Most notably, in February 2012, the Assistant Secretary elevated the program's profile by formally establishing the Office of Assessments, Accountability, Special Enforcement and Investigations. This branch will monitor, track, and evaluate the effectiveness of corrective actions following internal reviews and accountability audits.

Although overall there were significant improvements in this program, we found that 1 of the 14 recommendations we made in our 2007 audit report was not fully implemented. This deficiency included the failure to fully utilize a corrective action tracking system. We also found that multiple deficiencies MSHA identified in its own accountability reviews recurred. These deficiencies were related to inspections, supervisory reviews, issuance of citations, and documentation. Moreover, we found that MSHA did not implement or could not demonstrate it implemented 10 percent of corrective actions required by the accountability reviews in our sample.

### **WHAT OIG RECOMMENDED**

We recommended the Assistant Secretary for Mine Safety and Health direct MSHA to: (a) develop a robust oversight function that includes risk-based contingency planning for resource management when it is necessary to temporarily assign enforcement personnel to conduct major accident investigations and internal reviews; (b) provide management oversight of enforcement activities that will ensure compliance with MSHA policies and procedures; (c) develop and implement a comprehensive root cause analysis training program for those who will be part of an accountability review team; and (d) require district managers and supervisors to document the implementation of corrective actions.

The Assistant Secretary agreed with our recommendations and committed to developing and implementing corrective actions.

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**U.S. Department of Labor**

Office of Inspector General  
Washington, D.C. 20210



September 28, 2012

**Assistant Inspector General's Report**

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for Mine Safety and Health  
U.S. Department of Labor  
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On June 3, 2011, Representative John Kline (R-MN), Chairman of the United States House of Representatives Committee on Education and the Workforce, requested that the Office of Inspector General (OIG) evaluate the Mine Safety and Health Administration's (MSHA) accountability program to determine if it had implemented the recommendations and corrected the deficiencies identified in our 2007 audit report<sup>1</sup> and in its own accountability reviews. In response to this request, we conducted an audit to answer the following questions:

1. Did MSHA implement corrective actions to address the recommendations in the OIG's 2007 audit report?
2. Did MSHA implement corrective actions to address the recommendations in its own accountability review reports?

Our audit covered all 14 recommendations from our 2007 audit report and a statistical sample of 153 findings and related corrective actions from MSHA accountability reviews conducted during calendar years (CY) 2009-2011. We reviewed the findings, recommendations, corrective action plans and supporting documentation, federal laws and regulations, MSHA policies and procedures, and interviewed key MSHA headquarters, district, and field office officials. In addition, we performed data analysis from a judgmental sample of high-risk findings to determine if the corrective actions had successfully remedied the deficiencies. We performed fieldwork in 4 of 17 MSHA districts. These included two Coal Mine Safety and Health (CMS&H) districts (8 and 11) and two Metal and Nonmetal Mine Safety and Health (MNMS&H) districts (Rocky Mountain and Northeastern).

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our

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<sup>1</sup> MSHA's *Office of Coal Mine Safety and Health Needs to Strengthen its Accountability Program*, Report Number 05-07-002-06-001, August 24, 2007. See Exhibit 1 for list of 14 OIG recommendations.

findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Our objectives, scope, methodology, and criteria are detailed in Appendix B.

## **RESULTS IN BRIEF**

MSHA continues to face challenges in administering a successful accountability program. To its credit, MSHA has made recent changes to its organizational and reporting structure and several revisions to policies and procedures to improve its accountability program. Most notably, in February 2012, the Assistant Secretary elevated the program's profile by formally establishing the Office of Assessments, Accountability, Special Enforcement and Investigations. This branch will monitor, track, and evaluate the effectiveness of corrective actions following internal reviews and accountability audits.

Although overall there were significant improvements in this program, we found that 1 of the 14 recommendations we made in our 2007 audit report was not fully implemented. This deficiency included the failure to fully utilize a corrective action tracking system. We also found that multiple deficiencies MSHA identified in its own accountability reviews recurred. These deficiencies were related to inspections, supervisory reviews, issuance of citations, and documentation. Moreover, we found that MSHA did not implement or could not demonstrate it implemented 10 percent of corrective actions required by the accountability reviews in our sample.<sup>2</sup>

These issues occurred because MSHA management had not developed a robust oversight function to ensure it optimally: (1) managed resources and competing priorities; (2) ensured district and field offices documented implementation of corrective actions; (3) trained and directed accountability review teams to conduct rigorous root cause analysis; and (4) provided adequate oversight of enforcement activities to ensure compliance with MSHA policies and procedures. These are integral components of the overall framework for providing miners with a safe and healthy work environment.

## **RECOMMENDATIONS**

We recommend the Assistant Secretary for Mine Safety and Health: (1) develop a robust oversight function that includes risk-based contingency planning for resource management when it is necessary to temporarily assign enforcement personnel to conduct major accident investigations and internal reviews; (2) provide management oversight of enforcement activities that will ensure compliance with MSHA policies and procedures; (3) develop and implement a comprehensive root cause analysis training program for those who will be part of an accountability review team; and (4) require district managers and supervisors to document the implementation of corrective actions.

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<sup>2</sup> There was no particular pattern in the corrective actions MSHA did not take.

## **MSHA'S RESPONSE**

In response to our draft report, the Assistant Secretary for Mine Safety and Health agreed with all of our recommendations and stated that MSHA was fully committed to addressing the issues that are identified in this report. His response acknowledged that MSHA has faced challenges while making changes and improvements to its accountability program. Specifically, he noted that the agency had been under-resourced from budget constraints and had suffered a loss of experience due to a high turnover rate from retirements. He also stated that one of the programs he initiated was a nationwide training program for all MSHA field office supervisors who directly oversee the agency's inspection program. The goal of this supervisory training program is to improve MSHA's application of policy and procedures, and to address deficiencies in accountability audits.

The Assistant Secretary expressed concern with our statement that MSHA headquarters was not aware that one of its districts did not complete monthly reports on high risk deficiencies as a result of inadequate management oversight of enforcement activities. He stated that MSHA had a system in place to monitor the status of corrective actions from accountability reports. The OIG maintains that while MSHA headquarters may have instituted such a system, the district in question neither had any knowledge of nor utilized it.

The Assistant Secretary also expressed concern with our statement that MSHA potentially increases the risk that unsafe working conditions in mines will not be detected due to MSHA's inadequate oversight of enforcement activities. He emphasized that Congress gave mine operators the primary responsibility to prevent unsafe conditions and practices in mines. Our statement and conclusion are based on the requirements of the Mine Act that describe MSHA's roles and responsibilities in setting safety and health standards, identifying instances of non-compliance, and compelling mine operators to take timely corrective actions. These are integral components of the overall system for providing miners with a safe and healthy work environment.

The Assistant Secretary's entire response is contained in Appendix D.

## RESULTS AND FINDINGS

### **Objective 1 — Did MSHA implement corrective actions to address the recommendations in the OIG’s 2007 audit report?**

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*One deficiency recurred even after MSHA addressed the OIG's recommendations.*

Although MSHA implemented corrective actions for all 14 recommendations in the OIG’s 2007 audit report, we found that one of the deficiencies recurred in later years. See Exhibit 1 for a listing of all 14 recommendations and corrective actions.

### **Finding 1 — While MSHA took action to address the 14 recommendations in our 2007 audit report, one deficiency recurred.**

Accountability reviews MSHA conducted during CYs 2009-2011 found that one deficiency identified in the OIG’s 2007 audit report recurred. Specifically, one district did not fully utilize an established tracking system for corrective actions.

The recurrence of this deficiency indicates that MSHA has not addressed its underlying cause.

#### One of Four MSHA Districts Reviewed Did Not Use an Established Tracking System

Proposed corrective actions and their implementation should be tracked to ensure timely and appropriate completion. The OIG’s 2007 report recommended that MSHA develop and implement a tracking system to record and track the results of accountability reviews. MSHA’s own *Accountability Handbook* required administrators for CMS&H and MNMS&H to implement a system to track the results of accountability reviews. In this audit, we found that one of the four districts we reviewed, CMS&H District 8, did not utilize the tracking system during CYs 2009-2011.

As a result of inadequate management oversight, MSHA headquarters was not aware that CMS&H District 8 did not utilize the tracking system until the OIG brought this fact to its attention.

Without consistently using a tracking system, MSHA runs an increased risk of failing to identify systemic and recurring deficiencies and instances in which corrective actions have not been implemented.

**Objective 2 — Did MSHA implement corrective actions to address the recommendations in its own accountability review reports?**

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*By not implementing corrective actions, MSHA increases the risk of deficiencies recurring.*

**Finding 2 — MSHA did not implement or could not demonstrate it implemented 10 percent of corrective actions.**

MSHA could not demonstrate it implemented 20 of the 187 (10 percent) corrective actions in our sample.<sup>3</sup> MSHA could not produce documentation to support the implementation of 7 of the 20 corrective actions, and CMS&H District 8 reported implementing the other 13 even though it had not. Of those 13 corrective actions, 5 were associated with high risk deficiencies because CMS&H District 8 did not:

- Initiate a 103(i) spot inspection<sup>4</sup> sequence even though total emissions of methane in 24 hours in one mine exceeded the legal limit.
- Properly evaluate the citations it issued. Of 186 citations issued during the first quarter of FY 2009, inspectors designated 43 as “Significant and Substantial” (S&S). MSHA’s accountability review team later determined that an additional 44 should have been so designated.
- Ensure mine operators corrected deficiencies in the required timeframe.
- Verify that inspectors documented samples collected at seal locations or the quality of the atmosphere behind the seals.
- Consistently update the MSHA tracking system for mines required to have 103(i) inspections.

In addition, MSHA headquarters requires districts to send monthly status reports on high-risk deficiencies. We found no evidence that CMS&H District 8 had ever sent these reports.

As a result of inadequate management oversight of enforcement activities, MSHA headquarters was not aware of these problems until informed by the OIG. By not providing adequate oversight of enforcement activities, MSHA potentially increases the risk that unsafe working conditions in mines will not be detected.

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<sup>3</sup> See Exhibit 4 for a detailed list of our sample of 153 findings and related corrective actions. We also categorized the 153 findings by type (See Exhibit 2) and listed the number of findings by district (See Exhibit 3) for each calendar year.

<sup>4</sup> 103(i) spot inspections are conducted at irregular intervals in mines that liberate excessive quantities of methane or other explosive gases during their operations.

**Finding 3 — Corrective actions did not always resolve or prevent the recurrence of deficiencies.**

In some cases, MSHA's corrective actions did not successfully resolve or prevent the recurrence of deficiencies identified during accountability reviews. These recurring deficiencies related to supervisory review, issuance of citations, inspections, and inadequate documentation. The success of any effort to reduce deficiencies hinges on MSHA's ability to identify the factors that cause them. The reviews we evaluated did not consistently demonstrate a rigorous root cause analysis, and in some cases, lacked evidence of an analysis.

MSHA was aware of the need to conduct rigorous root cause analysis of deficiencies since at least 2007.

For example, the June 2007 MSHA Aracoma internal review report stated that:

*MSHA's Accountability Program is fundamentally flawed in that weaknesses are identified but the root causes are not addressed to prevent recurrence of deficiencies. ...The 2005 peer review reports for District 4 did not identify the root causes for the deficiencies found. Instead, they instituted corrective actions for the deficiencies without determining what caused them. As a result, subsequent peer reviews and the Aracoma internal review team found similar deficiencies. Effective corrective actions must recognize and correct the underlying root cause of any deficiency in order to prevent recurrence.*

Further, the Acting Chief of MSHA's Office of Program Policy Evaluation made a similar observation to the Deputy Assistant Secretary for Operations in an internal memorandum dated March 25, 2009:

*Root cause analysis proved elusive and in many cases simply was not conducted. Here, the enforcement programs found it difficult to go beyond simply identifying deficiencies. The Accountability Handbook, however, is clear that detailed and specific root cause analysis needs to explain why deficiencies occurred. The lack of rigorous root cause analysis is problematic because it leads to indirect and potentially ineffectual corrective actions (for example, staff meetings to resolve [either] narrower or individually based performance problems).*

In addition to the OIG's 2007 audit report, two others – the Upper Big Branch (UBB) internal review report<sup>5</sup> and the Independent Panel Assessment,<sup>6</sup> both issued in March

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<sup>5</sup> Internal Review of MSHA's Actions at the Upper Big Branch Mine-South Performance Coal Company, Montcoal, Raleigh County, West Virginia (March 6, 2012)

<sup>6</sup> The Secretary of Labor requested that the National Institute for Occupational Safety and Health identify a panel of experts to conduct an independent assessment of MSHA's internal review of its enforcement action at UBB. On March 22, 2012 the panel published "An Independent Panel Assessment of an Internal Review of MSHA Enforcement Actions at the Upper Big Branch Mine South."

2012, stressed the need for MSHA to conduct rigorous root cause analysis to correct and prevent the recurrence of deficiencies.

The UBB report addressed the need to conduct rigorous root cause analysis. The report stated that corrective actions for similar issues identified in past internal reviews did not sufficiently address root causes of problems. Likewise, the Independent Panel Assessment stated that MSHA failed to uncover the root cause of why an enforcement action was or was not taken at UBB.

Because MSHA management did not conduct rigorous root cause analysis, the same deficiencies were identified on subsequent accountability reviews. To MSHA's credit, the agency has committed to implement 86 recommendations identified by the UBB internal review.

#### MSHA's Corrective Actions With Respect to Work Shift Inspections Were Not Effective

MSHA did not conduct safety and health inspections on all working shifts for 228 (16 percent) metal/nonmetal mines out of the 1391 active mines in the 2 districts we sampled.

MSHA's policies and procedures require that safety and health inspections be conducted on all working shifts of a mine (including weekend, night, and graveyard) to identify safety and health violations that impact miners who do not work normal business hours.

This deficiency recurred because MSHA did not conduct root cause analysis to identify the reasons why inspectors did not conduct inspections on all working shifts. For example, one MSHA report identified the root cause as, "[t]he field office supervisor needs to monitor inspection reports and hold inspectors accountable for inspecting mines on all working shifts." This, however, is not a root cause, but instead a recommendation which merely restates the issue. The actual root cause would have been an explanation of why the supervisor failed to monitor inspection reports and hold inspectors accountable. In another case, the root cause was noted as "[p]rocedures – Failure to use/follow. Training – Understanding inadequate." Again, the first part is a restatement of the issue, and not a root cause. The second part of the statement more closely resembles a root cause.

To assure that the policy is understood by all enforcement staff and consistently applied, MSHA needs to clarify its MNMS&H policy for conducting inspections during off- and weekend shifts.

### Corrective Actions to Ensure MSHA Conducted All FARs and AAs Were Not Effective

MSHA did not conduct 57 percent (121 out of 212) of required Field Activity Reviews (FARs), and 27 percent (58 out of 212) of required Accompanied Activity reviews (AAs) at the four districts we sampled during FYs 2010-2011.

MSHA policies and procedures require supervisory reviews of the work performed by inspectors and specialists. The purpose of these reviews is to evaluate the quality of enforcement, determine if the level of enforcement is appropriate, and ascertain if the inspection was conducted and documented in accordance with the Federal Mine Safety and Health Act (Mine Act) of 1977 as amended by the Mine Improvement and New Emergency Response (MINER) Act of 2006 and MSHA regulations, policies, and procedures. MSHA requires CMS&H supervisors to complete two FARs and four AAs, and MNMS&H supervisors to complete two FARs and one AA each fiscal year. Field Activity reviews consist of a supervisor's evaluation of inspection documentation. In an Accompanied Activity review, the supervisor is present during a regular inspection and observes the inspector's actions.

This deficiency recurred despite the corrective actions MSHA took because the actions taken did not address the root cause. Some reports either did not document a root cause or identify one at all. For example, MSHA identified as a root cause the issue that the field office supervisor needed to be held accountable for completing the required number of supervisory reviews. This, in fact, was merely a restatement of the problem and did not explain why the field office supervisor was not held accountable.

When MSHA does not conduct the required FAR and AA reviews, it may not adequately address inspection deficiencies or inspector misconduct issues.

### Corrective Actions to Address Other High-Risk Deficiencies Were Not Fully Effective

A number of high-risk deficiencies identified by MSHA during CY 2009 recurred during CYs 2010 and 2011 at one or more of the four districts we sampled, although the number of recurring deficiencies significantly decreased over time. These deficiencies related to inadequate documentation, inspections, issuance of citations, and supervisory reviews. See Exhibit 5 for a trend analysis of MSHA's recurring deficiencies by category.

### MSHA Internal Review Reports Identified Similar Deficiencies

Two deficiencies in the accountability reviews were identified in internal review reports for the Upper Big Branch, Crandall Canyon, Darby, Aracoma, Sago, and Jim Walters accidents. They were: (1) inadequate supervisor/managerial oversight, and (2) incomplete or inadequate inspections and documentation. In fact, the UBB report concluded that the Accountability program as implemented in District 4 (where the UBB accident occurred) did not always result in effective corrective actions because MSHA

did not place adequate emphasis on identifying and implementing effective corrective actions.

This recurrence of deficiencies in subsequent years resulted from accountability teams not consistently conducting rigorous root cause analysis. Instead, district managers trained inspectors and supervisors on procedures for documentation and complete inspections, but not root cause analysis.

The MSHA Accountability Program Handbook (dated March 2008) states in part, that:

*“...beyond the identification of deficiencies, the purpose of this accountability program is to prevent the recurrence of deficiencies by addressing their root causes. Rigorous follow-up and monitoring of past problems will therefore be essential.”*

The actions implemented by MSHA to correct deficiencies were not effective because rigorous root cause analysis was not performed.

Because MSHA did not address the causes of the problems, the same deficiencies recurred in subsequent years.

### **Recommendations**

We recommend the Assistant Secretary for Mine Safety and Health: (1) develop a robust oversight function that includes risk-based contingency planning for resource management when it is necessary to temporarily assign enforcement personnel to conduct major accident investigations and internal reviews; (2) provide management oversight of enforcement activities that will ensure compliance with MSHA policies and procedures; (3) develop and implement a comprehensive root cause analysis training program for those who will be part of an accountability review team; and (4) require district managers and supervisors to document the implementation of corrective actions.

We appreciate the cooperation and courtesies that MSHA personnel extended to the Office of Inspector General during this audit. OIG personnel who made major contributions to this report are listed in Appendix E .



Elliot P. Lewis  
Assistant Inspector General  
for Audit

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## Exhibits

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**Exhibit 1**

**Findings and Recommendations from 2007 OIG MSHA Audit Report**

Finding Number	Finding	Type of Finding	Did Finding Recur?	Rec #	Recommendation	Rec Implemented, Verified?	Source
1	Criteria used to select activities reviewed during HQRs and DPRs did not primarily focus on CMS&H performance and did not adequately consider all activities.	Design and Planning	N	1	Develop a process and criteria for the selection of activities to be examined during accountability reviews that emphasizes measures and indicators of CMS&H performance and provides the possibility that any activity (related to any mine operation) could be selected.	Y	MSHA Accountability Handbook AH08-III
				2	Prohibit District Managers, or anyone in their subordinate chain of command from selecting the activities to be reviewed in DPRs.	Y	MSHA Accountability Handbook AH08-III
2	District peer reviews did not always include mine visits.	Implementation	N	3	Ensure that accountability review team members cannot independently review work they have performed or supervised.	Y	MSHA Accountability Handbook AH08-III
				4	Require that DPR teams include at least one appropriate individual from outside the District conducting the review.	Y	MSHA Accountability Handbook AH08-III

Finding Number	Finding	Type of Finding	Did Finding Recur?	Rec #	Recommendation	Rec Implemented, Verified?	Source
3	District peer reviews lacked consistent analyses.	Implementation	N	5	Provide guidance and instruction that is more detailed on specific procedures and tasks required to complete an effective DPR.	Y	MSHA Accountability Handbook AH08-III
				6	Establish a minimum scope for DPRs and HQRs that includes at least a review of two non-consecutive quarters of enforcement documentation from the preceding 12 months.	Y	MSHA Accountability Handbook AH08-III
				7	Require that the timeframe for completion of DPRs and HQRs be planned in a way to ensure an accurate and thorough review.	Y	MSHA Accountability Handbook AH08-III
				8	Require that DPRCs regularly communicate to discuss common issues, resolutions and best practices to ensure consistency and compliance nationwide.	Y	MSHA Accountability Handbook AH08-III

Finding Number	Finding	Type of Finding	Did Finding Recur?	Rec #	Recommendation	Rec Implemented, Verified?	Source
4	The development, implementation, and monitoring of corrective actions needs improvement.	Reporting and Analysis	N	9	Require HQR teams to be involved in the development of appropriate corrective actions.	Y	MSHA Accountability Handbook AH08-III
				10	Require a timeframe be established for the development of all corrective action plans resulting from DPRs.	Y	MSHA Accountability Handbook AH08-III
				11	Incorporate dates into corrective action plans for the implementation and completion of actions resulting from DPRs and HQRs.	Y	MSHA Accountability Handbook AH08-III
				12	Require a timely evaluation by District Managers to ensure that completed corrective actions are adequately addressing the deficiencies identified during DPRs and HQRs.	Y	MSHA Accountability Handbook AH08-III
5	CMS&H had no centralized system to record and track deficiencies, corrective actions, and best practices identified during DPRs and HQRs.	Reporting and Analysis	Y	13	Require that District Offices utilize the same tracking system, once it is developed and implemented by HQ, to record and track the results of their DPRs (e.g., identified deficiencies, planned corrective actions, potential best practices, etc.)	Y	MSHA Accountability Handbook AH08-III
6	CMS&H did not consistently communicate deficiencies, corrective actions and best practices resulting from DPRs and HQRs.	Reporting and Analysis	N	14	Require that identified issues, deficiencies, corrective actions and best practices be communicated within a district's field offices and disseminated nationwide, as appropriate, in a timely manner.	Y	MSHA Accountability Handbook AH08-III

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**Exhibit 2**

**Number of MSHA Internal Review Findings by Type and Calendar Year (CY)**

<b>Type of Finding</b>	<b>CY 2009</b>	<b>CY 2010</b>	<b>CY 2011</b>
1. Inspection Documentation	36	19	5
2. Supervisory Review	5	9	--
3. Issuance Enforcement Activities	23	6	4
4. Inspection/Investigation Process	17	5	--
5. Inspections Work Shifts/Hours	7	--	3
6. Sampling/Surveys	4	--	1
7. Mine Map/ Plan	2	--	--
8. Training	7	--	--
<b>Total by CY:</b>	<b>101</b>	<b>39</b>	<b>13</b>
<b>Total (CY 2009-2011):</b>			<b>153</b>

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**Exhibit 3**

**Number of MSHA Internal Review Findings by District and Calendar Year (CY)**

<b>District</b>	<b>CY 2009</b>	<b>CY 2010</b>	<b>CY 2011</b>
Coal District 8	16	18	4
Coal District 11	48	15	3
MNM Rocky Mountain	16	4	4
MNM Northeastern	21	2	2
<b>Total by CY:</b>	<b>101</b>	<b>39</b>	<b>13</b>
<b>Total (CY 2009 - 2011):</b>			<b>153</b>

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**Exhibit 4**

**Deficiencies and Corrective Actions in MSHA Accountability Review Reports**

Deficiencies and Corrective Actions in MSHA Accountability Review Reports						
No.	Report No.	District/ Level of Review	CY	Finding	Type*	Corrective Action
1	Not Listed	D 8 / DLR	2009	The Mine Activity Data forms 2000-22 for both inspection quarters were not completed to indicate accurate numbers under items; 13, Number of Samples collected, a, b, c, d, e, and f. Item 16, Inspection Results (1), (2), (3), (4), b. previously issued.	ID	The Assistant District Manager for enforcement will develop, within 60 days of approval of this memorandum, Standard Operation Procedures (SOP) that require all inspection documentation to be maintained at the respective field office(s) until the inspection has been completed. The SOP will be provided to all field office supervisors so it will be followed at all field offices.
2	Not Listed	D 8 / DLR	2009	Inspector evaluations of gravity, negligence, and the type of enforcement action were not always consistent with the requirements of the Mine Act, 30 CFR, MSHA policy, Commission Decisions, and the conditions documented in the citations and inspection notes.	IEA	<p>Supervisory oversight will be stressed with emphasis on citation documentation. Supervisors will be held accountable for review of inspector work products as is required in the Coal Mine Safety and Health Supervisor's Handbook. This review will include determinations of negligence and gravity. Where deficiencies are identified, the Supervisor will return the work product to the Inspector for correction. During AR Staff meetings, Supervisors will conduct training on proper procedures of determining S&amp;S designation. Specialist will be required to attend the training. Rates will be discussed. In addition, the District Manager is reviewing all determinations by Conference and Litigation Officers to support enforcement actions. This is an ongoing process and is continuing. The conference officer has not held conferences of any citations or orders for approximately 16 months so how did his actions pre-condition the inspector's actions. While his previous actions may have influenced inspector decisions, the Field Office Supervisor is the critical element in determining the proper enforcement levels for their assigned mines. A memorandum/handout, which includes the deficiency, requirement, and corrective measures, will be prepared and discussed during the staff meeting.</p> <p>The Assistant District Manager Enforcement will require the field office supervisors provide a monthly report, for the next six months, listing the actions taken regarding a lack of stronger enforcement when field notes indicate otherwise. This will include a list of management tools they implemented to resolve this issue.</p>

Deficiencies and Corrective Actions in MSHA Accountability Review Reports						
No.	Report No.	District/Level of Review	CY	Finding	Type*	Corrective Action
3	Not Listed	D 8 / DLR	2009	There were no unwarrantable citations or orders issued during the two quarters reviewed. Inspector notes clearly documented 17 citations.	IEA	<p>The Assistant District Manager Enforcement (ADME) will ensure that supervisory oversight will be stressed with emphasis on citation documentation during the next staff meeting and will ensure that supervisors will be accountable for review of inspector work products as required in the Coal Mine Safety and Health Supervisor's Handbook. This review will include determinations of negligence and gravity. Where deficiencies are identified, the supervisor will return the work product to the Inspector for correction. During AR Staff meetings, supervisors will conduct training on proper procedures of determining S&amp;S and negligence designations. Specialist will be required to attend the training. A written report of these AR staff meeting discussions will be provided to the ADME after each staff meeting for the next six months. In addition, the District Manager is reviewing all determinations by Conference and Litigation Officers to support enforcement actions. The conference officer has not held conferences of any citations or orders for approximately 16 months so how did his actions pre-condition the inspector's actions. While previous actions may have influenced inspector decisions, the Field Office Supervisor is the critical element in determining the proper enforcement levels for their field office. A memorandum/handout, which includes the deficiency, requirement, and corrective measures, will be prepared and discussed during the aforementioned staff meeting.</p> <p>The Assistant District Manager Enforcement will require the field office supervisors provide a monthly report, for the next six months, listing the actions they have taken regarding a lack of stronger enforcement actions when field notes indicate otherwise and list what management tools they have implemented to outcome this issue.</p>
4	Not Listed	D 8 / DLR	2009	The Inspection Tracking System (ITS) documentation nor the hard copy notes gave any indication that previous wet rock dust samples were being tracked and reevaluated. The inspection-tracking maps did not indicate where rock dust surveys were taken.	ID	<p>The Assistant District Manager Enforcement will ensure that the inspectorate will be retrained on the procedures for tracking the status of wet locations. The RDDR will be demonstrated and the requirements for including the Wet Rock Dust Tracking Form 2000-210 in the inspection documentation will be iterated.</p> <p>This training was provided to our field office supervisors at the last schedule meeting on how to determine if samples need to be re-taken. Our supervisors are the key element for ensuring that the areas that have been previously determined to be too wet to sample are followed up on during the next inspection and that the inspector is responsible for including the necessary documentation in the file that the area in question has been sampled or the area is still too wet to sample. Supervisors and inspectors will be accountable for the completeness and thoroughness of inspection work.</p> <p>The Assistant District Manager Enforcement will require the field office supervisors provide a monthly report, for the next six months, listing the actions they have taken regarding not including the WET Rock Dust Tracking Form 2000-210. This will include a list of management tools they implemented to resolve this issue.</p>

Deficiencies and Corrective Actions in MSHA Accountability Review Reports						
No.	Report No.	District/Level of Review	CY	Finding	Type*	Corrective Action
5	Not Listed	D 8 / DLR	2009	Seven citations were issued citing the incorrect standard of 30 CFR. Inspectors cited personnel doors were not closed under 75.333 (h). The correct section is 75.333 (c) (3).	IEA	<p>The Assistant District Manager Enforcement will stress supervisory oversight in the next supervisor staff meeting. Our supervisors are the key element for ensuring that the inspector's enforcement actions are cited under the correct standards and that the inspectors are accountable for their inactions. Supervisors will be responsible for the review of inspector work products as required in the Coal Mine Safety and Health Supervisor's Handbook. Supervisors and inspectors will be accountable for the completeness and thoroughness of inspection work.</p> <p>The Assistant District Manager Enforcement will require the field office supervisors provide a monthly report, for the next six months. The supervisor will list actions they have taken regarding lack of stronger enforcement when the inspector's field notes indicate otherwise. This will include a list of management tools they implemented to resolve this issue.</p>
6	Not Listed	D 8 / DLR	2009	The extent of the inspectors daily travels (start and end point) documentation on the mine tracking map was not adequate to clearly determine the extent of the inspectors travel.	ID	<p>The Assistant District Manager Enforcement will ensure that a review of the General Coal Mine Inspection Procedures and Inspection Tracking System Handbook will be required of all Supervisors. This subject will be covered during field office staff meetings with the inspectorate. Supervisors will be accountable for review of inspector work products as required in the Coal Mine Safety and Health Supervisor's Handbook. Our supervisors are the key element for ensuring that the inspector has inspected that portion of a mine by noting their starting and ending points of travel while conducting the inspection. When the inspector documents that the mine has been inspected in its entirety it includes the map with those notations. Supervisors and inspectors will be accountable for the completeness and thoroughness of inspection work. A memorandum/handout, discussing the deficiency, requirement, and corrective measures, will be prepared and reviewed during the staff meeting. The Assistant District Manager Enforcement will require the field office supervisors provide a monthly report, for the next six months, listing the actions they have taken regarding lack of stronger enforcement when the inspector's field notes indicate otherwise. This will include a list of management tools they implemented to resolve this issue.</p>
7	Not Listed	D 8 / DLR	2009	ITS documentation listed dates for equipment that had been inspected and the inspectors hand notes did not. Other equipment was listed more than once on ITS and inspected several times; one piece of equipment was inspected four times. ITS did not always match the inspector notes, locations, equipment, returns, intakes, travel ways etc.	ID	<p>A review of the pertinent parts of the General Coal Mine Inspection Procedures and Inspection Tracking System Handbook will be provided to the inspectorate and to the supervisor's. Supervisors will be accountable for review of inspector work products as required in the Coal Mine Safety and Health Supervisor's Handbook. Supervisors and inspectors will be accountable for the completeness and thoroughness of inspection work.</p>

Deficiencies and Corrective Actions in MSHA Accountability Review Reports						
No.	Report No.	District/ Level of Review	CY	Finding	Type*	Corrective Action
8	Not Listed	D 8 / DLR	2009	Inspector documentation for citations was not complete and did not give details, measurements, or conditions to support the findings. The citation evaluation questions were not completed.	ID	<p>The Assistant District Manager will ensure that a review of the documentation that is required for each violation will be conducted by the field office supervisor and that the supervisors and inspectors are accountable for ensuring that the required information is included in the inspector's field notes. In addition, MSHA Form 7000-IOK will be provided to each inspector to keep in his or her inspection notes binder.</p> <p>The Assistant District Manager Enforcement will require the field office supervisors provide a monthly report, for the next six months, listing the actions they have taken with inspectors when they do not properly document the reasons for enforcement action determinations. This will include a list of management tools they have implemented to resolve this issue.</p>
9	Not Listed	D 8 / DLR	2009	There was no hard copy documentation informing the operator or miners of the type of inspection to be conducted, procedures for requesting a safety and health conference or the opportunity to exercise their miner's rights.	ID	<p>The Assistant District Manager Enforcement will ensure that instruction will be provided to the inspectorate that miner's and operator's rights are always required to be documented even if a miner's representative is not designated. This includes the right to conference and the right to travel with the inspector during inspection activities. Supervisors and inspectors will be accountable for the completeness and thoroughness of inspection work.</p> <p>The Assistant District Manager Enforcement will require the field office supervisors provide a monthly report, for the next six months, listing the actions they have taken with inspectors regarding not documenting that they informed the operator or miners of the type of inspection to be conducted, procedures for requesting a safety and health conference or the opportunity to exercise their miner's rights. This will include a list of management tools they have implemented to resolve this issue.</p>
10	Not Listed	D 8 / DLR	2009	A General Information Cover Sheet was not provided with the inspection.	ID	<p>The Assistant District Manager Enforcement will ensure that supervisory oversight will be stressed and the pertinent sections of the General Coal Mine Inspection Procedures Handbook will be covered with the inspectorate. Supervisors and inspectors will be accountable for the completeness and thoroughness of inspection work.</p> <p>The Assistant District Manager Enforcement will require the field office supervisors provide a monthly report, for the next six months, listing the actions they have taken with inspectors regarding the inspector not completing a cover sheet for each inspection or investigation. This will include a list of management tools they have implemented to resolve this issue.</p>
11	Not Listed	D 8 / DLR	2009	The inspector did not document samples collected at seal locations as required in Procedure Instruction Letter No. I08-V-8 effective date 12/19/08. There were no inspector notes that documented the quality of the atmosphere behind seals.	ID	<p>Supervisors will be required to re-distribute Procedure Instruction No. 108-V-8 to the inspectorate and review the contents during staff meetings. Supervisors and inspectors will be accountable for the completeness and thoroughness of inspection work. A memorandum/handout, discussing the deficiency, requirement, and corrective measures, will be reviewed during the staff meeting.</p> <p>The Assistant District Manager Enforcement will require the field office supervisors provide a monthly report, for the next six months, listing the actions they have taken with inspectors regarding the inspector not completing a cover sheet for each inspection or investigation. This will include a list of management tools they have implemented to resolve this issue.</p>

Deficiencies and Corrective Actions in MSHA Accountability Review Reports						
No.	Report No.	District/ Level of Review	CY	Finding	Type*	Corrective Action
12	Not Listed	D 8 / DLR	2009	Termination due dates: excessive time given to abate citations.	IEA	Supervisors will review with the inspectorate the provision under 104 (a) of the MINE ACT concerning the proper determination for setting abatement times and extension times on citations. Supervisors will be accountable for review of inspector work products as required in the Coal Mine Safety and Health Supervisor's Handbook. Supervisors and inspectors will be accountable for the completeness and thoroughness of inspection work.  The Assistant District Manager Enforcement will require the field office supervisors provide a monthly report, for the next six months, listing the actions they have taken regarding excessive termination times. This will include a list of management tools they have implemented to resolve this issue
13	Not Listed	D 8 / DLR	2009	It appeared that health specialists do not contribute with the inspection of the mine. Time sheets reviewed, indicated that the specialist worked extended hours each day with no E01 work documented. On one occasion, the inspector conducted a respirable dust survey on a Part 90 miner.	IIP	Supervisory oversight will be stressed to insure that time use is efficient FARs and AAs will be used to identify potential time management deficiencies. Supervisors will be accountable for review of inspector work products as required in the Coal Mine Safety and Health Supervisor's Handbook. Where deficiencies are identified, the Supervisor will return the work product to the Inspector for correction. The Health Supervisor and Health Specialists will be accountable for the completeness and thoroughness of inspection work.  The Assistant District Manager Technical will develop, within 60 days after this memorandum is approved, guidance through a memorandum signed by the District Manager, to the Health Supervisor and Health Specialists that spells out the required inspection activities for the Health Specialists. This guidance will become a part of the Health Specialists position description. The memorandum will require the Health Specialist perform specified inspection activities to assist in any E01 inspection activities at any mine.
14	Not Listed	D 8 / DLR	2009	The number of off shifts and weekends were minimal on the 3rd quarter of FY 09. There were no owl shifts worked and only one afternoon shift worked. In the 1st quarter of FY 2009, no owl shifts and only 2 afternoon shifts.	IWS	Procedure Instruction Letter No.108-V-06 will be re-distributed to the inspectorate and will be reviewed during staff meetings. A memorandum/handout, which includes the deficiency, requirement, and corrective measures, will be prepared and discussed during the staff meeting.  The Assistant District Manager Enforcement will require the field office supervisors provide a monthly report, for the next six months, listing the actions they have taken with inspectors regarding off shifts and weekend work. This will include a list of management tools they have implemented to resolve this issue

Deficiencies and Corrective Actions in MSHA Accountability Review Reports						
No.	Report No.	District/ Level of Review	CY	Finding	Type*	Corrective Action
15	Not Listed	D 8 / DLR	2009	There was no Rock Dust Data Retrieval Report included with the inspection report.	ID	<p>The inspectorate will be retrained on the procedures for tracking the status of wet locations. The RDDR will be demonstrated and the requirements for including the Wet Rock Dust Tracking Form 2000-210 in the inspection documentation will be iterated. Both our supervisors and inspectors will be held accountable for the completeness and thoroughness of inspection work.</p> <p>The Assistant District Manager Enforcement will require the field office supervisors provide a monthly report, for the next six months, listing the actions they have taken with inspectors regarding the inspector not including the Rock Dust Data Retrieval Report in the inspection documentation This will include a list of management tools they have implemented to resolve this issue.</p>
16	Not Listed	D 8 / DLR	2009	There are occasions were the inspectors time sheet does not match the work completed in the inspector notes. Example: 3 hours co/order writing with only one citation terminated.	IWS	Supervisory oversight will be stressed to ensure that time use is efficient. FARs and AAs will be used to identify potential time management deficiencies. Supervisors will be accountable for review of inspector work products as required in the Coal Mine Safety and Health Supervisor's Handbook. Supervisors and inspectors will be accountable for the completeness and thoroughness of inspection work.
17	CMS&H Memo No. 11-09-044 (ORM 4-3)	D11 / DLR	2009	All required documentation of the E01 inspection was not present in the final report file. Reports were not documented in accordance with the requirements contained in the General Coal Mine Inspection & Inspection Tracking System (ITS).	ID	The importance of accurate and complete notes and the transfer of this information to the ITS system will be reviewed with enforcement personnel. This review will be presented to all enforcement personnel under the direction of the ADM/SA/FO supervisors, along with management's expectations. Supervisors will utilize a checklist as a means to monitor proper documentation. A memorandum of instruction, reiterating the districts requirements for weekend/off shift work will be issued. A spreadsheet will be utilized by the surface inspectors to keep track of the shifts worked.
18	CMS&H Memo No. 11-09-044 (ORM 4-3)	D11 / DLR	2009	The UMF Mine File was reviewed and a deficiency was noted.	IIP	ADM/FO supervisors will review the requirements for the UMF with all enforcement personnel. This review will be presented to all enforcement personnel under the direction of the ADM/SMO supervisors, along with management's expectations. The field office mine safety assistants will review the UMF to ensure that the required forms are in place. Supervisors will utilize the checklist to verify the required reviews and signatures are present.
19	CMS&H Memo No. 11-09-044 (ORM 4-3)	D11 / DLR	2009	Inspection time indicated a wide variation in total time required for each inspection. Additionally, during both inspections errors in time entering and/ or coding was detected.	IWS	ADM will review with supervisors. This review will be presented to all enforcement personnel under the direction of the ADM/SA/FO supervisors, along with management's expectations.
20	CMS&H Memo No. 11-09-044 (ORM 4-3)	D11 / DLR	2009	Several issues associated with note taking were found.	ID	The importance of accurate and complete notes and the transfer of this information to the ITS system will be reviewed with enforcement personnel. This review will be presented to all enforcement personnel under the direction of the ADM/SA/FO supervisors, along with management's expectations. Supervisors will utilize a checklist as a means to monitor proper documentation. Also, a memorandum of instruction, reiterating the districts requirements for weekend/off shift work will be issued. A spreadsheet will be utilized by the surface inspectors to keep track of the shifts worked.
21	CMS&H Memo No. 11-09-044 (ORM	D11 / DLR	2009	Event Sheet Form 2000-22. Event sheet was not properly filled out.	ID	The enforcement staff will be reinstructed on the importance of properly documenting inspection activities on Form 2000-22. This review will be presented to all enforcement personnel under the direction of the ADM/SA/FO supervisors, along with management's expectations.

Deficiencies and Corrective Actions in MSHA Accountability Review Reports						
No.	Report No.	District/Level of Review	CY	Finding	Type*	Corrective Action
	4-3)					
22	CMS&H Memo No. 11-09-41 (ORM 4-3)	D11 / HQR	2009	The number of respirable dust samples taken was not recorded accurately on both events. Event 4491148 denotes zero samples; nine were taken, event 4296716 denotes one sample; eight were taken. The number of noise samples taken on event 4491148 is denoted as zero; seven were taken.	SS	The enforcement staff will be reinstructed on the importance of properly documenting inspection activities on Form 2000-22.
23	CMS&H Memo N. 11-09-41 (ORM 4-3)	D11 / HQR	2009	The Alcohol, Tobacco, and Firearms (ATF) box is not marked in the Area of Inspection (block 12h); a completed ATF form was in the inspection report.	ID	The supervisory staff will make this an area of added emphasis during AA/FAR reviews.
24	CMS&H Memo No. 11-09-41 (ORM 4-3)	D11 / HQR	2009	The event sheet for 103(i) Event No. 4493111 did not have the calendar filled out.	ID	This review will be presented to all enforcement personnel under the direction of the ADM/SA/FO supervisors, along with management's expectations.
25	CMS&H Memo No. 11-09-41 (ORM 4-3)	D11 / HQR	2009	The field office does not have a system in place to adequately track rock dust surveys to ensure that all active areas of the mine have been surveyed in accordance with the General Inspection Procedures.	SS	Inspectors will be required to clearly note the location of each rock dust survey and non-survey (example-due to wet conditions) on the tracking map. The return inspection to re-evaluate the non-survey will also be noted on the map.
26	CMS&H Memo No. 11-09-41 (ORM 4-3)	D11 / HQR	2009	The hard copy notes for the first day of E01 inspection events 4491148 and 4296776 do not denote that the Coal Mine Inspector (CMI) arrived in advance of the shift start time.	ID	This information will be part of the inspection turnover from one quarter to the next. The previous quarter's inspectors will review with the on-coming inspector(s) and transfer that information to the new tracking map.
27	CMS&H Memo No. 11-09-41 (ORM 4-3)	D11 / HQR	2009	On first the day of the inspection, the CMI's supervisor was not notified that all inspection activities were limited to checking records on the surface. Note: First day at the mine was on the owl shift and no miners worked underground. Event 4296776	IIP	map with the resident inspector(s) for: a. Rock Dust Surveys b. Inspection Completion c. Any other areas of concern  Training will be given to all enforcement personnel
28	CMS&H Memo No. 11-09-41 (ORM 4-3)	D11 / HQR	2009	"NIDO" (No Imminent Dangers Observed) was not always documented in the hard copy notes when inspection activities occurred on the section.	ID	The Staff Assistant will prepare a memorandum of instruction to all enforcement supervisors outlining the corrective action.  The importance of accurate and complete notes and the transfer of this information to the ITS system will be reviewed with enforcement personnel
29	CMS&H Memo No. 11-09-41 (ORM 4-3)	D11 / HQR	2009	The shift type (production, maintenance, or idle) was not identified on the daily cover sheet for both events 4491148 and 4296776.	ID	This review will be presented to all enforcement personnel under the direction of the ADM/SA/FO supervisors, along with management's expectations.  Supervisor will utilize a checklist for the review of all E-01's. This checklist will cover those areas of documentation.
30	CMS&H Memo No. 11-09-41 (ORM	D11 / HQR	2009	The arrival time at the mine was not always documented on both events 4491148 and 4296776.	ID	

Deficiencies and Corrective Actions in MSHA Accountability Review Reports						
No.	Report No.	District/ Level of Review	CY	Finding	Type*	Corrective Action
	4-3)					
31	CMS&H Memo No. 11- 09-41 (ORM 4-3)	D11 / HQR	2009	General documentation errors in both ITS and hard copy notes such as: incorrect dates, information in ITS not included in notes, equipment list did not always match that in the hard copy notes, general inspection headings from the handbook not found in notes, equipment in notes not described by company identification or serial number, and required inspection items were missing from MMU log (first aid equipment).	ID	
32	CMS&H Memo No. 11- 09-41 (ORM 4-3)	D11 / HQR	2009	The primary and alternate escape ways were not documented in the ITS and identified PE (Primary escape way) and AE (Alternate Escape way) as required. In addition, the beginning and ending points as they correlate to a permanent reference on the map were not documented in the hard copy notes and/or ITS.	ID	
33	CMS&H Memo No. 11- 09-41 (ORM 4-3)	D11 / HQR	2009	Belt inspections were not adequately documented in the hard copy notes with beginning and ending points for the area inspected.	ID	
34	CMS&H Memo No. 11- 09-41 (ORM 4-3)	D11 / HQR	2009	The location of the last open crosscut was not always documented in the hard copy notes for each visit to the section.	ID	
35	CMS&H Memo No. 11- 09-41 (ORM 4-3)	D11 / HQR	2009	The MMU number, manufacturer, and model of SCSRs inspected were not documented in the hard copy notes, although serial numbers were documented.	ID	
36	CMS&H Memo No. 11- 09-41 (ORM 4-3)	D11 / HQR	2009	No air measurements were documented in the hard copy notes or ITS for the #2 and #3 intakes at the portal of the mine.	ID	
37	CMS&H Memo No. 11- 09-41 (ORM 4-3)	D11 / HQR	2009	Event 4296776: no documentation that the CMI traveled with the on-shift examiner.	ID	

Deficiencies and Corrective Actions in MSHA Accountability Review Reports						
No.	Report No.	District/Level of Review	CY	Finding	Type*	Corrective Action
38	CMS&H Memo No. 11-09-41 (ORM 4-3)	D11 / HQR	2009	Event 4491148: no documentation that the CMI traveled with the pre-shift and weekly examiner. The name of the on-shift examiner was not documented.	ID	
39	CMS&H Memo No. 11-09-41 (ORM 4-3)	D11 / HQR	2009	Only one air quantity measurement was taken for the continuous miner and roof bolter during each of the a.m. and p.m. surveys.	SS	For the 30-shift average, the Health Supervisor has instructed all Health Specialists in the proper method to determine the average. This is already implemented, and the Health Supervisor is reviewing all inspections to ensure compliance.  For the air quality measurement, the Health Supervisor held discussions with the Chief, Division of Health, who indicated that the method used by the district was appropriate. It is recommended that clarification from headquarters be obtained.
40	CMS&H Memo No. 11-09-41 (ORM 4-3)	D11 / HQR	2009	The 2000-86 form was not complete in that the method used to determine the 30shift average was not described. The form should include the data range for data utilized, the total production during the 30 shifts, the normal shift length, the conversion to an 8-hour equivalent, and the percent of the 30-shift average obtained during the sampling shift. There was no estimate of the total amount of material in tons mined based on the number of feet advanced, the number of passes, or the number of cars loaded.	ID	In the event of a hardware malfunction associated with an inspector's computer, the program analyst will also determine if the inspector's time and activity forms are affected, and will resolve as necessary.  The ADM/FO supervisors will review the agency's expectations for proper note taking and the evaluation of citations with respect to elevated enforcement.  ADM will emphasize proper evaluation of citations as part of the E01 2nd level review process.
41	CMS&H Memo No. 11-09-41 (ORM 4-3)	D11 / HQR	2009	One CMI did not complete a Time and Activity form for the week of April 13 - 17, 2009 during the 4491148 event.	IWS	The district will conduct a monthly spot inspection and a quarterly spot electrical inspection at the smaller, underground mines. This will be in addition to the regular E-O1, and re-emphasize to the operator the importance the district places on compliance.
42	CMS&H Memo No. 11-09-41 (ORM 4-3)	D11 / HQR	2009	Citation No. 7697564- External ground wire on shuttle car cathead was disconnected. The citation was marked as no lost workdays (should be at least lost workdays or restricted duty).	IEA	This review will be presented to all enforcement personnel under the direction of the ADM/SA/FO supervisors, along with management's expectations
43	CMS&H Memo No. 11-09-41 (ORM 4-3)	D11 / HQR	2009	Citation No. 7695199- Oil accumulations in the operator's deck of a shuttle car. cited as 75.1725(a) (should be 75.400)	IEA	
44	CMS&H Memo No. 11-09-41 (ORM 4-3)	D11 / HQR	2009	Citation No. 7698302- Hole in return stopping that separates belt from the return was cited as 75.333(b)(2) (should be 75.333(h))	IEA	

Deficiencies and Corrective Actions in MSHA Accountability Review Reports						
No.	Report No.	District/Level of Review	CY	Finding	Type*	Corrective Action
45	CMS&H Memo No. 11-09-41 (ORM 4-3)	D11 / HQR	2009	Citation No. 7697500, written for low air over the roof-bolting machine, is marked as unlikely, non-S&S, moderate negligence, and a safety-only violation. The citation should be considered for possible Health and Safety violation and elevated negligence. The Corinth Mine MMU (0.9 mg/m <sup>3</sup> ) and roof bolters (1.3 and 1.7) are on reduced respirable dust standards because of quartz. (Note: District states no over exposures in last 5 years)	IEA	
46	CMS&H Memo No. 11-09-41 (ORM 4-3)	D11 / HQR	2009	Is on a reduced dust standard (1.3 and 1.7) because of quartz.	SS	
47	CMS&H Memo No. 11-09-41 (ORM 4-3)	D11 / HQR	2009	Citation No. 7697495, written on loose, broken, unsupported roof above the travel way on the belt was marked as moderate negligence. The inspector's notes indicate this was an obvious condition. The belt is examined every production shift. This violation should be considered for elevated negligence.	IEA	
48	CMS&H Memo No. 11-09-41 (ORM 4-3)	D11 / HQR	2009	Citation No. 7697499 was written on belt examinations; several violations were cited but marked as only moderate negligence. This violation should be considered for elevated negligence.	IEA	
49	CMS&H Memo No. 11-09-41 (ORM 4-3)	D11 / HQR	2009	Two 103(i) spot inspections were reviewed. Citation No. 7696091, issued on 5/12/2009 was rated as moderate negligence with more than one person affected. The inspection notes indicated that the management officials knew or should have known that the condition existed. This violation should be considered for elevated negligence. Also abatement due date was set for 5/19/2009: a total of 7 days to install a lifeline.	IEA	

Deficiencies and Corrective Actions in MSHA Accountability Review Reports						
No.	Report No.	District/Level of Review	CY	Finding	Type*	Corrective Action
50	CMS&H Memo No. 11-09-41 (ORM 4-3)	D11 / HQR	2009	Two 103(i) spot inspections were reviewed. The inspector notes stated that a violation was extended for a spill in the slope because the operator requested an extension. The inspector does not state he went to the area and inspected it to determine if an extension should be granted, but the inspector extended the abatement time by 6 days until 5/18/2009. This occurred during an accompanied activity and the supervisor did note in his review the CMI did not note all areas traveled in the hard copy notes.	ID	
51	CMS&H Memo No. 11-09-41 (ORM 4-3)	D11 / HQR	2009	Two 103(i) spot inspections were reviewed. A citation was terminated on a piece of equipment for the service brakes. The piece of equipment was not clearly identified and the notes did not indicate whether it was inspected prior to termination.	ID	
52	CMS&H Memo No. 11-09-41 (ORM 4-3)	D11 / HQR	2009	A misinterpretation of MSHA/SOL Alternative Case Resolution Procedures, dated 10/21/2008, was discovered. The District's interpretation of the Memorandum of Understanding (MOU) is that the District was not required to conduct an Enhanced Safety and Health Conference unless the operator had requested a conference under 30 CFR100.6, prior to filing a Notice of Contest of Civil Penalty.	IIP	To be determined (see "Potential systemic nature of this deficiencies")
53	CMS&H Memo No. 11-09-41 (ORM 4-3)	D11 / HQR	2009	Based on a review of the mine map, it cannot be determined how the worked-out area is ventilated or evaluated.	MMP	The district's standard operating procedures (SOP) for the review of ventilation plans/maps will be updated to reflect that a side-by-side comparison of the submitted map and the previously approved map will be made. The ventilation supervisor will observe the side-by-side review with the specialist.
54	CMS&H Memo No. 11-09-41 (ORM 4-3)	D11 / HQR	2009	The ventilation plan does not reflect that Designated Area 501-0 has been in "sampling not required" status since 6/23/2003.	MMP	Training on the changes to the SOP will be given to specialists. Field Office inspectors will be instructed to contact, either through the FO supervisor, or directly to a ventilation specialist or the ventilation supervisor, any ventilation concerns they may have or encounter during the course of their inspection. A memorandum of instruction will be issued by the District Manager.
55	CMS&H Memo No. 11-09-41 (ORM 4-3)	D11 / HQR	2009	Second-level reviewers do not have a readily available means to determine whether all required FARS and AAs have been completed other than manually counting each one.	SR	A tracking system has been developed and placed on the district T drive so that both the DM and ADM can track FARS/AA's.
56	CMS&H Memo No. 11-09-41	D11 / HQR	2009	Most FARS were conducted on E02 events.	SR	The ADM/DM will select an appropriate number of E-01's for review with the respective FO supervisors. The initial reviews will focus on the smaller, underground mines.

Deficiencies and Corrective Actions in MSHA Accountability Review Reports						
No.	Report No.	District/ Level of Review	CY	Finding	Type*	Corrective Action
	(ORM 4-3)					
57	CMS&H Memo No. 11-09-41 (ORM 4-3)	D11 / HQR	2009	The designated composite mine rescue team did not practice underground in the mine as a team. In addition, according to the Annual Certification of Mine Rescue Team Qualifications, one of the practices was listed as being held on the surface. According to the Annual Certification of Mine Rescue Team Qualifications, only two rescue team members went to the mine.	T	It was determined that the issue arose due to a misunderstanding in the effective date of the above mentioned regulation. Discussions with representatives of the State of Alabama indicate they have a correct understanding of the regulations as they now apply. The form used to document was also reviewed, and the State has adopted measures that will list the required information in a clearer manner.
58	CMS&H Memo No. 11-09-41 (ORM 4-3)	D11 / HQR	2009	The Annual Certification of Mine Rescue Team Qualifications does not indicate that all team members participated in two mine rescue contests.	T	It was determined that the issue arose due to a misunderstanding in the effective date of the above mentioned regulation. Discussions with representatives of the State of Alabama indicate they have a correct understanding of the regulations as they now apply. The form used to document was also reviewed, and the State has adopted measures that will list the required information in a clearer manner.
59	CMS&H Memo No. 11-09-41 (ORM 4-3)	D11 / HQR	2009	There is no MSHA form 2000-223 in the UMF. CMS&H Memo No. HQ-08.010-A (SEC-103) requires the use of MSHA form 2000-223 for review of the ERP during E01 inspections. This form is to be filed in the UMF and E01 inspection report. Two E01 events conducted during the time period January thru June 2009 were reviewed for this requirement.	ID	ADM/FO supervisors will review the requirements for the UMF with all enforcement personnel.
60	CMS&H Memo No. 11-09-41 (ORM 4-3)	D11 / HQR	2009	There were no copies of the 2000-86 form in the UMF.	ID	The field office mine safety assistants will review the UMF to ensure that the required forms are in place.
61	CMS&H Memo No. 11-09-41 (ORM 4-3)	D11 / HQR	2009	The currently approved SCSR storage plan is not in the UMF. The version in the book is dated July 16, 2001; the latest copy provided to the review team was dated July 16, 2008.	ID	Supervisors will utilize the checklist to verify the required reviews and signatures are present.
62	CMS&H Memo No. 11-09-41 (ORM 4-3)	D11 / HQR	2009	No summary sheets for Field Modifications or Petitions for Modification were found in the UMF.	ID	This review will be presented to all enforcement personnel under the direction of the ADM/SA/FO supervisors, along with management's expectations.
63	CMS&H Memo No. 11-09-41 (ORM 4-3)	D11 / HQR	2009	The UMF contained multiple copies of the 7000-1 reports and a citation for failure to notify MSHA of an accident in a timely manner. A 7000-1 from 8/15/1007 was still in the UMF; such forms are to be removed on a yearly basis.	ID	The 2000-223 review will be required quarterly along with the Roof Control and Ventilation Plan reviews (200-204). Enforcement personnel will be trained on this and the above requirements.

Deficiencies and Corrective Actions in MSHA Accountability Review Reports						
No.	Report No.	District/ Level of Review	CY	Finding	Type*	Corrective Action
64	CMS&H Memo No. 11- 09-41 (ORM 4-3)	D11 / HQR	2009	The UMF was not signed by the CMIs conducting E01 Event 4491148.	ID	The 2000-223 review will be required quarterly along with the Roof Control and Ventilation Plan reviews (200-204). Enforcement personnel will be trained on this and the above requirements.
65	Not Listed	RM - DLR	2009	Inspectors may not have conducted inspections on all working shifts.	IWS	A meeting was held with all Rocky Mountain field office supervisors on January 21 & 22, 2009. The importance of adequate off-shift/weekend inspection activities was discussed in detail.
66	Not Listed	RM - DLR	2009	Inspectors frequently lack adequate documentation in supporting gravity and negligence determinations in their citation field notes.	ID	The assistant district manager reviewed this matter with the field office supervisors, via e-mail, on April 2009.
67	Not Listed	RM - DLR	2009	The field office supervisor failed to conduct the minimum number of accompanied and unaccompanied reviews.	SR	This matter has been reviewed with all field office supervisors. The Rocky Mountain district will develop a tracking system to ensure that the required reviews are conducted and documented.
68	Not Listed	RM - DLR	2009	During the inspection of the approximately 500 foot long FCT (continuous haulage and conveyor belt) unit the inspector only conducted an examination along one side of the equipment, allowing the miners' representative to examine the opposite side.	IIP	The field office supervisor held a staff meeting on May 18, 2009 to discuss the requirement and importance of conducting complete and thorough inspections. Specifically, chapter five "regular inspection procedures" of the General Inspection Procedures handbook was reviewed with the field office staff. This issue will be reviewed on all future district audits and discussed at future field office supervisor meetings.
69	Not Listed	NE - DLR	2009	Ground Conditions in the Pit. (No violations of ground control issued at this operation in past five years.)	IEA	The Assistant District Manager held a conference call with all NE District Field Office Supervisors on 10/26/09. He discussed the findings of the audit teams, emphasized the importance of conducting adequate examinations of ground control hazards, reviewed applicable ground control standards, discussed factors inspectors should be looking at, and informed them that he was planning a series of meetings and training to enhance the highwall inspection process.
70	Not Listed	NE - DLR	2009	Failure to examine and test for loose ground conditions in the pit. (No previous history of being cited)	IIP	Supervisors were also asked to have inspectors include in their inspection report photos describing the condition of the highwalls at the mine regardless of whether a citation is issued.
71	Not Listed	NE - DLR	2009	Housekeeping/safe access in the escape route of the surge tunnel. (Obvious condition that existed for extended period)	IIP	The supervisors were asked to review these photos to assure that inspectors are not overlooking hazardous conditions.
72	Not Listed	NE - DLR	2009	Failure to review all required documents/records during inspections.	SR	Lastly, the supervisors were asked to send an e-mail response to the ADM confirming that they discussed this issue with their inspectors listing all the inspectors that were in attendance.
73	Not Listed	NE - DLR	2009	Ground Conditions in the Pit. (Citations had never been issued for violations regarding ground conditions at this mine)	IEA	During the NE district's supervisor' meeting in August 2009, a PowerPoint was presented describing highwall hazards and how they should be addressed. This PowerPoint included photos of highwalls observed during this Accountability Review. A DVD of the PowerPoint was subsequently distributed to each supervisor and they were instructed to show it to all their inspectors and document that they viewed it.
74	Not Listed	NE - DLR	2009	Failure to examine and test for loose ground conditions in the pit.	IIP	On November 13, 2009, the Assistant District manager sent out an email to the District's Field Office Supervisors clarifying what enforcement action should be taken when particular ground control conditions and hazards are found. Supervisors were asked to review this information with all of their inspectors. Included with the email was a PIB and guidance memo

Deficiencies and Corrective Actions in MSHA Accountability Review Reports						
No.	Report No.	District/Level of Review	CY	Finding	Type*	Corrective Action
						addressing highwall hazards.
75	Not Listed	NE - DLR	2009	Failure to maintain wall bank and slope stability in the pit.	IIP	On December 14, 2009, the District Manager had a conference call with the District's Field Office Supervisors where he discussed and clarified certain highwall issues.
76	Not Listed	NE - DLR	2009	Field office supervisor also accompanied inspector at this operation and was in the pit with the inspector on the last regular inspection prior to the audit.	IIP	Supervisors and inspectors are continually reminded of the need to conduct a thorough inspection and address housekeeping hazards. This issue was discussed during the August 2009 Supervisors meeting, including a review of what criteria to consider in determining whether or not a housekeeping violation would warrant a finding of significant and substantial. Supervisors were also asked to assure that inspectors are reviewing all required documents (i.e., training, written haz/com and hearing conservation programs, pressure vessel inspection records, ground and continuity resistance testing, workplace and mobile equipment exams, records of first aid training and fire extinguisher examinations) during mandated inspections.
77	CMS&H Memo No. 08-10-008 (ORM 4-3)	D8 / DLR	2010	For the two quarters reviewed, the percent of S & S violations was significantly low. The percent was 14.3% compared to 35% for the Nation.	IEA	The DM/ADM will provide an extensive review of the criteria for S&S. The ADM Enforcement will review at least 10 percent of the E01 violations issued out of the Vincennes Field Office to ensure consistency of gravity evaluations for the time period of October 30, 2010 through December 31, 2010. The proper development and evaluation of negligence will be presented and elaborated to the inspectorate.
78	CMS&H Memo No. 08-10-008 (ORM 4-3)	D8 / DLR	2010	There was a non-systematic approach to inspections activities for the 2009 October through December quarter. Working sections were visited multiple times.	IIP	The Field Office Supervisor will re-train the inspectorate in time management and efficient inspection techniques.
79	CMS&H Memo No. 08-10-008 (ORM 4-3)	D8 / DLR	2010	Specialists were not reviewing and documenting reviews in the Uniform Mine File.	ID	The DM/ADM Technical will provide review to all Specialist and Specialists Supervisors of the requirements for documenting reviews in the Uniform Mine File.
80	CMS&H Memo No. 08-10-008 (ORM 4-3)	D8 / DLR	2010	Specialists were not signing or providing a 2000-22 form, Coal Mine Activity Data sheet.	ID	The DM/ADM Technical will provide a review to all Specialists and Specialist Supervisors of the requirements for providing a Coal Mine Activity Data Sheet.
81	CMS&H Memo No. 08-10-008 (ORM 4-3)	D8 / DLR	2010	There was inconsistency in documenting that miners' rights to travel were afforded.	ID	The DM/ADM Enforcement will provide a review of the requirements to document that miners' rights were afforded. The ADM Enforcement will review 10 percent of the E01 field notes for the Vincennes Field Office from October 30, 2010 through December 31, 2010 to ensure that required documentation is included.
82	CMS&H Memo No. 08-10-008 (ORM 4-3)	D8 / DLR	2010	The last open crosscut location was not always listed in the notes.	ID	The ADM/DM Enforcement will provide a review of the requirements to document the location of the last open crosscut on working sections. The ADM Enforcement will review 10 percent of the E01 field notes for the Vincennes Field Office from October 30, 2010 through December 31, 2010 to ensure that required documentation is included.

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No.	Report No.	District/ Level of Review	CY	Finding	Type*	Corrective Action
83	CMS&H Memo No. 08-10-008 (ORM 4-3)	D8 / DLR	2010	Parts of citation notes do not contain necessary information to describe the condition or practice. Some descriptions are not consistent with regulation and policy.	IEA	The DM/ADM Enforcement will provide a review of the requirements to document the necessary information to describe condition or practice when citing violations. The ADM Enforcement will review 10 percent of the E01 field notes for the Vincennes field notes for the Vincennes Field Office from October 30, 2010 through December 31, 2010 to ensure that required documentation is included.
84	CMS&H Memo No. 08-10-008 (ORM 4-3)	D8 / DLR	2010	On 11/01/2009, No Imminent Dangers Observed (NIDO) was not found in a couple of instances.	ID	The DM/ADM Enforcement will provide a review of the requirements to document that (NIDO) is always in the inspector notes. The ADM Enforcement will review 10 percent of the E01 field notes for the Vincennes Field Office from October 30, 2010 through December 31, 2010 to ensure that required documentation is included.
85	CMS&H Memo No. 08-10-008 (ORM 4-3)	D8 / DLR	2010	On 11/17/2009, there were no supervisory review of paperwork and notes.	SR	The DM/ADM Enforcement will provide a review of the requirements to check all paperwork and notes per instructions. The ADM Enforcement will review 10 percent of the E01 violations and field notes for the Vincennes Field Office from October 30, 2010 through December 31, 2010 to ensure that required documentation is included.
86	CMS&H Memo No. 08-10-008 (ORM 4-3)	D8 / DLR	2010	The arrival time at mine was not always documented.	ID	The DM/ADM Enforcement will provide a review of the requirements to document arrival time at mines. The ADM Enforcement will review 10 percent of the E01 field notes for the Vincennes Field Office from October 30, 2010 through December 31, 2010 to ensure that required documentation is included.
87	CMS&H Memo No. 11-10-031 (ORM 4-3)	D11 / DLR	2010	There was no documentation in the inspector's notes that the mine map was reviewed for hazards on the first day of the inspection (pg. 13, item 2). Note: Inspectors did document the review of the map later in the inspection.	ID	The DM/ADM will conduct an extensive training review during the District's August, 2010 Supervisory Staff Meeting. The DM and agency expectations will be thoroughly reviewed with all enforcement supervisors. The agency's requirements for inspection documentation and the transfer of this information to the ITS system will be reviewed with enforcement personnel. This review will be presented to all supervisors and enforcement personnel.
88	CMS&H Memo No. 11-10-031 (ORM 4-3)	D11 / DLR	2010	Equipment listed in notes was not always adequately identified (no serial number or company number) and at times there was no indication of the inspector's determination of equipment condition (NVO, OK, etc.)	ID	
89	CMS&H Memo No. 11-10-031 (ORM 4-3)	D11 / DLR	2010	SCSR checks were not properly documented and there was no indication that any outby miners had been polled on their knowledge of donning procedures.	ID	
90	CMS&H Memo No. 11-10-031 (ORM 4-3)	D11 / DLR	2010	The location of the LOCC was not properly documented at all appropriate times.	ID	
91	CMS&H Memo No. 11-10-031 (ORM 4-3)	D11 / DLR	2010	Inspector did not fully document the observation of the mining cycle. Note: this occurred only one time for one section.	ID	

Deficiencies and Corrective Actions in MSHA Accountability Review Reports						
No.	Report No.	District/ Level of Review	CY	Finding	Type*	Corrective Action
92	CMS&H Memo No. 11- 10-031 (ORM 4-3)	D11 / DLR	2010	Not all air measurements had an associated air quality (methane/oxygen) reading.	ID	
93	CMS&H Memo No. 11- 10-031 (ORM 4-3)	D11 / DLR	2010	Seal sets did not have the required air quality measurement for the entry nearest each set of seals immediately after the air passes the seal set. Note: there was sufficient documentation in the notes that air quality at the seal was being tested.	ID	
94	CMS&H Memo No. 11- 10-031 (ORM 4-3)	D11 / DLR	2010	Inspector notes documented the inspection of independent contractors, but there were no 2000-208 forms with the notes.	ID	
95	CMS&H Memo No. 11- 10-031 (ORM 4-3)	D11 / DLR	2010	Arrival time was not always indicated on the inspector's daily cover sheet. Note: this only occurred on two occasions.	ID	
96	CMS&H Memo No. 11- 10-031 (ORM 4-3)	D11 / DLR	2010	Discrepancies between the ITS and inspector's notes, most commonly, equipment listed in notes, but not transferred to the ITS.	ID	
97	CMS&H Memo No. 11- 10-031 (ORM 4-3)	D11 / DLR	2010	Termination times were not always established according to agency requirements.	IEA	
98	CMS&H Memo No. 11- 10-031 (ORM 4-3)	D11 / DLR	2010	Significant and Substantial evaluation for two citations did not appear to meet agency requirements.	IEA	The proper evaluation of termination time will be reviewed with all supervisors on August 25, 2010.

Deficiencies and Corrective Actions in MSHA Accountability Review Reports						
No.	Report No.	District/ Level of Review	CY	Finding	Type*	Corrective Action
99	Not Listed	RM / DLR	2010	It appears based on previous inspections reviewed; the field office supervisor was not spending a sufficient amount of time reviewing reports. Justification on gravity and negligence was very minimal, short single statements (management not aware, should have been reported). Four citations reviewed described an imminent danger in the body of the citation but no order was issued. Several files indicated violations of the same standard with continual moderate negligence determinations regardless of the number of times issued in the last 15 months.	SR	The District management has already addressed this issue by splitting the office and placing another supervisor in the office reducing the number to eight inspectors per supervisor. This was done in January of 2010. The addition of the second field office supervisor will provide better review and oversight of inspection procedures and allow more time to get the required FAR's completed.
100	Not Listed	RM / DLR	2010	It appears that the level of enforcement on previous inspections has not been adequate. Failure of inspectors to conduct a complete inspection of the mine.	IIP	The district management has recognized the issues and assigned another inspector to help complete the inspection of the entire mine.
101	Not Listed	RM / DLR	2010	The field office supervisor failed to conduct six accompanied FAR's in FY 2009.	SR	The District management has already addressed this issue by splitting the office and placing another supervisor in the office reducing the number to eight inspectors per supervisor. This was done in January of 2010. The addition of the second field office supervisor will provide better review and oversight of inspection procedures and allow more time to get the required FAR's completed.
102	Not Listed	NE / DLR	2010	It appears based on a review of previous inspection reports that the field office supervisor was not spending a sufficient amount of time reviewing reports. Justification on gravity and negligence was very minimal. It also appears that in a couple of instances the inspector did not fully understand S&S criteria and did not cite the correct standard.	SR	The Northeast District recently provided additional training to all inspectors and supervisors in the district. The training covered: negligence, unwarrantable failure, S&S, highwall hazard recognition, and other enforcement issues.  A peer audit of the Wyomissing South field office will be conducted during the month of August, 2010, to ensure that improvements are being made. In addition, the findings and corrective actions of this audit will be thoroughly discussed at the next district field office supervisor meeting which is tentatively scheduled for August 30 through September 3, 2010.
103	Not Listed	NE / DLR	2010	It appears based on a review of FARs in 2008 and 2009 (Exhibit E) that the field office supervisor was not fully completing the FARs; the field office supervisor was not documenting the "Deficiencies" or "Corrective Action" during these reviews.	SR	District management identified this issue prior to the audit and had taken the appropriate corrective measures. The supervisor had correctly completed the last three Field Activity Review forms reviewed during this audit, indicating that the corrective action implemented was successful.  In addition, all field office supervisors in metal/non-metal are now required to attend supervisor training every other year. Properly completing field activity review forms is thoroughly covered during this training.

Deficiencies and Corrective Actions in MSHA Accountability Review Reports						
No.	Report No.	District/ Level of Review	CY	Finding	Type*	Corrective Action
104	CMS&H Memo No. 08- 11-003 (ORM 11)	D8 / DLR	2011	Items 1 through 8, as stipulated in the General Coal Mine Inspection Procedures (Page 67 of handbook) and Inspection Tracking System handbook concerning documentation of citations did not always contain the specified information. Concerns were with "who knew", "how long", and episodic issues with termination time being too long. In addition negligence could be better evaluated.	ID	Through training ensure that each SUPERVISOR and CMI is aware of these findings. A record of training and a list of attendees will be reported to the District Manager.
105	CMS&H Memo No. 80- 11-003 (ORM 11)	D8 / DLR	2011	103(1) SPOT INSPECTIONS: A §103(i) spot inspection sequence had not been initiated when the total liberation of methane in 24 hours exceeded the limit specific in the Mine Act. One set of bottle samples had been taken in January indicating the quantity listed in §103(i) of the Act had been exceeded. For verification I a second set was collected in January and was above the prescribed quantity. The mine was not listed as requiring a 103i spot inspection until April after a third set of bottle samples were collected, which exceeded the prescribed quantity.	SS	The District Manager shall ensure through additional training that each supervisor is aware if these findings. A record of training and a list of attendees will be reported to the District Manager.  Instructions for the CMI and Supervisory 103(i) training will be specified in a memorandum from the District Manager to all Supervisors and Managers.  THE ADM will review with each Field Office Supervisor the District's Standard Operating Procedures on 103(i) of the Mine Act. Supervisors will provide scrutiny and prompt attention when total liberation samples indicate that a change in 103(i) status is warranted. A monthly report will be developed that list the current 103(i) status and the latest total daily liberation of methane for each active and non-producing District 8 underground mine.
106	CMS&H Memo No. 08- 11-003 (ORM 11)	D8 / DLR	2011	E01 documentation was not complete. Some notes did not have a daily cover sheet. On one day, 12/27/10, notes were missing. A MSHA Form 2000-86 was missing for 2/23/2011. Some bottle sample results were in the UMF but not in the E01 file. In some instances, required information was not documented. There was a failure to document a UMF review. Miner's representative was not listed and appeared that miners were not always afforded accompaniment rights, although some ARs were good at this. Production, idle days, and designated shifts were not always documented on the daily cover sheet. Beginning and ending dates were not always noted on the General Information Cover sheet (two times). The inspection notes did not always match the Inspection Tracking System documentation (less than 5 times). In addition, the notes and the tracking map did not match in one instance. (After conferring with the inspector, this was determined to	ID	The District Manager shall ensure, through additional training, that each COAL MINE INSPECTOR is aware of these findings. A record of training and a list of attendees will be reported to the District Manager. The District Manager shall ensure, through additional training, that each SUPERVISOR is aware of these findings. A record of training and a list of attendees will be reported to the District Manager. Instructions for CMI and Supervisory Evaluation E01 Documentation training will be specified in a memorandum from the District Manager to all Supervisors and Managers.  The ADM's second level reviews shall include a review of the issues identified. The ADMs will follow up with Supervisor to ensure that proper documentation is accomplished.

Deficiencies and Corrective Actions in MSHA Accountability Review Reports						
No.	Report No.	District/Level of Review	CY	Finding	Type*	Corrective Action
				be a documentation issue.)		
107	CMS&H Memo No. 08-11-003 (ORM 11)	D8 / DLR	2011	Inspector time was not always properly attributed to the E01 inspection; such as, collecting dust samples by the Health Group. In addition, inspectors had excessive multiple visits to the same section, which indicated AR time utilization was not optimized.	IWS	Through training ensure that each SUPERVISOR is aware of these findings. A record of training and a list of attendees will be reported to the District Manager. Through training ensure that each COAL MINE INSPECTOR (CMI) is aware of these findings. A record of training and a list of attendees will be reported to the District Manager. The ADM Technical and ADM enforcement will provide oversight to their respective supervisors concerning efficient inspection activities and communications. The December 22, 2003 Memorandum for District Managers, CMS&H Memo No. HQ-03-063-A, will be consulted for guidance.
108	CMS&H Memo No. 11-11-22 (ORM 4-3)	D8 / DLR	2011	All required documentation of the E01 inspection was not present in the final report file. Reports were not documented in accordance with the requirements contained in the General Coal Mine inspection & Inspection Tracking System (ITS). Not all of the equipment that was indicated as inspected in the notes had been properly documented into the ITS (while instances were found in all E01's reviewed, the most notable omissions were from the Oct. 2010-March 2011 E-01).	ID	The requirement to inspect all equipment and to enter said equipment into the ITS will be reviewed with the enforcement personnel. The aforementioned review along with management's expectation will be presented to ALL enforcement personnel under the direction of the ADM/SA/FO supervisors.
109	CMS&H Memo No. 11-11-22 (ORM 4-3)	D11 / DLR	2011	Termination times shall not be established for the convenience of the operator. Two equipment 77.1104 citations were issued in the morning and the termination time was established for the late afternoon. Both citations were issued as S&S, and warranted a shorter termination time.	IEA	AADM/FO supervisors will review the requirements as outlined in the handbook for citation/order writing with ALL enforcement personnel.  The ADM will review at least 50% of all citations for consistency and adherence to the agency's policy and procedures. This will be in addition to the supervisors review.
110	CMS&H Memo No. 11-11-22 (ORM 4-3)	D11 / DLR	2011	Miner's opportunity to accompany the inspector was not always documented on the daily cover sheet. Documentation that the miners' representative or a representative number of miners were polled should be done for every physical inspection.	ID	DM/ADM district and agency expectations with ALL enforcement personnel.
111	Not Listed	RM / DLR	2011	Inspectors may not have conducted inspections on all working shifts or weekends.	IWS	The field office supervisor will track each inspector's weekend and off-shift inspections and record the Mine ID, Event number, date and arrival time and stop time for each weekend and off-shift inspection to the Rocky Mountain District each quarter until the issue has been addressed. This will be detailed in the quarterly report to the Rocky Mountain district management until the district management has determined this issue has been addressed.

Deficiencies and Corrective Actions in MSHA Accountability Review Reports						
No.	Report No.	District/Level of Review	CY	Finding	Type*	Corrective Action
112	Not Listed	RM / DLR	2011	Documentation of the citations/orders issued did not justify the gravity and negligence.	IEA	The field office supervisor will hold a meeting where he will train the inspectors in the proper aspect of proper justification for gravity and negligence. He will provide a sign in sheet for this training and spend additional time with inspectors requiring, additional training based on the key indicator report, observations made during citation reviews that are made by management. This may include but is not limited to, traveling with inspectors to provide "on the job training". These activities will be periodically reviewed by the district staff. This will be detailed in the quarterly report to the Rocky Mountain District management until the district management has determined this issue has been addressed.
113	Not Listed	RM / DLR	2011	Termination due dates and times were consistently too long or inappropriate for the type of violations and corresponding hazards.	IEA	The field office supervisor will monitor each citation due date and time closely and initial each citation issued. The supervisor will send copies of all S&S citations with associated notes and color photographs to the district that have a termination due date and time extending past the end of the shift the citation was issued, these will be sent in quarterly. The Field Office Supervisor will provide written comments and actions for violations he deems were not proper and include notes from meetings with inspection to discuss proper termination due dates and times. This will be detailed in the quarterly report to the Rocky Mountain District management until the district management has determined this issue has been addressed.
114	Not Listed	RM / DLR	2011	Health field notes did not show the miners sources of exposures between equipment checks and did not document that what the equipment had recorded.	ID	The field office supervisor will monitor each health field not for proper documentation and completeness. These activities will be periodically reviewed by district staff. The field office supervisor will initiate each health note and he will submit all health notes that were reviewed and found not to be adequate along with notes from meetings with inspectors to discuss proper documentation. This will be detailed in the quarterly report to the Rocky Mountain District management until the district management has determined this issue has been addressed.
115	Not Listed	NE / DLR	2011	Following the review of inspection reports, and citation notes, and by observations on the mine site, it is clear that some citation note documentation lacked supporting facts necessary to clearly justify gravity and negligence evaluations surrounding each individual issuance of non S&S citations.	IEA	The field office supervisor will assemble relevant policy criteria, several examples of well documented citations notes and arrange for in office training on January 30, 2012, to thoroughly address deficiencies involving gravity and negligence justification. During the two months directly following this training, the supervisor will review each citation note within each inspectors report and provide specific feedback to each inspector indicating either positive or improvement needed determinations. At the end of each week, for a two month period, the supervisor will send a summarized memo to the Assistant District Manager indicating the office status of demonstrating adequate justification along with a few representative samples of citation notes that support following agency policy guidelines.
116	Not Listed	NE / DLR	2011	A review of inspection reports combined with discussion with inspectors who had conducted most recent regular inspections of the Security Quarry out of the Warrendale office revealed weekend inspections were not done. This is inconsistent with the 2009 General Inspection Procedures Handbook criteria.	IWS	The field office supervisor will assemble all relevant agency policy and mine data information regarding the field office mines working status. The supervisor conducted a meeting on January 30, 2012, with the all inspectors to remind them about the agency policy to inspect mines that work on weekends. The inspectors will be provided mine information about mines that work multi-shifts, along with six and seven days a week data and collaboratively arrange with their supervisor a strategic plan to ensure a sufficient number of inspections occur on weekends. The supervisor will establish an action plan and monitor progress for the following 12 months. A memo is to be sent to the assistant district manager once every 6 months indicating their progress.

Deficiencies and Corrective Actions in MSHA Accountability Review Reports						
No.	Report No.	District/ Level of Review	CY	Finding	Type*	Corrective Action
117	Not Listed	RM / OA	2009	Although the 103(i) spot inspections conducted during the audit were thorough, past 103(i) inspections were not. Insufficient time was spent on these important inspections, and multiple E02 inspections were often made in a single day. (District/FO)	IIP	Metal and Nonmetal (MNM) does not have a procedure regarding the length of time an E-02 inspection must be conducted. MNM will establish procedures addressing 103(i) inspections and provide guidance to the districts. A memorandum from the Administrator to the District Managers has been drafted and is currently being reviewed by SOL. It will be issued as soon as the review process is complete.
118	Not Listed	RM / OA	2009	Interviews with inspectors indicate a general lack of refresher training for journeyman inspectors. (District)	T	All journeyman inspectors in the district have attended or are scheduled to attend journeyman retraining at the mining academy during FY 2009, FY 2010, or FY 2011, with the majority being trained by the end of FY 2010.
119	Not Listed	RM / OA	2009	Conditions observed and citations issued during this audit indicate that previous inspections were neither complete nor thorough at the mines audited. (FO/District)	IIP	All inspectors in the district received the additional training. The Green River staff, with the exception of one inspector, during the week of February 8, 2010. The absent inspector was attending journeyman retraining at the mine academy during the week of February 8, 2010. Additional field accompanied reviews have been conducted. The ADM conducted two field accompanied review with the field office supervisor in June, 2010. On March 22, 2010 the DM and the ADM met with the field office staff to discuss audit findings and field office expectations.
120	Not Listed	RM / OA	2009	Evaluations of S&S, gravity, negligence during inspections did not appear commensurate with the type of violations cited. (FO)(District)	IEA	All inspectors in the district will receive additional training on properly citing and evaluating all violations found. The district will contact the Mine Academy for assistance in developing this training. The district office will review all citations and orders issued by this field office in FY2010.
121	Not Listed	RM / OA	2009	Supervisor has not received any retraining since assuming a supervisors' position.	T	The Field office supervisor is scheduled to receive comprehensive supervisory training at the mine academy in May, 2010. The assistant district manager will conduct several field activity reviews with the field office supervisor this Fiscal Year.
122	Not Listed	RM / OA	2009	Supervisor could not define criteria for negligence.	IEA	The Field office supervisor is scheduled to receive comprehensive supervisory training at the mine academy in May, 2010. The assistant district manager will conduct several field activity reviews with the field office supervisor this Fiscal Year.
123	Not Listed	RM / OA	2009	Did not understand procedure regarding inspection of equipment not in operation or tagged out.	T	The Field office supervisor is scheduled to receive comprehensive supervisory training at the mine academy in May, 2010. The assistant district manager will conduct several field activity reviews with the field office supervisor this Fiscal Year.
124	Not Listed	RM / OA	2009	Supervisor and inspector were hesitant to issue citations for hazards observed considering what the operator's cost would be or how the operator could correct the hazard.	IEA	All Supervisors and inspectors in the district will receive additional training on properly citing violations as described above and on Section 104 of the Mine Act. In addition, the district office will review inspection reports and field activity reviews from this field office on a regular basis to ensure that this issue has been corrected.
125	Not Listed	RM / OA	2009	Form 7000-3 Condition or practice includes statements not in accordance to policy or citation and order writing handbook.	IEA	All inspectors in the district will receive additional training on properly citing violations as described above. In addition, the district office will review inspection reports and field activity reviews from this field office on a regular basis to ensure that this issue has been corrected.
126	Not Listed	RM / OA	2009	Form 7000-3 does not include a detailed description of the condition or practice(s) which causes and constitutes a violation or imminent danger.	IEA	All inspectors in the district will receive additional training on how to properly cite violations. In addition, the district office will review inspection reports and field activity reviews from this field office on a regular basis to ensure that this issue has been corrected.
127	Not Listed	RM / OA	2009	Mining operations need to be evaluated and redistribution of mines to field offices in closer proximity to reduce travel time.	IIP	Redistribution of mines to improve resource utilization is currently being evaluated at both the national and district levels. Appropriate adjustments should be completed by the end of FY 2010.

Deficiencies and Corrective Actions in MSHA Accountability Review Reports						
No.	Report No.	District/Level of Review	CY	Finding	Type*	Corrective Action
128	Not Listed	RM / OA	2009	Quarries with Plants attached have separate Mine Identification numbers. A review of these operations should be conducted and determine if one ID is sufficient for both the quarry and the plant.	IIP	he field office has been and will continue to follow the policy addressing portable plants as addressed in Volume III of MSHA's Program Policy Manual as stated. A review will be conducted to ensure the field office is in compliance with the policy. In this case, the quarry and portable plant had mine ID's which were consistent with the current policy.
129	Not Listed	NE / OA	2009	Conditions observed and citations issued during this audit that highwall ground conditions and mining methods that address compliance with maintaining safe ground conditions appear not to have been addressed in previous inspections.	IIP	All NE District's supervisors received Highwall Training on April 7, 2010. Technical Support group assisted in the training of the inspectors and staff. (1) On May 3, 2010, the Wyomissing North FO Supervisor was transferred to an inspector's position in the Warrendale FO. (2) All inspectors and district staff received High Wall recognition and enforcement training. (3) Photos of all highwalls and Pits are now required on each inspection regardless if enforcement action has been initiated.
130	Not Listed	NE / OA	2009	Evaluation of gravity, negligence, number of persons affected and level of enforcement do not appear commensurate with the notes or the narrative of the citations.	IEA	1) On March 15, 2010 the DM provided additional training on proper levels of enforcement and evaluations of negligence, gravity, and number of persons affected to the Wyomissing North and South supervisors. (2) On April 6, 2010, all NE district supervisors attended a presentation by the Office of Accountability at the NE district supervisor's meeting where the importance of proper negligence, and gravity evaluations was discussed. (3) On April 8, 2010 the DM, SSI, and CLR's provided training to all of the NE district's supervisors on proper levels of enforcement and evaluations of negligence, gravity, and the number of persons affected, also during the supervisor's meeting. (4) From May 1, 2010 to June 21, 2010, all inspectors and district staff completed a series of six training sessions provided from the Academy on proper levels of enforcement, gravity and negligence evaluations, S&S and number of persons affected. (5) On May 3, 2010, the Wyomissing North field office supervisor was transferred to an inspector's position in the Warrendale field office. The new supervisor will receive training from the CLR's, SSI, ADM, and the DM.
131	Not Listed	NE / OA	2009	There was insufficient enforcement focus during past inspections.	IEA	(1) On March 15, 2010 the DM provided training on conducting thorough and complete inspections, adequate completion of FAR's, and effective use of time to the Wyomissing North and South supervisors. (2) On April 6, 2010 all NE district supervisors attended a presentation by the Office of Accountability at the NE district's supervisors meeting where the importance of conducting thorough and complete inspections, adequate and proper completion of FAR reviews, and effective use of time was emphasized. (3) On April 8, 2010 the DM, SSI, and CLR's provided training to all of the NE district's supervisors on the aforementioned topics. (4) On May 1, 2010 to June 21, 2010, all inspectors and district staff completed a series of six training sessions provided from the Academy on proper levels of enforcement, conducting thorough and complete inspections, and effective use of time.
132	Not Listed	NE / OA	2009	Site inspection time for previous inspections at the Hamburg Division mine do not appear appropriate for the mine size, equipment or mine type.	IWS	1) On March 15, 2010, the DM provided additional training on conducting thorough and complete inspections, and effective use of time to the Wyomissing North and South supervisors, as a follow up to the Office of Accountability audit and subsequent report. (2) On May 3, 2010 The Wyomissing North field office supervisor was transferred to an inspector's position in the Warrendale field office and has been replaced. (3) From May 1, 2010 to June 21, 2010, all inspectors and district staff completed a series of six training sessions provided from the Academy on proper levels of enforcement, conducting thorough and complete inspections, and effective use of time.

Deficiencies and Corrective Actions in MSHA Accountability Review Reports						
No.	Report No.	District/ Level of Review	CY	Finding	Type*	Corrective Action
133	Not Listed	NE / OA	2009	The district should review the status of intermittent and full-time operations for accuracy.	T	(1) On January 7, 2010 the DM instructed the NE district supervisors to properly classify mine status by first reviewing the policy and definitions of mine status classification with their inspectors, and to ensure inspectors are properly reviewing mine status and making appropriate changes when warranted. (2) Field office supervisors have also posted the policy on the office bulletin boards, given inspectors copies to carry in the field on inspections activities, and continued to discuss this topic at weekly staff meetings to ensure procedures are correctly followed.
134	Not Listed	NE / OA	2009	Inspection site time during the audit totaled 46.5 necessary to complete the regular inspections with 40 citations issued at 57.5%. Previous inspections averaged 15.8 site time hours with an average of 4.5 citations issued.	IWS	(1) On March 15, 2010, the DM provided additional training on conducting thorough and complete inspections, and effective use of time to the Wyomissing North and South supervisors, as a follow up to the Office of Accountability audit and subsequent report. (2) On May 3, 2010 The Wyomissing North field office supervisor was transferred to an inspector's position in the Warrendale field office and has been replaced. (3) From May 1, 2010 to June 21, 2010, all inspectors and district staff completed a series of six training sessions provided from the Academy on proper levels of enforcement, conducting thorough and complete inspections, and effective use of time.
135	Not Listed	NE / OA	2009	Citations issued for conditions observed during this audit indicate that mining methods and maintenance of safe ground conditions were not being addressed in previous inspections. Citations were being extended to allow excessive time for the operator to correct the hazard by scaling.	IEA	(1) All of the NE District's supervisors received highwall training on April 7, 2010. Technical support group assisted in the training of the inspectors and staff. (2) June 21, 2010, all inspectors and district staff received highwall recognition and enforcement training. Technical support group assisted in the training of the inspectors and staff. (3) The inspector received Journeyman training on February 2 through 11, 2010. The training included proper documentation, extension, and termination of citations and orders. (4) All of the inspectors in the Wyomissing South Field office received additional training on June 28, 2010, conducted by the supervisor, specifically addressing extensive termination and extension times from the citation and order writing handbook. (5) Photos of all highwalls and Pits are now required on each inspection regardless if enforcement action has been initiated.
136	Not Listed	NE / OA	2009	Guards observed were mostly providing minimum protection from moving machine parts, and few resembled the type of guarding recommended in the Guarding Guide Book. Several were constructed and/or mounted in a manner that created the hazard of the guard falling on miners.	IIP	(1) The inspector specifically mentioned in the checklist items received two weeks of Journeyman training at the Academy on February 2-11, 2010. The training included a session on equipment guarding. (2) All of the inspectors in the Wyomissing South Field office received training on June 28, 2010, conducted by the supervisor, specifically utilizing the guarding handbook and the new guarding power point, developed by headquarters.
137	Not Listed	NE / OA	2009	On-site inspection time for previous inspections at the Weaverland Quarry does not appear appropriate for the mine size, equipment or mine type.	IIP	(1) The inspector specifically mentioned in the checklist items received two weeks of Journeyman training at the Academy on February 2-11, 2010. The training included proper levels of enforcement, conducting thorough and complete inspections, and effective use of time. (2) On March 15, 2010, the DM provided additional training on conducting thorough, and complete inspections, and effective use of time to the Wyomissing North and South Supervisors, as a follow-up to the Office of Accountability audit and subsequent report. (3) From May 1, 2010, to June 21, 2010, all inspectors and district staff completed a series of six training sessions provided by the Academy on proper levels of enforcement, conducting thorough and complete inspections, and effective use of time.

Deficiencies and Corrective Actions in MSHA Accountability Review Reports						
No.	Report No.	District/ Level of Review	CY	Finding	Type*	Corrective Action
138	Not Listed	NE / OA	2009	The district should review the status of intermittent and full-time operations for accuracy. A review of man-hour reports for some operations listed in intermittent status indicate they should be classified as full-time.	T	(1) On January 7, 2010, the DM instructed the NE district supervisors to properly classify mine status by first reviewing the policy and definitions of mine status classification with their inspectors, and to insure inspectors are properly reviewing mine status and making appropriate changes when warranted. (2) Field Office supervisors have also posted the policy on the office bulletin boards, given inspectors copies to carry in the field on inspection activities, and continued to discuss this topic at weekly staff meetings to ensure procedures are correctly followed.
139	Not Listed	NE / OA	2009	Inspection reports indicate the District and Field Office is not adhering to MSHA policy regarding the rotation of mine assignments.	SR	On June 22, 2010, the districted evaluated the rotation of all the inspectors in the Wyomissing North and South Field offices. A meeting was conducted by the DM with the Wyomissing South and North supervisors on June 22, 2010 to discuss the details of rotation of mine assignments. the results of the rotation evaluation, and to rectify the inconsistencies. The DM also sent a message to all supervisors and district staff mandating policy compliance and procedures for rotating mine assignments.
140	Not Listed	NE / OA	2009	Several citations were issued during the audit for conditions that appeared to have existed for extended period of time but had not been identified and addressed.	IEA	(1) The inspector specifically mentioned in the checklist items received two weeks of Journeyman training at the Academy on February 2-11, 2010. The training included proper levels of enforcement, conducting thorough and complete inspections, and effective use of time. (2) On March 15, 2010, the DM provided additional training on conducting complete and thorough inspections, proper levels of enforcement and evaluations of negligence, gravity, and number of persons affected to the Wyomissing supervisors and inspectors. (3) On April 6, 2010, all NE district supervisors attended a presentation by the Office of Accountability at the NE districts supervisor's meeting where the importance of conducting complete and thorough inspections, proper negligence, and gravity evaluations was discussed. (4) On April 8, 2010, the DM, SSI, and CLR's provided training to all of the NE district's supervisors on proper levels of enforcement and evaluations of negligence, gravity, and the number of persons affected. (5) From May 1, 2010 to June 21, 2010, all inspectors and district staff completed a series of six training sessions provided from the Academy on conducting complete and thorough inspections, proper levels of enforcement, gravity and negligence evaluations, S&S, and number of persons affected.
141	Not Listed	NE / OA	2009	Citations issued for violations not always properly evaluated regarding gravity, negligence and type of action.	IEA	(1) The inspector specifically mentioned in the checklist items received two weeks of Journeyman training at the Academy on February 2-11, 2010. The training included proper levels of enforcement, conducting thorough and complete inspections, and effective use of time. (2) On March 15, 2010, the DM provided additional training on conducting complete and thorough inspections, proper levels of enforcement and evaluations of negligence, gravity, and number of persons affected to the Wyomissing supervisors and inspectors. (3) On April 6, 2010, all NE district supervisors attended a presentation by the Office of Accountability at the NE districts supervisor's meeting where the importance of conducting complete and thorough inspections, proper negligence, and gravity evaluations was discussed. (4) On April 8, 2010, the DM, SSI, and CLR's provided training to all of the NE district's supervisors on proper levels of enforcement and evaluations of negligence, gravity, and the number of persons affected. (5) From May 1, 2010 to June 21, 2010, all inspectors and district staff completed a series of six training sessions provided from the Academy on conducting complete and thorough inspections, proper levels of enforcement, gravity and negligence evaluations, S&S, and

Deficiencies and Corrective Actions in MSHA Accountability Review Reports						
No.	Report No.	District/Level of Review	CY	Finding	Type*	Corrective Action
						number of persons affected.
142	Not Listed	D11 / OA	2010	The Uniform Mine Files were not being maintained as per the Uniform Mine File handbook.	ID	Staff Assistant reviewed Uniform Mine File for completed plan reviews 1/25/2011. Health supervisor instructed specialists to provide copies (2000-86) for Field Office assistants for inclusion in the UMF. Review sheet for Field Office assistants provided along with instructions for review. Completed 7/1/2010.
143	Not Listed	D11 / OA	2010	During the audit, the inspector was observed using the company's test equipment (Pilot tube and Magnahelic Gauge) instead of the Agency's equipment. Equipment that is owned and properly maintained by MSHA should be used by inspection personnel.	IIP	Magnahelic gauges and Pilot tubes ordered and distributed 7/27/2010. Refresher training on use conducted 7/12/2010.
144	Not Listed	D11 / OA	2010	Inspector notes did not always contain sufficient documentation regarding the degree of operator negligence. (Example: The inspector documented that the section foreman "probably knew" of the violation's existence, but this could not be proven. The inspector indicated however, that if the foreman did not know he should have known). Negligence could have been better documented by describing why the agent had a reason to know. The inspector could have established the presence of the agent by describing his normal work or travel area.	IEA	(1) Supervisory Staff Meeting conducted August 18, 2010. Issues reviewed by District Manager and Assistant District Manager. (2) Solicitor training conducted for ALL enforcement personnel on August 25, 2010. Review and corrective actions have been reviewed with all enforcement personnel on this date.
145	Not Listed	D8 / OA	2010	A review of the two previous E01 inspections at the subject mines indicate that evaluations for gravity, negligence, number of persons affected, and the overall level of enforcement is not commensurate with the nature of the violations cited.	IEA	Training will be provided at all field office staff meetings on gravity, negligence, number of persons affected, and level of enforcement. Attachment No. 3 to the Accountability audit will be reviewed during this training. The ADM, CLR, and the field office supervisor will conduct the training.  ADM-Enforcement will review at least 10% of the E01 citations and orders issued.
146	Not Listed	D8 / OA	2010	Reports of Field Activity Reviews and Accompanied Activities did not contain sufficient documentation to give feedback to inspection personnel for improvement.	SR	Training will be conducted on 10/4/2010 during the District's monthly supervisor meeting in which the requirements of the Coal Mine Safety and Health Supervisor Handbook Number AH08-III-1(2) will be reviewed.
147	Not Listed	D8 / OA	2010	The required number of annual supervisory/managerial mine visits were not conducting during FY 2009.	SR	Training will be provided for supervisors and managers on the requirements of CMS&H Memo No. HQ-08-081 (SEC-103). Supervisors will be required to make visits to surface mines and facilities.

Deficiencies and Corrective Actions in MSHA Accountability Review Reports						
No.	Report No.	District/ Level of Review	CY	Finding	Type*	Corrective Action
148	Not Listed	D8 / OA	2010	Numerous 103(i) inspections were conducted on consecutive (back to back) Mondays, Tuesdays, and Wednesdays at mines in District 8.	IIP	<p>Training will be conducted on 10/4/2010 during the District's monthly supervisor meeting.</p> <p>The FOS will conduct the training during the regular scheduled monthly staff meeting</p> <p>Prior to any 103(i) inspections, a review of the previous "spot" inspection will be conducted as to the day and location it was conducted.</p> <p>An additional updated spot inspection tracking system will be initiated.</p>
149	Not Listed	D8 / OA	2010	The MSIS system was not being kept up to date regarding methane liberation for mines classified as 103(i) spot inspection.	ID	<p>A review of the mine information will be conducted. Daily methane liberation will be updated on the Mine Information Form and MSIS.</p> <p>Supervisors will be re-trained the necessity of keeping the information on the Mine Information Form up-to-date and input into MSIS.</p>
150	Not Listed	D8 / OA	2010	The Special Investigations Department closed at least three 110(c) investigations by citing a "lack of resources" during FY2009.	IIP	Two Authorized Representatives are in the process of training for collateral duty Special Investigators. This will provide additional resources to process 110 ( c ) cases. One Authorized Representative has completed training.
151	Not Listed	D8 / OA	2010	It could not be determined if the effectiveness of the corrective action plans resulting from Headquarters and District level Accountability Reviews conducted during FY2009 were being monitored by the District Manager on an ongoing basis.	SR	The District Manager will monitor the effectiveness of the most recent District review and Office of Accountability review.
152	Not Listed	D8 / OA	2010	A conflict of interest exists in the Vincennes Field Office in that an inspector is being supervised by a close relative.	SR	The inspector was moved to a different supervisor. A waiver to allow relatives to work in the same office was submitted and approval of the waiver is anticipated October 1, 2010.
153	Not Listed	D8 / OA	2010	Field notes in a previous inspection report did not document areas of the quarry/pit being inspected, while health survey field notes indicated persons were sampled in the quarry/pit.	ID	All inspectors in the Denver field office received additional training for documenting complete and thorough inspections. The General Inspection procedures handbook was discussed and reviewed with the Denver field office staff.

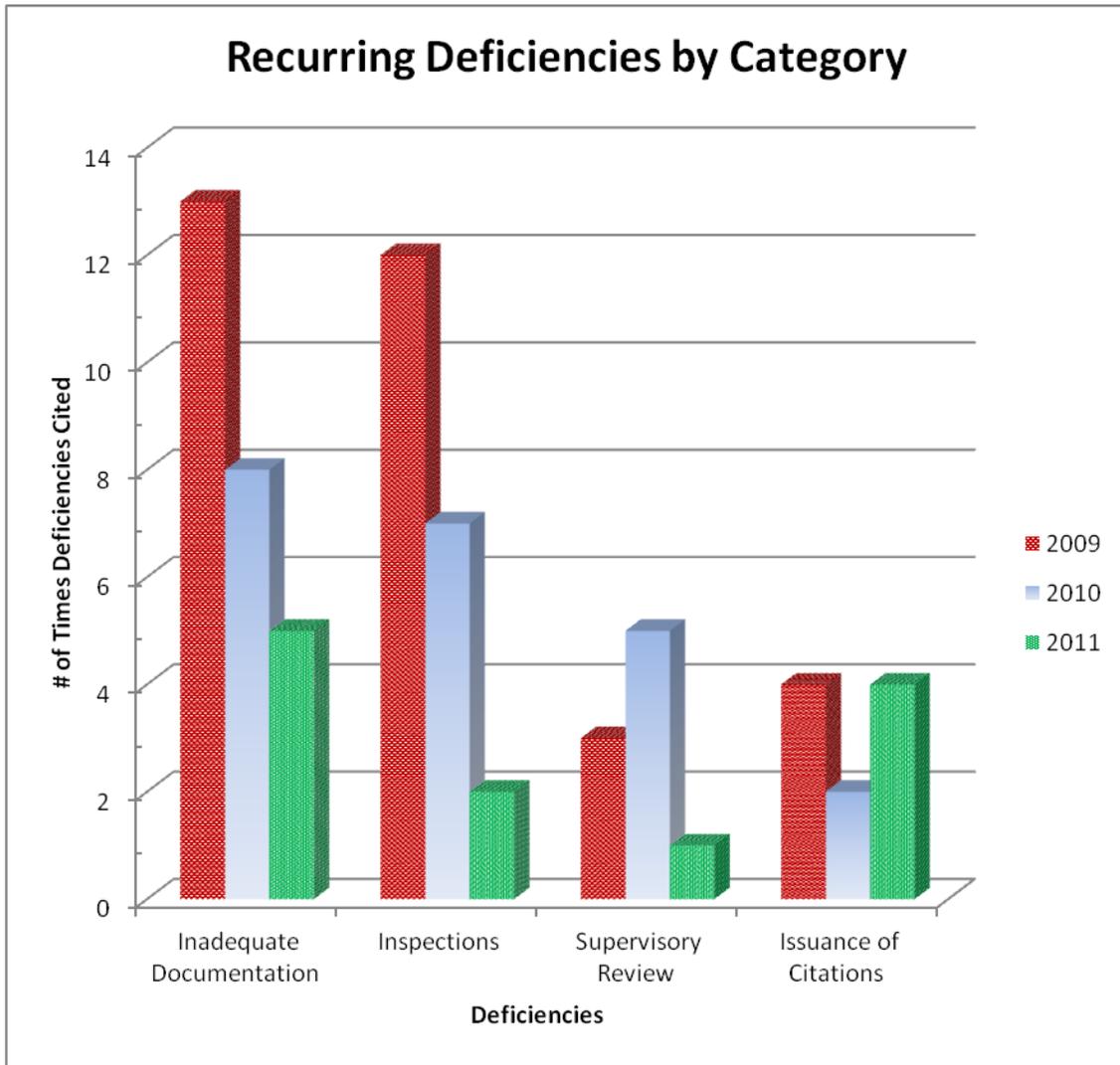
**Finding Type Legend:**

- ID Inspection Documentation
- IEA Issuances/Enforcement Activities
- IIP Inspection / Investigation Process
- IWS Inspection Work Shift / Hours
- MMP Mine Map/Plans
- SR Supervisory Review
- SS Sampling / Survey
- T Training

**Exhibit 5**

**MSHA's Recurring Deficiencies by Categories**

The graph below lists by category deficiencies in our sample that recurred in CYs 2009 – 2011. We classified the deficiencies using the following seven categories: supervisory review, issuances of citations, Uniform Mine File, inspections, training, 103(i) spot inspections and inadequate documentation. We also listed the number of times a deficiency occurred by category during each calendar year. We excluded three categories – Uniform Mine File, training and 103(i) spot inspections because these deficiencies did not occur in all three calendar years.



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# Appendices

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**Background**

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The Federal Mine Safety and Health Act of 1977 (Mine Act), as amended by the Mine Improvement and New Emergency Response (MINER) Act of 2006, governs the Mine Safety and Health Administration (MSHA). MSHA is responsible for enforcing Federal laws and regulations and implementing policies intended to protect the safety and health of the Nation's miners.

The Assistant Secretary for Mine Safety and Health directed the administrators for CMS&H and MNMS&H to implement an accountability program to validate management's effectiveness by conducting reviews of field activities and programs. In response, MSHA established an accountability program in 1989. Recognizing the importance of the review process, in 2007 MSHA established the Office of Accountability (OA), which conducts audits and field reviews of the inspection and enforcement process and monitors the implementation of the accountability program. In 2008, MSHA revised its accountability program after Sago, Aracoma, and Darby internal reviews were critical of the agency's pre-accident enforcement activities. The purpose of the revised accountability program was to better focus accountability review activities on key indicators of MSHA's performance and to prioritize limited accountability review resources based on risk. This meant that MSHA would direct accountability reviews at those districts, field offices, and associated enforcement personnel where information indicated potential performance issues.

On February 8, 2012, MSHA announced a re-organization designed to centralize its oversight of certain cross-cutting, compliance-related actions. MSHA's Office of Assessments, Accountability, Special Enforcement, and Investigations (OAASEI) will incorporate the management, support, and coordination of agency headquarters accountability functions and special enforcement strategies as well as both routine and special assessments. Under this reorganization, MSHA will incorporate within the OAASEI current headquarters functions for the Office of Accountability.

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**Appendix B****Objectives, Scope, Methodology, and Criteria**

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**Objectives**

The OIG conducted a performance audit to answer the following questions:

1. Did MSHA implement corrective actions to address the recommendations in the OIG's 2007 audit report?
2. Did MSHA implement corrective actions to address the recommendations in its accountability reports?

**Scope**

The OIG audited MSHA's accountability program and analyzed accountability reports issued during CYs 2009 through 2011. We performed audit work at MSHA's National Office in Arlington, VA, and district offices in Birmingham, AL; Denver, CO; Vincennes, IN; and Warrendale, PA.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

**Methodology**

To accomplish our objectives, we obtained an understanding of MSHA's Accountability Review Process. We also reviewed Federal laws and regulations; reviewed MSHA's policies and procedures; conducted walkthroughs of the accountability process; interviewed key management and support personnel at MSHA Headquarters, Districts, and Field Offices; and analyzed and identified key critical decision making and control processes. Finally, we selected statistical samples of deficiencies from accountability reviews and obtained and reviewed, if available, support documentation for corrective actions implemented by MSHA.

***Sampling Plan***

While we reviewed all corrective actions for all 14 recommendations in the OIG's 2007 audit report to determine whether MSHA followed the corrective actions, we used a statistical and judgmental sampling approach to test CMS&H, MNMS&H, and OA audit report findings. Specifically, we tested: (a) a statistical sample of findings to determine if MSHA implemented corrective actions, and (b) a judgmental sample of findings taken from the statistical sample to determine if the corrective actions were effective.

## CMS&H and MNMS&H Accountability Reviews

### *(1) Implementation Test*

We used a three-stage statistical sampling approach to test CMS&H and MNMS&H accountability reviews. In the first stage, we randomly selected 4 districts from the universe of 17 districts (11 CMS&H and 6 MNMS&H). MSHA required each district to receive an annual accountability review. MSHA issued 94 accountability reviews during CY 2009-2011 (42 in CY 2009, 29 in CY 2010, and 23 in CY 2011).

In the second stage, for each of the 4 districts randomly selected, we selected 2 field offices (one high risk and one low risk), resulting in the selection of 8 field offices. We defined as high risk those field offices MSHA reviewed more than once. We considered a field office to be low risk if MSHA selected it only once for review. We selected field offices instead of districts because MSHA officials informed us that the documentation supporting the implementation of corrective actions was located in its field offices.

In the third stage, for each of the 8 field offices randomly selected, we statistically selected a sample of findings from accountability reports issued for those field offices. We stratified this sample based on the seven categories of recurring findings identified by MSHA. The audit universe was based on the 17 MSHA districts (11 CMS&H and 6 MNMS&H). The sample size (4 districts) was determined using a 95 percent confidence level and a  $\pm 10$  percent sampling precision. We tested a total of 153 deficiencies in 19 accountability reports from the four districts.

### *(2) Effectiveness Test*

From this statistical sample, we selected a judgmental sample of findings to determine if the corrective actions remedied the deficiencies. For this sample, we selected high risk findings that the OIG team had the technical expertise to test for effectiveness. Judgmental samples cannot be projected to the overall universe.

## Office of Accountability Reviews

### *(1) Implementation Test*

From the 4 districts and 8 field offices statistically selected to test CMS&H and MNMS&H accountability reviews, we selected and tested a statistical sample of OA audit findings from MSHA's accountability reports to determine if MSHA implemented the corrective actions.

### *(2) Effectiveness Test*

From this statistical sample, we selected a judgmental sample of findings to determine if the corrective actions remedied the deficiencies. For this sample, we selected high risk

findings that the OIG team has the technical expertise to test for effectiveness. Judgmental samples cannot be projected to the overall universe.

### Reliability Assessment

To determine the reliability of MSHA data used to prepare key indicator reports for conducting internal risk assessments and scheduling accountability reviews, we used an approach consistent with the Government Accountability Office's *Assessing the Reliability of Computer-Processed Data* (GAO-09-680G, July, 2009, External Version I). We confirmed our understanding of the data MSHA used through interviews, walkthroughs, and documentation reviews. We did not rely on any MSHA data to support findings, conclusions, or recommendations.

### Internal Control

In planning and performing our audit, we considered MSHA's internal control relevant to our audit objectives by obtaining an understanding of those controls, and assessing control risk for the purpose of achieving our objectives. The objective of our audit was not to provide assurance of the internal control; therefore, we did not express an opinion on MSHA's internal control. Our consideration of internal control for administering the accountability program would not necessarily disclose all matters that might be significant deficiencies. Because of the inherent limitations on internal control, or misstatements, noncompliance may occur and not be detected.

### **Criteria**

Federal Mine Safety and Health Act of 1977, Sections 103, 104, and 505

Mine Improvement and New Emergency Response Act of 2006

30 Code of Federal Regulations, Parts 56-58 and 70-90

MSHA Program Policy Manual, Volumes 4 and 5

Accountability Program Handbook (March 2008)

MSHA Coal General Inspection Procedures Handbook (January 2008)

MSHA Metal and Nonmetal General Inspection Procedures Handbook (October 2009)

MSHA Citation and Order Writing Handbook for Coal Mines and Metal and Nonmetal Mines (March 2008)

Coal Safety and Health Supervisor's Handbook (November 2008)

Metal and Nonmetal Safety and Health Supervisor's Handbook (June 2009)

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**Appendix C**

**Acronyms and Abbreviations**

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AA	Accompanied Activity
ADME	Assistant District Manager Enforcement
CMS&H	Coal Mine Safety and Health
CY	Calendar Year
DM	District Manager
FARs	Field Activity Reviews
FY	Fiscal Year
MINER Act	Mine Improvement and New Emergency Response Act of 2006
MNMS&H	Metal and Nonmetal Mine Safety and Health
MSHA	Mine Safety and Health Administration
MSIS	MSHA Standardized Information System
NIOSH	National Institute for Occupational Safety and Health
OA	Office of Accountability
OAASEI	Office of Assessments, Accountability, Special Enforcement, and Investigations
OIG	Office of Inspector General
SOP	Standard Operating Procedures
S & S	Significant and Substantial
UBB	Upper Big Branch

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**MSHA's Response to the Draft Report**

U.S. Department of Labor

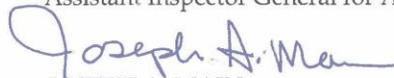
Mine Safety and Health Administration  
1100 Wilson Boulevard  
Arlington, Virginia 22209-3939



SEP 28 2012

MEMORANDUM FOR ELLIOT P. LEWIS  
Assistant Inspector General for Audit

FROM:

  
JOSEPH A. MAIN  
Assistant Secretary of Labor for  
Mine Safety and Health

SUBJECT: Response to OIG Draft Audit Report No. 05-12-002-06-001

Thank you for the opportunity to review your draft audit report on the Mine Safety and Health Administration's (MSHA) Accountability Program. Your report contains findings and recommendations that will help our Agency as we continue our ongoing efforts to improve the Agency's comprehensive accountability review activities. Your report identified that MSHA has already made changes and improvements in the Agency accountability program. Exhibit 5, "Recurring Deficiencies by Category," contained in the report, validated that substantial improvements were made from the beginning of the audit period in fiscal year (FY) 2009 through FY 2011. MSHA has undertaken many actions over the last 3 years that further put the audit findings in the proper context.

As your report noted, MSHA did face challenges. Those included an Agency that had been under-resourced from budget constraints and had suffered a loss of experience due to a high turnover rate from retirements. As soon as I took the job as Assistant Secretary nearly 3 years ago, we began taking action. We are continuing to implement initiatives to improve the Agency's implementation of the Mine Act to make mines safer.

One of the first programs initiated was the nationwide training program for all MSHA field office supervisors. Those are our front line supervisors that directly oversee the Agency inspection program. That program was, among other things, aimed at the very issues addressed by your accountability audit. The goal of the supervisory training program was to improve MSHA's application of policy and procedures, and to address deficiencies identified in the accountability audits. That training program was implemented in May of 2009, and both the Coal and Metal and Non Metal (MNM) enforcement programs have completed the training. MNM has completed a third round of training since this training began.

You can now file your MSHA forms online at [www.MSHA.gov](http://www.MSHA.gov). It's easy, it's fast, and it saves you money!

As reflected in the improvements over time that you report in your audit, this program and other actions produced significant improvements. Other actions implemented in 2010 include our impact inspection and revised Pattern of Violations (POV) programs; targeted rulemaking on the maintenance of rock dust and examinations in underground mines; and our fatality prevention initiative, “Rules to Live By.” The agency’s various initiatives have not only improved Agency performance in adhering to policies and procedures, as your report reflects, but more importantly have made miners safer.

As you are aware, MSHA’s primary mission is to implement the Mine Act in order to promote safe and healthful workplaces for the nation’s miners. Our success in that regard is measured in terms of deaths and injury rates. By those measures, MSHA’s best performance in mining was last year. Recent data shows that MSHA ended the year with the lowest fatal and injury rates ever recorded in the history of the U.S. mining industry.

I believe that the data are a clear indication of the improvements that MSHA has made over the last several years. I also believe that credit for these tremendous improvements is attributable not only to MSHA, but to our partners in mine safety -- labor, industry, the states, our federal partners, and all those who play a role in helping the Agency assure that every miner goes home to his or her family, at the end of every shift, safe and healthy.

In addition, as noted in your report, we are making other changes. As a result of recommendations from the internal review of MSHA’s actions at Upper Big Branch, we are changing how we do business. We have initiated major changes, including a comprehensive review of Agency directives and guidance, and an overhaul of our policy directive system and our coal mine inspectors’ handbook. We are improving Agency oversight and increasing training for our staff. We are also addressing shortcomings repeatedly identified in several past internal reviews to prevent a recurrence of those in the future.

In that same vein, I took steps early in 2012 to establish within a single office the management, support, and coordination of both routine and special assessments, the Agency’s accountability functions, and special enforcement strategies. These include the impact inspections and POV programs noted previously, the use of flagrant violations and injunctive authority, and the investigation of retaliation claims and possible criminal violations. While this reorganization has improved the oversight and coordination of these functions, it has specifically provided better management, administrative and analytical support for the accountability program.

Our goal is to carry out our mission under the Mine Act to protect the nation’s miners. I believe the Agency’s efforts are moving mine safety and health in the right direction.

Going forward, the work that your audit team conducted will be helpful in our continuing efforts to enhance the Agency's accountability activities and improve consistency in our enforcement actions.

While we will provide a more detailed response to the audit in our final 60-day response, we would like to take this opportunity to respond to two statements in your findings. The OIG report states that "As a result of inadequate management oversight of enforcement activities, MSHA headquarters was not aware of these [lack of monthly status reports on high-risk deficiencies] problems until informed by the OIG." The OIG report further states, "By not providing adequate oversight of enforcement activities, MSHA potentially increases the risk that unsafe working conditions in mines will not be detected." While there appears to be some confusion over the issue of how District 8 communicated with headquarters regarding high risk deficiencies, MSHA does not agree that there was a lack of headquarters or management oversight regarding these deficiencies. MSHA had a monitoring system in place for accountability reports to monitor the status of corrective actions.

In addition, we must stress that management oversight of accountability review activities, while very important, must be viewed within the context of the requirements in the Mine Act. It is important to note that Congress gave mine operators the primary responsibility to prevent unsafe conditions and practices in mines. MSHA is concerned that your description of the Agency's oversight of enforcement activities obscures the statutory and regulatory responsibility that mine operators have to address unsafe working conditions in mines.

MSHA cannot be in every mine, every day, on every shift. That is why miners are safest when employers take responsibility for anticipating, recognizing, and eliminating or controlling hazards. Operators cannot simply wait to correct hazards until after MSHA cites them for violations of safety and health standards and regulations. Operators' failure to identify and eliminate or control hazards – whether MSHA cites them or not -- is what puts miners at risk. MSHA's responsibility is to enforce the law as effectively as possible by using all the enforcement tools at the Agency's disposal, in order to promote safe and healthful working conditions for the nation's miners.

**OIG Recommendation No. 1: Develop a robust oversight function that includes risk-based contingency planning for resource management when it is necessary to temporarily assign enforcement personnel to conduct major accident investigations and internal reviews.**

MSHA agrees with the spirit of with this recommendation that provides for contingency planning for resource management. However, this recommendation is so broad that we will need to work with the OIG audit staff to address it.

**OIG Recommendation No. 2: Provide management oversight of enforcement activities that will ensure compliance with MSHA policies and procedures.**

MSHA agrees with this recommendation. The Assistant Secretary has already committed to accomplish that objective and has implemented a number of initiatives to do so as part of the UBB corrective actions, including improved access to MSHA directives and policies, elimination of outdated directives, and updating the General Coal Mine Inspection Procedures and Inspection Tracking System Handbook.

**OIG Recommendation No. 3: Develop and implement a comprehensive root cause analysis training program for those who will be part of an accountability review team.**

MSHA agrees with this recommendation. MSHA will develop and implement a comprehensive root cause analysis training program for those who will be part of an accountability review team.

**OIG Recommendation No. 4: Require district managers and supervisors to document the implementation of corrective actions.**

MSHA concurs with the intent of this recommendation. MSHA/OAASEI will require district managers or supervisors to document the implementation of corrective actions before any corrective action is considered resolved.

Further, the tracking system will be used to facilitate the review and dissemination of accountability review findings, resolutions, and best practices across the Districts.

I look forward to providing more specific details on the actions MSHA will take in response to each of the OIG recommendations. If you have any questions concerning this response, please contact me.

**Appendix E**

**Acknowledgments**

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Key contributors to this report were Nicholas Christopher (Audit Director), S. Marisela Sookraj (Audit Manager), Donald Evans (Auditor-in-Charge), Norlean Renee Kelly, Charmane Miller, Janet Cucunato, Elizabeth Garcia, and Steve Witherspoon (Reviewer).

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