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Office of Inspector General—Office of Audit

MINE SAFETY AND HEALTH ADMINISTRATION



MSHA IS MAKING PROGRESS TO IMPLEMENT THE UPPER BIG BRANCH INTERNAL REVIEW RECOMMENDATIONS AND IS UNDERTAKING ACTIONS ON THE INDEPENDENT PANEL REPORT

Date Issued: March 31, 2013
Report Number: 05-13-003-06-001

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

BRIEFLY...

Highlights of Report Number 05-13-003-06-001 to the Assistant Secretary for Mine Safety and Health

WHY READ THE REPORT

On April 29, 2010, MSHA's Assistant Secretary initiated an Internal Review of the agency's actions at the Upper Big Branch (UBB) mine where, on April 5, 2010, a massive coal dust explosion claimed the lives of 29 miners. This was also the deadliest United States coal mine disaster in 40 years. The Internal Review team evaluated MSHA's actions relative to the UBB explosion and issued a report that contained 100 recommendations to improve the agency's performance in order to better protect the Nation's miners from similar disasters in the future.

WHY OIG CONDUCTED THE AUDIT

In response to concerns raised by Representative John Kline (R-MN), Chairman of the United States House of Representatives, Committee on Education and the Workforce, the OIG conducted an audit to assess MSHA's progress in implementing the recommendations in the Internal Review report as well as another report issued by an external independent panel on the same subject. The OIG performed work to answer the following questions:

1. What methodology did MSHA use to prioritize the recommendations for implementation?
2. Can MSHA document the recommendations reported as completed?
3. Is MSHA on track to meet its milestones for implementation of recommendations?

We tested 38 of the 100 recommendations in the Internal Review report completed between February 2012 and September 2012. We also discussed with MSHA their plans to implement recommendations from the Independent Panel report.

READ THE FULL REPORT

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

<http://www.oig.dol.gov/public/reports/oa/2013/05-13-003-06-001.pdf>

March 2013

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WHAT OIG FOUND

UBB Internal Review

The OIG found that MSHA informally prioritized the recommendations based on several factors, including risk, availability of resources, and ease and expediency.

We confirmed that MSHA had implemented 38 recommendations as of September 2012. In addition, MSHA reported it had implemented a total of 56 recommendations as of February 11, 2013. MSHA seems to be on track to meet its milestones for implementation of the remaining 44 recommendations that have due dates. MSHA has however not set due dates for implementation of recommendations involving factors outside of its control, such as those involving rulemaking, research, legal reviews, and funding contingencies.

Independent Panel Assessment

Although MSHA did not formally rank or prioritize the Independent Panel recommendations, the agency combined many of the recommendations into the Internal Review actions and plans already underway. The Independent Panel report contains four recommendations. MSHA intends to implement recommendations 2 and 4, and intends to implement portions of recommendations 1 and 3. MSHA has provided the OIG with documentation in support of actions both completed and in progress to address these recommendations.

On March 20, 2013, MSHA met with the Independent Panel to discuss the findings and recommendations included in its report.

WHAT OIG RECOMMENDED

We recommended that the Assistant Secretary for Mine Safety and Health direct MSHA to: (a) build a process into its Internal Review framework to rank and prioritize recommendations; and (b) continue work on those recommendations that do not currently have anticipated due dates to ensure they are being diligently pursued.

Although MSHA expressed concerns regarding their ability to set due dates for actions they cannot fully control, MSHA agreed with the OIG's findings and recommendations.

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U.S. Department of Labor

Office of Inspector General
Washington, D.C. 20210



March 31, 2013

Assistant Inspector General's Report

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In response to concerns raised by Representative John Kline (R-MN), Chairman of the United States House of Representatives, Committee on Education and the Workforce, the Office of Inspector General (OIG) conducted an audit to determine whether the Mine Safety and Health Administration (MSHA) implemented recommendations contained in the *Internal Review of MSHA's Actions at the Upper Big Branch Mine-South* (Internal Review report, issued March 6, 2012). Specifically, the OIG conducted an audit to assess MSHA's progress in implementing the recommendations in this report and the *Independent Panel Assessment of an Internal Review of MSHA Enforcement Actions at the Upper Big Branch Mine South* (Independent Panel report, issued March 22, 2012). Thus, we asked the following questions:

1. What methodology did MSHA use to prioritize the recommendations for implementation?
2. Can MSHA document the recommendations reported as completed?
3. Is MSHA on track to meet its milestones for implementation of recommendations?

Our audit work covered all recommendations included in the two reports. We interviewed key MSHA headquarters officials and reviewed recommendations, corrective actions, supporting documentation, MSHA policies and procedures, and federal laws and regulations. We conducted all audit work at MSHA's headquarters located in Arlington, VA. Exhibit 1 contains a summary of the 38 Internal Review report recommendations MSHA implemented as of September 30, 2012, while Exhibit 2 contains a listing of all 100 recommendations contained in the Internal Review report.

For the Internal Review, we obtained an understanding of MSHA's process for prioritizing recommendations for implementation, reviewed 38 recommendations claimed by MSHA as completed between February 2012 and September 2012, and

obtained the status of all recommendations MSHA has yet to implement. For the Independent Panel report, we interviewed Independent Panel (“Panel”) members to gain an understanding of the four recommendations contained in the report and discussed with MSHA officials their implementation status.

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. Our objectives, scope, methodology, and criteria are detailed in Appendix B.

RESULTS IN BRIEF

MSHA has made significant progress in implementing the recommendations in the Internal Review report and select Independent Panel report recommendations. Even before the Internal Review report was published, MSHA took actions on issues it identified as highest risk, including, among others, issuing temporary rules on coal dust, dividing District 4 (where the disaster occurred) into two separate districts to enhance enforcement, and introducing impact inspections to leverage MSHA’s authority at mines that merit increased attention and enforcement. Following its initial response, MSHA adopted a risk- and expediency-based approach to implementing the recommendations in the Internal Review report, but had no formal prioritization mechanism. MSHA also put into place an aggressive implementation schedule for the Internal Review report recommendations intending to implement most recommendations by December 31, 2013.

In the nine and a half months since the Internal Review report was issued, MSHA has implemented over half the recommendations in the report. Given MSHA’s progress so far, nothing came to our attention indicating that MSHA would not meet its schedule.

We recommended that MSHA (1) build a process into its Internal Review framework to rank and prioritize recommendations and (2) continue work on those recommendations that do not currently have anticipated due dates to ensure they are being diligently pursued.

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 was facing some significant challenges just prior to the UBB disaster. This included severe losses of managerial and inspection experience through attrition.

The Assistant Secretary agreed with our recommendation that MSHA should prioritize the implementation of the Internal Review recommendations but opined that MSHA needs the ability to respond quickly and wants to be careful that any new processes do not hamstring agency actions. While we agree that the agency needs the ability to respond quickly to emergencies, we also believe that the time taken to prioritize recommendations would ensure that MSHA responds more quickly to higher risk issues, thereby decreasing the risk to miners.

The Assistant Secretary also agreed with our recommendation that MSHA should continue to work diligently on those recommendations that do not have due dates. He noted that there are a number of Internal Review recommendations for which MSHA cannot reasonably set due dates (such as those involving rulemaking, research, legal reviews, and funding contingencies). While the OIG understands the constraints under which the agency operates, we believe MSHA must set target dates for engaging responsible officials to take such actions as rulemaking, research, legal reviews, and funding contingencies.

Finally, although MSHA maintains that the agency has been in regular communication with the executive secretary of the Panel, our audit work indicates that this communication, while at times concerned with matters related to issues identified in the Independent Panel report, was not directly related to, or resulting from, the report itself. In addition, MSHA did not meet with the full panel until March 20, 2013.

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

RESULTS AND FINDINGS

Objective 1 — What methodology did MSHA use to prioritize the recommendations for implementation?

MSHA exposes itself to the unnecessary risk that recommendations in future Internal Review reports will not be appropriately prioritized because it has not formally defined its prioritization methods.

MSHA informally prioritized the recommendations in the Internal Review report based on several factors including risk, availability of resources, expediency, and ease of implementation. However, MSHA did not rank or otherwise prioritize the Independent Panel report recommendations.

MSHA informally prioritized the Internal Review report recommendations

MSHA informally prioritized the recommendations in the Internal Review report based on several factors including risk, availability of resources, expediency, and ease of implementation. Specifically, MSHA determined that recommendations involving deficiencies in Districts 4 and 12 were the most critical and most likely to recur. As a result, MSHA gave these recommendations high priority. MSHA also prioritized recommendations involving specific types of training (such as training related to the approval of mine and training plans, respirable dust, and mine rescue and recovery).

MSHA Took Actions Prior to Report's Issuance

Instead of waiting for the Internal Review team to complete its work, MSHA took action immediately after the tragedy to implement a number of actions, initiatives, and key reforms. According to MSHA, it:

- Issued an Emergency Temporary Standard, which became a final rule on June 21, 2011, that increased the minimum incombustible content of mine dust to at least 80 percent throughout a coal mine.
- Aggressively enhanced enforcement in a number of areas identified early, including advance notice of inspections, miner's claims of discrimination, mine ventilation and prevention of coal dust explosions.
- Divided District 4 into two separate districts in June 2011. The creation of the new District 12 doubled the number of specialist departments.
- Introduced impact inspections to leverage MSHA's authority at mines that merit increased attention and enforcement due to poor compliance histories or particular compliance concerns.
- Strengthened MSHA's potential pattern of violation (PPOV) process to hold mine operators to a higher standard.
- Began overhauling agency inspection policies to improve the quality of inspections.

MSHA believes that these actions have resulted in improvements to mine safety and health by reducing the number of chronic violators identified as PPOV mines. Further,

MSHA noted that the number of mining fatalities and injuries in 2011 were at their lowest levels since MSHA began compiling statistics.

MSHA also considered the degree of expediency and ease of implementation of recommendations as they related to the availability of resources. For example, MSHA determined that some types of training (such as that related to ventilation and roof control plans) would be easier and faster to implement than making revisions to policies and procedures, which would necessitate collaboration with external stakeholders, such as the National Council of Field Labor Locals. By September 30, 2012, MSHA had implemented 80 percent of training-related recommendations, but only 20 percent of policy and procedure-related recommendations.

To gain a better understanding of how MSHA prioritized the 100 recommendations in the Internal Review report for implementation, the OIG classified them into six broad categories: (1) training; (2) information systems; (3) policies and procedures; (4) human resources and succession planning; (5) rulemaking; and (6) collaboration with external entities. Table 1 shows the broad categories of recommendations MSHA implemented by September 30, 2012, December 31, 2012, February 11, 2013, and those recommendations that remain to be implemented.

Table 1: Implementation of Recommendations by Broad Category Identified

#	Broad Category of Recommendation	Total # of Recommendations	# Implemented by 9/30/12	# Implemented by 12/31/12	# Implemented by 2/11/13 or Still to be implemented
1	Training	20	16	1	3
2	Information Systems	13	9	1	3
3	Policies and Procedures	55	11	14	30
4	Human Resources and Succession Planning	5	1	--	4
5	Rulemaking	5	--	--	5
6	Collaboration with External Entities	2	1	--	1
Totals		100	38	16	46¹

MSHA combined many of the Independent Panel report recommendations into the Internal Review actions and plans already underway but did not rank or prioritize them

While MSHA did not formally rank or prioritize the Independent Panel report recommendations, the agency combined many of these recommendations into the Internal Review actions and plans already underway. MSHA intends to partially

¹ Two recommendations categorized as related to Human Resources and Succession Planning were implemented on February 11, 2013.

implement recommendation 1, fully implement recommendations 2 and 4, and has implemented an alternative to recommendation 3.

Exhibit 3 shows the four Independent Panel report recommendations, the suggested goals underlying each recommendation, which goals MSHA believes have merit, and MSHA's response.

Finding 1 — A defined approach for prioritizing Internal Review report recommendations for implementation will prove beneficial

While MSHA informally prioritized the Internal Review report recommendations for implementation based on a number of factors, including risk, MSHA's policies and procedures do not currently include a requirement for a defined prioritization approach. The OIG believes that the agency should revise its internal review policies and procedures to require that corrective actions be prioritized for implementation using a defined, but flexible (for example, risk-based) approach at the time an internal review is performed so it does not expose itself to the unnecessary risk that recommendations in future internal review reports will not be appropriately prioritized. The authors of the internal review report will be most familiar with the criticality of individual recommendations, and thus best positioned to assess the appropriate prioritization for implementation.

Objective 2 — Can MSHA document the recommendations reported as completed?

MSHA provided sufficient documentation to support implementation of the Internal Review report recommendations reported as completed, along with the Independent Panel recommendations it has fully implemented.

MSHA provided sufficient documentation to support the implementation of all 38 recommendations the agency reported it completed by September 30, 2012. Moreover, MSHA has taken partial corrective action on three additional recommendations; these, however, were not reported as complete because the recommendations contained more than one required action. To its credit, MSHA has adopted a transparent web-based public reporting mechanism and robust process for verifying the implementation of recommendations before reporting them as complete.

Since MSHA has not yet taken all planned action on the Independent Panel report recommendations it intends to implement, no documentation supporting their implementation is required at this time. However, MSHA has provided the OIG with documentation in support of actions both completed and in progress to address these recommendations.

Objective 3 — Is MSHA on track to meet its milestones for implementation of recommendations?

Barring unforeseen circumstances, MSHA appears to be on track to meet its milestones for implementing most of the Internal Review report recommendations. The agency has also been undertaking actions on the Independent Panel report.

In the nine and a half months since the Internal Review report was issued, MSHA has implemented well over half the recommendations in the report. To accomplish this, MSHA convenes weekly meetings at various levels of the agency, including at the highest level of the Assistant Secretary, to monitor the status and progress of implementation. Nothing came to our attention that would indicate that MSHA will not meet its current implementation schedule.

Although it issued a brief public response to the report, MSHA had not engaged in substantive discussions with the Panel until March 20, 2013, and does not intend to fully implement two of the Independent Panel report's four recommendations.

MSHA appears to be on track to meet its Internal Review report implementation milestones

In our opinion, MSHA seems to be on track to meet its milestones for implementation of the remaining recommendations that have due dates. As of February 11, 2013, MSHA indicated it had implemented 56 of the 100 recommendations (56 percent); further, MSHA had implemented several recommendations ahead of schedule. As of February 11, 2013, MSHA told the OIG it was moving steadily forward in implementing the 44 remaining recommendations, and shared some of its ongoing work with the OIG. MSHA has not set due dates for implementation of recommendations, such as those involving rulemaking, funding contingencies, research, and legal reviews.

Table 2 shows MSHA's progress in implementing the 100 recommendations.

Table 2: Implementation Schedule		
Projected Implementation Date	Number Implemented	Remaining to be Implemented
June 2012	22	-
September 2012	16	-
Sub-total (Sept 30)	38	-
December 2012	16	-
February 2013	2	
December 2013		35
No Date Set	-	9
Total	56	44

MSHA is undertaking actions on the Independent Panel report

Our review found that although MSHA was planning to implement much of what was recommended in the Independent Panel's report, it was not planning to implement all of the recommendations, and we believed that MSHA had been somewhat slow to engage the Panel in order to clarify the meaning and underlying intent of the report's recommendations. However, based on this observation during our audit, MSHA did engage the Panel to discuss and clarify certain recommendations. As noted below, of the four recommendations, MSHA is adopting two and partially adopting the other two.

MSHA intends to implement Independent Panel recommendations 2 and 4

MSHA concurs with the substance of and intends to implement the second and fourth recommendations of the Independent Panel report.

The Panel's second recommendation calls for the improvement of the scope and value of MSHA's internal reviews. MSHA agrees with this recommendation and is already in the process of revising its Administrative Policy and Procedures Manual (APPM) which governs its internal review procedures. In this regard, MSHA believes that its internal review interviews could be better, and it is exploring options, such as greater involvement by the Office of the Solicitor (SOL) in providing special training on interview techniques for those who conduct interviews. MSHA plans to finalize revisions to the APPM by the end of Fiscal Year (FY) 2013.

The Panel's fourth recommendation asks MSHA to address technical deficiencies in current mining practice that could compromise safety. While the Independent Panel report itself states that this recommendation is outside the scope of the Internal Review, MSHA believes that the six goals underlying this recommendation have merit and it has either taken or plans to take some action on them. For example, one goal calls for MSHA to develop best practices for employing monitoring systems to detect unexpected changes to ventilation systems and to identify and forecast potentially dangerous conditions. In response, MSHA acknowledged that the application of improved atmospheric monitoring technology is long overdue and MSHA supports improvements in this technology to enhance the safety of underground miners. It further indicated it provided technical advice on this technology to congressional drafters of the Robert C. Byrd Safety Protection Act (Byrd Act), introduced in both the U.S. Senate and House of Representatives in 2010.

MSHA intends to implement portions of Independent Panel recommendations 1 and 3

MSHA does not intend to fully implement the first and third recommendations of the Independent Panel report. However, MSHA believes that a number of goals underlying these recommendations have merit and it has either taken or plans to take some action on them.

The Panel's first recommendation calls for the modification of the strategic paradigm that informs MSHA's enforcement framework. While the Independent Panel report acknowledges that this recommendation is outside the scope of its charge, MSHA believes that six of the eight goals underlying this recommendation have merit and it has either taken or plans to take some action on them. However, MSHA disagrees in substance with two of the goals the Panel suggested. For example, the Panel suggested that an independent panel of experts be convened to examine changes to MSHA's existing enforcement paradigm. In response, MSHA believes that making some of the Federal Mine Safety and Health Act of 1977 (Mine Act) changes the Panel suggested this panel consider would not be in the interest of miner safety. According to MSHA, the requirement to conduct the currently mandated inspections at underground mines is central to the effectiveness of the Mine Act given that frequent MSHA inspections identify and require the correction of hazards and violations that have not been corrected by the mine operator, thereby protecting miners from harm. As such, MSHA believes that making this change suggested by the Panel could well reverse the long-term safety and health gains made under the current approach. The OIG also notes that the United Mine Workers of America concurred with MSHA with respect to this issue.

Prior to the issuance of our draft audit report, the OIG made a recommendation to MSHA that it convene a meeting with the Panel to discuss and clarify the Panel's recommendations. Following this, MSHA met with the Panel to discuss its report. The OIG also interviewed the executive secretary of the Panel shortly after the meeting took place. The Panel clarified to the OIG its intent regarding the first recommendation with regard to replacing technical goals with performance standards, and changing the frequency of mine inspections, stating these represented examples of actions that MSHA could take to inform its paradigm. The Panel further stated that the goals it proposed were suggestions, rather than specific actions required in order to accomplish the recommendation's intent. The Panel underlined the fact that it did not expect MSHA to adhere to a specific prescription with respect to this recommendation, but instead view the recommendation as a broad and flexible goal. As a result of the meeting, the Panel was encouraged that it and MSHA would continue working together to effect action on the Panel's recommendations.

The Panel's third recommendation asks MSHA to ensure that corrective actions associated with internal review recommendations are effectively implemented. Specifically, the Panel suggested that an independent monitor be appointed to oversee implementation of MSHA's corrective actions. MSHA disagrees with this recommendation and does not support the need for an independent monitor. However, it should be noted that MSHA has put in place a number of alternative measures to hold itself accountable for the implementation of the corrective actions. In this regard, MSHA has set up a review process to ensure its program areas are implementing corrective actions and reporting their results timely. According to MSHA, the final review of the implementation of all corrective actions is made by the Office of the Assistant Secretary (OAS). In addition, MSHA's newly organized Office of Assessments, Accountability, Special Enforcement and Investigations (OAASEI) has been charged with evaluating

the effectiveness of MSHA's corrective actions. OAASEI is developing a plan to evaluate the effectiveness of MSHA's corrective actions which MSHA says should be completed in FY 2013. The Panel stated that the intent of this recommendation was to ensure that actions required as a result of future MSHA internal reviews were completed. According to the Panel, previous internal reviews had repeatedly made recommendations of a similar nature to MSHA. Because of this, the Panel concluded that past Internal Review recommendations had not been implemented.

CONCLUSION

Overall, we found that MSHA has taken concerted action, beginning well before the issuance of the Internal Review report, to address the shortcomings in its processes. MSHA has implemented an aggressive implementation schedule for the recommendations in the Internal Review report, and has so far met its targets.

RECOMMENDATIONS

We recommend that the Assistant Secretary for Mine Safety and Health direct MSHA to:

1. Build a process into its internal review framework to rank and prioritize recommendations; and
2. Continue work on those recommendations that do not currently have anticipated due dates to ensure they are being diligently pursued.

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

Exhibits

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Exhibit 1

Listing of 38 Internal Review Recommendations Reviewed by OIG

Count	Category ²	Lead	Recommendation	Corrective Action Taken	Status	Expected Completion Date	Revised Expected Completion Date	Actual Completion Date
1	PP	EPD	The Director of Educational Policy and Development (EPD) should evaluate the feasibility of requiring a representative number of independent contractor training classes to be monitored by Educational Field Services (EFS).	The Director of EPD determined that it was feasible to require that a representative number of independent contractor training classes be monitored by EFS. The Administrator for Coal Mine Safety and Health (CMS&H) issued a memorandum to the district managers with instructions for mine operators, contractors, and contract trainers to provide notification of training under Part 48 to EPD. EPD established an email address for the mining industry to use to provide their upcoming training schedules. This will give EPD training specialists the opportunity to monitor training classes.	Completed	04/30/12	---	05/03/12
2	T	EPD	The Administrator for CMS&H should collaborate with the Director of EPD to update the training programs for entry-level and journeyman inspectors to emphasize the value of a purposeful examination of training records and to guide inspectors on how to effectively determine compliance with Part 48 and other training requirements. The guidance in CMS&H Memo No. HQ-08-055-A that directs inspectors to question miners on their training related to roof control plans and documents such information should also be addressed in this training.	On April 4, 2012, Educational Field Specialists participated in a joint training program for District 4 and 12 inspectors, specialists, and management at the National Mine Health and Safety Academy. The EFS staff developed and delivered a program entitled; "Part 48.3 Enforcement, Training Plan Reviews and Miner Training." The training covered an overview of Part 48 and Part 48 inspection procedures and emphasized a purposeful examination of training records and guidance to inspectors on how to effectively determine compliance with Part 48 and other training requirements. The guidance in CMS&H Memo No. HQ-08-055-A was also addressed in the April training. The training program was distributed to all CMS&H districts. District personnel completed the training by June 29, 2012. EPD also developed two online annual refresher training courses covering Part 48 and Part 48 inspection procedures.	Completed	06/30/12	---	06/29/12

² See Legend at the end of Exhibit 2.

Count	Category ²	Lead	Recommendation	Corrective Action Taken	Status	Expected Completion Date	Revised Expected Completion Date	Actual Completion Date
3	IS	PEIR	The Director of Program Evaluation and Information Resources (PEIR) should collaborate with the Administrator for CMS&H to revise the Mine Plan Approval (MPA) database system to track operator responses to MSHA requests for plan revisions. The Administrator should direct district managers to use MPA to identify overdue responses from operators and take appropriate actions.	<p>PEIR collaborated with CMS&H to modify the MPA database system to track operator responses to MSHA requests for plan revisions. The modifications were deployed on August 3, 2012.</p> <p>On August 30, 2012, the Administrator for CMS&H directed district managers to use the MPA database system to identify overdue responses from operators and take appropriate actions.</p> <p>NOTE: The recommendation also provided that the Administrator for CMS&H should direct District 4 and 12 managers to develop and follow a process for ensuring that operators submit revised plans when requested, and taking appropriate enforcement actions when operators fail to do so. This recommendation was satisfied by PEIR's development of the online tool for use by districts for tracking plan due dates.</p>	Completed	08/03/12	---	08/30/12

Count	Category ²	Lead	Recommendation	Corrective Action Taken	Status	Expected Completion Date	Revised Expected Completion Date	Actual Completion Date
4	T	CMS&H	The Administrator for CMS&H should direct that District 4 and 12 managers reinforce MSHA policy and procedure concerning standards that can be cited as Section 104(g)(1) training orders and on records that must be inspected to ensure that an operator is providing all required training.	<p>This recommendation was addressed during the District 4 and 12 training sessions at the National Mine Health and Safety Academy on April 3 and 4, 2012. This training will also be provided to all CMS&H districts.</p> <p>Enforcement personnel were instructed that MSHA policy only allows violations of 30 CFR 48.5, 48.6, 48.7, 48.8, and 48.11 to be cited under Section 104(g)(1) of the Mine Act for untrained miners at underground mines.</p> <p>Enforcement personnel also were trained on records that must be inspected to ensure that an operator is providing all required training. This includes checking training records for Atmospheric Monitoring System (AMS) operators, responsible persons, and persons who sample atmospheres behind seals.</p>	Completed	04/30/12	---	04/04/12

Count	Category ²	Lead	Recommendation	Corrective Action Taken	Status	Expected Completion Date	Revised Expected Completion Date	Actual Completion Date
5	T	EPD	The Assistant Secretary should instruct the Directors of EPD and Technical Support (TS) to develop and provide advanced technical training on longwall mining equipment. This training should be provided to MSHA regular inspectors who are qualified electricians and electrical specialists agency-wide.	<p>On April 3 and 4, 2012, District 4 and 12 inspectors, specialists, and management were provided training on longwall electrical permissibility. The training took place at the National Mine Health and Safety Academy. The training program was distributed to all CMS&H districts. To better administratively manage the agency workload, this training was added to district-wide training of personnel and completed by September 30, 2012. In May 2012, the expected completion date of the training was extended to September 30, 2012, so this training could occur at the same time as training on other internal review recommendations. District personnel completed this training by September 30, 2012.</p> <p>In addition, the updates have been incorporated into all training programs relating to electrical inspections of longwall mining equipment.</p>	Completed	09/01/12	09/30/12	09/30/12

Count	Category ²	Lead	Recommendation	Corrective Action Taken	Status	Expected Completion Date	Revised Expected Completion Date	Actual Completion Date
6	T	EPD	<p>The Administrator for CMS&H should collaborate with the Director of EPD to revise the curriculum at the National Mine Health and Safety Academy regarding inspection procedures for evaluating operator compliance with examination standards. The training should explain the purpose and utilization of an inspector's review of mine examination records. This training should be provided to entry-level inspectors, journeyman inspectors, specialists, supervisors, and assistant district managers. The training should provide instructions on:</p> <ul style="list-style-type: none"> • determining whether adequate examinations have been conducted; • determining whether the operator has recorded in the examination book the specific corrective action taken to eliminate the hazard; • identifying incomplete records of examinations, including missing air quantities and air quality measurements; • using examination records to aid in the enforcement of 30 CFR 75.360, 75.362, 75.363, and 75.364; • traveling with and evaluating at least one preshift examiner, one on-shift examiner, and one weekly examiner during each regular inspection; • determining whether the operator conducted on-shift examinations of dust control parameters; and • using examination records in the evaluation of the operator's negligence for violations of other safety and health standards. 	<p>EPD, in collaboration with CMS&H, revised the curriculum regarding inspection procedures for evaluating operator compliance with examination standards. The training also explained the purpose and utilization of an inspector's review of mine examination records. The training provides instructions on each of the items contained in this recommendation and will continue to be included in the journeyman, specialist, supervisory, and entry-level training.</p> <p>CMS&H provided training on this topic during the District 4 and 12 training sessions at the National Mine Health and Safety Academy on April 3 and 4, 2012. To better administratively manage the agency workload, this training was added to district-wide training of personnel and completed by September 30, 2012.</p>	Completed	08/31/12	09/30/12	09/28/12

Count	Category ²	Lead	Recommendation	Corrective Action Taken	Status	Expected Completion Date	Revised Expected Completion Date	Actual Completion Date
7	T	CMS&H	The Administrator for CMS&H should direct that training be provided to supervisors on using standard oversight reports to ensure inspectors have valid reasons for not collecting samples, including visiting some areas that inspectors indicated were too wet to sample.	<p>The National Mine Health and Safety Academy held a three-day training session for CMS&H supervisors in August 2012. The training, in part, stressed the importance of rock dusting to prevent coal mine dust explosions and included instructions on the proper use of the rock dust database and using sampling oversight reports to ensure inspectors have valid reasons for not collecting rock dust samples, including visiting some areas that inspectors indicated were too wet to sample.</p> <p>The Administrator for CMS&H also directed all field office supervisors to review PowerPoint presentations on the utilization of the rock dust database and the importance of maintaining the incombustible content of rock dust mine-wide. Field office personnel completed the training by September 30, 2012.</p>	Completed	09/30/12	---	09/30/12
8	PP	TS	The Administrator for CMS&H should collaborate with the Director of TS and the National Institute for Occupational Safety and Health (NIOSH) to develop a standard method for collecting mine dust samples for operators and inspectors to use to determine compliance with 30 CFR 75.403. The agency should consider recent research regarding sample collection methodology, including that related to sample depth and elevated surfaces.	On May 24, 2012, MSHA and NIOSH experts held an in-person meeting to discuss MSHA's proposed revised rock dust sampling method, which involves several substantial improvements from previous practice and meets the goal of the internal review recommendation. This proposed method takes into consideration recent research regarding sample collection methods, and MSHA is continuing to work with NIOSH on refining it.	Completed	06/01/12	---	05/24/12

Count	Category ²	Lead	Recommendation	Corrective Action Taken	Status	Expected Completion Date	Revised Expected Completion Date	Actual Completion Date
9	T	CMS&H	The Administrator for CMS&H should direct the District 4 and 12 Managers to reinstruct inspectors in the General Coal Mine Inspection Procedures and Inspection Tracking System Handbook directive to check and document checking Part 50 records during every regular inspection. The district managers should hold inspection supervisors accountable for enforcing compliance with this directive.	<p>This recommendation was addressed during the District 4 and 12 training sessions at the National Mine Health and Safety Academy on April 3 and 4, 2012. This training will also be provided to all CMS&H districts.</p> <p>Inspectors were reinstructed to review required records and postings, including Mine Accident, Injury, and Illness Reports (MSHA Form 7000-1) and Quarterly Employment and Coal Production Reports (MSHA Form 7000-2) during each regular inspection. This will help identify mine operators that routinely underreport or inaccurately report accidents, injuries, illnesses, employment, and production.</p> <p>The district managers were instructed to hold supervisors accountable for enforcing compliance with this directive.</p>	Completed	04/30/12	---	04/04/12
10	T	EPD	The Administrator for CMS&H should collaborate with the Directors of EPD and TS to provide refresher training for District 4 and 12 regular inspectors to assure they have appropriate skills to ensure uniform recognition of electrical violations.	The Electrical Safety Division of TS provided refresher training on the recognition of electrical violations to regular inspectors during the District 4 and 12 training sessions at the National Mine Health and Safety Academy on April 3 and 4, 2012. This training will also be provided to all CMS&H districts.	Completed	04/30/12	---	04/04/12

Count	Category ²	Lead	Recommendation	Corrective Action Taken	Status	Expected Completion Date	Revised Expected Completion Date	Actual Completion Date
11	C	OAS	The Assistant Secretary should convene a panel of mine rescue experts from industry, state and federal government, labor, and academia to review, refine, and develop mine rescue and recovery protocol to address lessons learned from the Upper Big Branch (UBB) disaster. The panel should also consider the conditions and events surrounding other recent mine accidents, including events occurring in other countries. The panel should include mine rescue team members or trainers.	<p>MSHA held the Mine Rescue Summit at the National Mine Health and Safety Academy on May 7 and 8, 2012. Nearly 150 people participated during the two-day event, which was planned to coincide with the West Virginia Alliance Mine Rescue Skills Contest. The Assistant Secretary convened a panel of experts at the Summit to address critical mine rescue emergency topics, including:</p> <ul style="list-style-type: none"> • Command center operations • Command center personnel and family contacts • Improving and preserving mine rescue programs • Body recovery and use of the special medical response team • Preparation for mine emergencies and prevention of mine emergencies • Refuge chambers and how they impact mine rescue operations • Promoting use of improved technology for mine rescue • Mine rescue training • Skills training and facilities • Briefings/Debriefings • Whether to require a “firewall” to prevent personnel who have had contact with family members from participating in command center decisions <p>On July 11, 2012, MSHA held a stakeholder meeting concerning mine rescue contests, mine rescue guidance, and other matters. MSHA is in the process of establishing a mechanism where mine emergency guidance and best practices can be updated on an ongoing basis.</p>	Completed	N/A	---	05/07/12

Count	Category ²	Lead	Recommendation	Corrective Action Taken	Status	Expected Completion Date	Revised Expected Completion Date	Actual Completion Date
12	T	CMS&H	The Administrator for CMS&H should direct District 4 and 12 managers to provide inspectors and specialists with training to ensure that six-month reviews are conducted and documented in accordance with the Mine Ventilation Plan Approval Procedures Handbook. District managers should monitor the six-month reviews after the training is completed to verify its effectiveness and take follow-up corrective action if necessary.	<p>The CMS&H Safety Division provided training on the procedures outlined in the Mine Ventilation Plan Approval Procedures Handbook regarding six-month plan reviews to all inspectors and specialists during the District 4 and 12 training sessions at the National Mine Health and Safety Academy on April 3 and 4, 2012 to help ensure that the in-mine physical inspection of the mine ventilation system is properly conducted and documented. This training will also be provided to all CMS&H districts.</p> <p>District managers were instructed to monitor the six-month reviews to verify their effectiveness and take follow-up corrective action if necessary.</p>	Completed	04/30/12	---	04/04/12
13	PP	CMS&H	The Administrator for CMS&H should direct District 4 and 12 managers to revise Standard Operating Procedures (SOP) to ensure that both the Health and Ventilation Departments contribute to the correspondence sent to mine operators after each six-month ventilation plan review.	Districts 4 and 12 revised and implemented their ventilation SOPs to incorporate explicit provisions on inter-department communication, maintenance of correspondence files, and plan review documentation. This will ensure that both the Health and Ventilation Departments contribute to the correspondence sent to mine operators after each six-month ventilation plan review. District 4's SOP was issued and implemented on June 27, 2012. District 12's SOP was issued and implemented on June 28, 2012.	Completed	06/30/12	---	06/28/12

Count	Category ²	Lead	Recommendation	Corrective Action Taken	Status	Expected Completion Date	Revised Expected Completion Date	Actual Completion Date
14	PP	CMS&H	The Administrator for CMS&H should direct the District 4 and 12 managers to revise the technical department SOPs to provide for the review of each proposed plan or revision by appropriate technical departments to check for consistency with other plans approved for the mine. A method for documenting this process should be established. These SOPs should direct specialists to maintain a record of all written correspondence with mine operators regarding proposed plan reviews, particularly regarding changes to proposed plans submitted by operators during the review process.	Districts 4 and 12 revised and implemented their technical department SOPs to incorporate explicit provisions on inter-department communication, maintenance of correspondence files, and plan review documentation. Additionally, both district SOPs prohibit stand-alone Methane and Dust Control Plans and require them to be incorporated in a single mine ventilation plan. District 4's SOP was issued and implemented on June 27, 2012. District 12's SOP was issued and implemented on June 28, 2012.	Completed	06/30/12	---	06/28/12
15	PP	CMS&H	The Administrator for CMS&H should direct the revision of the Program Policy Manual (PPM) to apply reduced respirable dust standards, including those from deactivated Mechanized Mining Units (MMU), to other MMUs working in the same section of the mine with similar mining equipment, until sampling establishes a new standard.	In April 2012, the Administrator for CMS&H revised the PPM provision governing the establishment of MMU numbers under 30 CFR 70.207. The revised policy provides that the reduced respirable dust standard, due to the presence of quartz, will not change when the operator changes equipment on a mining section.	Completed	06/30/13	---	04/25/12

Count	Category ²	Lead	Recommendation	Corrective Action Taken	Status	Expected Completion Date	Revised Expected Completion Date	Actual Completion Date
16	PP	CMS&H	The Administrator for CMS&H should direct staff to monitor the implementation of new regulations to ensure districts enforce the provisions of final rules within the effective dates specified.	The Administrator for CMS&H directed staff to monitor the implementation of new regulations to ensure districts enforce the provisions of final rules within the effective dates specified. This will be tracked through Field Activity Reviews, Accompanied Activities, Second Level Reviews, and District Peer Reviews.	Completed	04/30/12	---	04/03/12
17	T	CMS&H	The Administrator for CMS&H should direct that training be provided to enforcement personnel, including supervisors and managers, to apply the policy during inspections of haulage ventilation controls.	District 4 and 12 inspectors, specialists, and management were provided training on inspections of haulage ventilation controls including construction, maintenance, and equipment doors during the training sessions at the National Mine Health and Safety Academy on April 3 and 4, 2012. The training program was distributed to all CMS&H districts. District personnel completed the training by June 29, 2012.	Completed	06/30/12	---	06/29/12
18	PP	CMS&H	The Administrator for CMS&H should direct the District 4 and 12 managers to revise the roof control plan SOP to comply with the established PPM requirements as identified by the OIG report.	Districts 4 and 12 revised the roof control plan SOPs to comply with the established PPM requirements as identified by the OIG report and to address deficiencies identified in the Internal Review report. The SOPs were revised to check that required information is submitted, check for communication with other plan approval groups, assure that designated MSHA personnel contact the operator for additional information, and discuss results of on-site evaluations with the operator and identified miners' representatives.	Completed	04/30/12	---	04/30/12

Count	Category ²	Lead	Recommendation	Corrective Action Taken	Status	Expected Completion Date	Revised Expected Completion Date	Actual Completion Date
19	T	CMS&H	The Administrator for CMS&H should direct the District 4 and 12 managers to provide training to inspectors and specialists regarding the use of the required checklists and proper documentation of six-month plan reviews.	The CMS&H Safety Division provided training on the six-month reviews of roof control plans as required by 30 CFR 75.223(d) to all inspectors and specialists during the District 4 and 12 training sessions at the National Mine Health and Safety Academy on April 3 and 4, 2012. This will help ensure that the in-mine physical evaluation of the roof control plan is properly conducted and documented. This training will also be provided to all CMS&H districts.	Completed	04/30/12	---	04/03/12
20	T	CMS&H	The Administrator for CMS&H should direct the District 4 and 12 managers to ensure that the six-month reviews of roof control plans for complex mines be conducted by roof control specialists. When deemed appropriate, complex mine plans should continue to be forwarded to TS for evaluation.	MSHA issued Procedure Instruction Letter No. I11-V-1 on January 25, 2011 to provide guidance on when six-month reviews of complex roof control plans should be forwarded to TS for evaluation. The CMS&H Safety Division provided training on the six-month reviews of roof control plans as required by 30 CFR 75.223(d) to all inspectors and specialists during the District 4 and 12 training sessions at the National Mine Health and Safety Academy on April 3 and 4, 2012. This included guidance that reviews of plans for complex mines should be completed by roof control specialists or forwarded to TS when appropriate. This training will also be provided to all CMS&H districts.	Completed	04/30/12	---	04/04/12

Count	Category ²	Lead	Recommendation	Corrective Action Taken	Status	Expected Completion Date	Revised Expected Completion Date	Actual Completion Date
21	PP	CMS&H/ MNMS&H	The Administrators for CMS&H and Metal and Nonmetal Mine Safety and Health (MNMS&H) should re-instruct family liaisons to keep a log of significant events. The Administrators should direct revisions to the instructions in the Headquarters Mine Emergency Response Guidelines and the Accident/Illness Investigations Procedures Handbooks to clarify that notes should be recorded privately away from the areas where families are gathered and at a time that does not disrupt the interaction between the liaisons and the family members.	The Administrator for CMS&H through his district managers and assistant district managers instructed family liaisons to keep a log of significant events and clarified with them handbook instructions regarding their duties. This instruction was provided to all districts between June 8, 2012 and June 19, 2012. MNMS&H instructed its family liaisons between March 20, 2012, and March 23, 2012.	Completed	07/31/12	---	06/19/12
22	IS	OAASEI	The Administrators for CMS&H and MNMS&H, the Director of OAASEI, and the Director of PEIR should collaborate in developing a management tool to monitor the resources districts devote to special investigations.	CMS&H, MNMS&H, OAASEI, and PEIR developed a management tool to monitor the resources districts devote to special investigations. This tool tracks the time supervisory, full-time, and collateral duty special investigators devote to special investigation activities and allows management to monitor personnel resources by program area, district, field office, and individual. This was completed on July 31, 2012.	Completed	07/31/12	---	07/31/12

Count	Category ²	Lead	Recommendation	Corrective Action Taken	Status	Expected Completion Date	Revised Expected Completion Date	Actual Completion Date
23	HR	CMS&H	The Administrator for CMS&H should consult with district managers to determine whether the additional staffing is sufficient to address Section 110(c) special investigation demands, particularly at highly noncompliant mines.	The Administrator for CMS&H discussed Special Investigations (SI) resources and consulted the district managers on staffing needs in their districts during a meeting on June 12, 2012. The Administrator and district managers reviewed the number of current full-time and collateral duty SI positions, temporary inter-district assignments, and ongoing investigations. The Administrator approved additional full-time and collateral duty SI positions in 6 districts.	Completed	06/30/12	---	06/12/12
24	T	CMS&H	The Administrator for CMS&H should direct the District 4 and District 12 managers to require their supervisory special investigators to prepare and maintain a memorandum detailing the reasons for not conducting a special investigation in cases where the district manager decides to take no further action, in accordance with the Special Investigations Procedures Handbook.	The Technical Compliance and Investigations Office of OAASEI provided training on special investigations during the District 4 and 12 training sessions at the National Mine Health and Safety Academy on April 3 and 4, 2012. The training included specific instructions to prepare and maintain a memorandum detailing the reasons for not conducting a special investigation when the district manager decides to take no further action, in accordance with the Special Investigations Procedures Handbook. This training will also be provided to all CMS&H districts.	Completed	04/30/12	---	04/03/12

Count	Category ²	Lead	Recommendation	Corrective Action Taken	Status	Expected Completion Date	Revised Expected Completion Date	Actual Completion Date
25	IS	CMS&H	The Administrator for CMS&H should direct revisions to MSHA Form 2000-142 to eliminate the reference "Headquarters Only" for Item 7C and to require the serial number of the mining machine(s) and an explicit reference to the section or location in the mine for each MMU to be recorded for Item 11 (Remarks).	<p>The Administrator for CMS&H directed revisions to MSHA Form 2000-142 ("MMU/DA/DWP Data") to eliminate the reference "Headquarters Only" for Item 7C. This form is used when assigning new MMUs or updating existing MMUs. The CMS&H Health Division instructed district personnel that the applicable dust standard can be manually adjusted to maintain a reduced dust standard when the operator changes equipment on a mining section. MSHA distributed the revised form to inspectors via the Inspectors' Portable Application for Laptops (IPAL) Computer Resources program.</p> <p>The revised PPM (April 2012) provides guidance on recording the MMU location in the re-engineered health computer system. The Administrator for CMS&H determined that recording the specific MMU location makes it unnecessary to record individual mining machine serial numbers.</p>	Completed	05/30/12	---	04/25/12
26	T	EPD	The Administrator for CMS&H should collaborate with the Director of EPD to provide training on the revised policies for district health department supervisors, assistant district managers—technical, and other appropriate CMS&H personnel. This training should also include procedures for using the revised MSHA Form 2000-142.	From July 24-26, 2012, the CMS&H Health Division, in collaboration with EPD, provided a three-day training to CMS&H health supervisors and health clerks on the revised health policies, MSHA Form 2000-142, and the new "Abatement Times for Respirable Dust Citations" report. The training took place at the National Mine Health and Safety Academy. With regard to the district training, on August 1, 2012, the CMS&H Health Division confirmed that the training had been completed by all districts. Additionally, EPD developed course content on the revised MSHA Form 2000-142 for training of potential supervisors.	Completed	07/31/12	---	07/26/12

Count	Category ²	Lead	Recommendation	Corrective Action Taken	Status	Expected Completion Date	Revised Expected Completion Date	Actual Completion Date
27	IS	CMS&H	The Administrator for CMS&H should consider whether it is appropriate to store serial numbers and the section/location designations for each MMU in the MSHA enterprise database.	In April 2012, the Administrator for CMS&H revised the PPM provision governing the establishment of MMU numbers under 30 CFR 70.207. The revised policy provides that the reduced respirable dust standard, due to the presence of quartz, will not change when the operator changes equipment on a mining section. The Administrator for CMS&H determined that the revised policy makes it unnecessary to store the individual mining machine serial numbers in the respirable coal mine dust database.	Completed	03/31/12	04/18/12	04/18/12
28	T	CMS&H	The Administrator for CMS&H should direct that training be provided to District 4 and 12 inspectors, specialists, supervisors, assistant district managers, and other appropriate personnel on proper procedures for conducting, documenting, and reviewing MSHA respirable dust surveys.	The CMS&H Health Division provided training on proper procedures for conducting, documenting, and reviewing MSHA respirable dust surveys during the District 4 and 12 training sessions at the National Mine Health and Safety Academy on April 3 and 4, 2012. This training will also be provided to all CMS&H districts.	Completed	04/30/12	---	04/04/12
29	IS	PEIR	The Director of PEIR should develop and implement a standard report to track abatement times for respirable dust violations, and the Administrator for CMS&H should direct the Health Division to use the report to monitor district performance.	PEIR developed and implemented a standard report to track abatement times for respirable dust violations. The "Abatement Times for Respirable Dust Citations" report allows managers and enforcement personnel to track respirable dust violations from issuance to termination to reduce miners' exposure to respirable coal mine dust. The Administrator for CMS&H directed the Health Division via memorandum to monitor district performance.	Completed	05/30/12	---	05/30/12

Count	Category ²	Lead	Recommendation	Corrective Action Taken	Status	Expected Completion Date	Revised Expected Completion Date	Actual Completion Date
30	T	CMS&H	The Administrator for CMS&H should direct the District 4 and 12 managers to conduct follow-up reviews of inspection reports to evaluate the effectiveness of training provided and take appropriate corrective actions for any deficiencies identified.	The Internal Review report concluded that supervisors did not always identify or require corrections to inspection deficiencies. This topic was addressed during the District 4 and 12 training sessions at the National Mine Health and Safety Academy on April 3 and 4, 2012. District 4 and 12 managers were directed to conduct follow-up reviews of inspection reports to evaluate the effectiveness of all training provided and take appropriate corrective actions for any deficiencies identified.	Completed	04/30/12	---	04/04/12
31	IS	PEIR	The Assistant Secretary should instruct the Director of PEIR to develop, to the extent possible, fillable forms to be used by inspectors when completing approved forms as part of an inspection or investigation. These fillable forms should be incorporated into the IPAL application to allow the inspector to interact with the directives system in a seamless, user-friendly fashion.	<p>PEIR successfully developed fillable forms for inspectors to use when completing approved forms as part of an inspection or investigation.</p> <p>On September 27, 2012, PEIR incorporated fillable forms to be used by inspectors into IPAL. The forms are pre-populated with information from the IPAL database automatically or will populate the rest of the fields based on information entered by the inspector. This will save time by limiting the number of forms that must be filled out manually while allowing the inspector to interact with the Directives System in a seamless, user-friendly fashion.</p>	Completed	09/30/12	---	09/27/12

Count	Category ²	Lead	Recommendation	Corrective Action Taken	Status	Expected Completion Date	Revised Expected Completion Date	Actual Completion Date
32	T	EPD	The Administrator for CMS&H and the Director of EPD should develop a training program for temporarily promoted supervisors to address pertinent parts of the Coal Mine Safety and Health Supervisor's Handbook. This training should include a knowledge check. Consideration should be given to utilizing distance learning options. In addition, guidelines should be developed for assistant district managers to provide the level of oversight necessary for work groups with inexperienced acting field office supervisors.	<p>CMS&H and EPD developed a distance learning training course with a knowledge check for temporarily promoted supervisors. This course covers key materials and responsibilities individuals will need after assuming a new supervisory position. EPD finalized the course on September 27, 2012.</p> <p>In addition, the Administrator for CMS&H provided uniform guidance to all district managers and assistant district managers to provide acting field office supervisors with the level of oversight necessary to manage their work groups on a temporary basis. The guidance will be included in each district's SOP for training newly promoted field office supervisors.</p>	Completed	09/30/12	---	09/27/12
33	IS	PEIR	The Director of PEIR should complete revisions to IPAL to provide data-entry validation and permit inspectors to upload air sample collection data directly to the enterprise database for integration with the Laboratory Information Management System (LIMS).	PEIR completed the recommended data-entry and upload revisions to IPAL on March 22, 2012. The automated rules will improve the quality of the data in the air sample database while reducing the data-entry workload.	Completed	03/31/12	---	07/27/12

Count	Category ²	Lead	Recommendation	Corrective Action Taken	Status	Expected Completion Date	Revised Expected Completion Date	Actual Completion Date
34	IS	TS	The Director of TS should collaborate with the Director of PEIR to complete planned upgrades to the National Air and Dust Laboratory (NADL) to replace outdated equipment and computer systems and integrate LIMS into the MSHA enterprise database.	<p>TS and PEIR collaborated to complete planned upgrades to the NADL. This included increased staffing, physical renovations to the facility, new equipment, updated computer systems, and integration of the LIMS into MSHA's Standardized Information System (MSIS). MSHA inspectors are now able to upload air sample data directly from their laptop computers (through MSIS) to the LIMS instead of having to manually fill out Mine Atmosphere Sample Record cards. The air samples are then routed to the lab for analysis. The redesigned system eliminates duplicate data entry, allows for improved data entry validation, and provides the foundation for better management of sample data through enforcement and oversight reports.</p> <p>The upgrades to the NADL have resulted in reduced turn-around times for air sample analysis with further improvements expected. The NADL will pursue laboratory accreditation by a nationally recognized body in the future.</p>	Completed	12/31/12	---	09/07/12
35	IS	PEIR	The Director of PEIR should direct modifications to IPAL to automatically insert the following statement into the Condition or Practice for each Section 104(d) action: "This violation is an unwarrantable failure to comply with a mandatory standard."	PEIR deployed IPAL version 3.0.12 on March 22, 2012, to address this recommendation. IPAL now appends the text "This violation is an unwarrantable failure to comply with a mandatory standard" to the Condition or Practice section of a citation or order form when an inspector cites an unwarrantable failure violation. This allows the inspector to automatically comply with Section 104(d)(1) of the Mine Act which requires the inspector to include such finding when citing an unwarrantable failure violation.	Completed	03/31/12	---	03/22/12

Count	Category ²	Lead	Recommendation	Corrective Action Taken	Status	Expected Completion Date	Revised Expected Completion Date	Actual Completion Date
36	PP	OAS	The Assistant Secretary should reestablish the functionality and improve the utility of the MSHA Directives System.	On February 23, 2012, the Assistant Secretary assigned the Deputy Assistant Secretary for Operations the responsibility for developing a centralized administrative review process for updating and monitoring all of MSHA's directives and the Directives System so that MSHA's enforcement and other personnel are well informed and MSHA programs operate in a fair and consistent manner. Procedures are being developed that will monitor policy development, evaluate the directives for need, consistency and impact on the agency, and facilitate the activities of the policy coordinators from all MSHA programs. See recommendation #89 in Exhibit 2 below.	Completed	N/A	---	02/23/12
37	PP	OAS	The Assistant Secretary should direct the revision of the APPM to incorporate Administrative Policy Letter (APL) A11-I-01 which established policies and procedures for required continuing education of Authorized Representatives (AR). In addition, the APPM should be revised to include a permanent requirement for two-week biannual training for field office supervisors. Newly-selected supervisors should be provided this training at the earliest possible date.	The Assistant Secretary directed staff to incorporate APL A11-I-01, which establishes policies and procedures for required continuing education for ARs into the APPM no later than December 31, 2013. This includes permanent requirements for two-week biannual training for field office supervisors at the earliest possible date.	Completed	N/A	---	06/26/12

Count	Category ²	Lead	Recommendation	Corrective Action Taken	Status	Expected Completion Date	Revised Expected Completion Date	Actual Completion Date
38	PP	CMS&H	The Administrator for CMS&H should consider removing the Health/Safety/Other block from the Mine Citation/Order Form. The Administrator also should consider revising the Citation and Order Writing Handbook for Coal Mines and Metal and Nonmetal Mines to remove the direction for CMS&H inspectors to complete this field. The Director of PEIR should make corresponding changes to the IPAL data input screen.	The Administrator for CMS&H believes it is beneficial to include the Health/Safety/Other block on the Mine Citation/Order Form. Removing this block would require enforcement personnel to read the Condition or Practice for each citation to determine whether the violation is health-related. The Administrator for CMS&H reminded the CMS&H districts to check the appropriate blocks on the Mine Citation/Order Form.	Completed	09/30/12	---	05/01/12

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Exhibit 2**Listing of all 100 Recommendations in Internal Review Report**

Count	Lead Program Area	Category ³	Recommendation	Proposed Corrective Action	Status	Expected Completion Date	Revised Completion Date
1	EPD	PP	The Director of EPD should evaluate the feasibility of requiring a representative number of independent contractor training classes to be monitored by EFS.	<p>EFS is developing procedures to ensure resources are made available to monitor a representative number of Part 48 approved instructors. EPD/EFS will monitor instructors, especially contract trainers, to ensure the training is appropriate and effectively delivered.</p> <p>The CMS&H Administrator will issue a memo to district managers requiring them to notify all operators and entities with approved training that annual and new miner training schedules must be provided to the districts, 2 weeks prior to the training. The district managers will refer the training schedule notifications to EPD/EFS.</p>	Completed	04/30/12	---
2	EPD	T	The Administrator for CMS&H should collaborate with the Director of EPD to update the training programs for entry-level and journeyman inspectors to emphasize the value of a purposeful examination of training records and to guide inspectors on how to effectively determine compliance with Part 48 and other training requirements. The guidance in CMS&H Memo No. HQ-08-055-A that directs inspectors to question miners on their training related to roof control plans and document such information should also be addressed in this training.	CMS&H will collaborate with EPD on enhancing inspector knowledge on training record examinations and compliance with other training requirements, including Part 48. This will also be addressed during the April 2012 training for all District 4 and District 12 CMS&H inspectors and specialists.	Completed	06/30/12	---

³ See Legend on the last page of this exhibit.

Count	Lead Program Area	Category	Recommendation	Proposed Corrective Action	Status	Expected Completion Date	Revised Completion Date
3	PEIR	IS	The Director of PEIR should collaborate with the Administrator for CMS&H to revise the MPA database system to track operator responses to MSHA requests for plan revisions. The Administrator should direct district managers to use MPA to identify overdue responses from operators and take appropriate actions.	The MPA application will be modified to track overdue responses. PEIR will work closely with CMS&H on further defining requirements for these revisions. The Administrator will direct district managers to use MPA to identify responses from operators and take appropriate actions.	Completed	08/03/12	---
4	CMS&H	T	The Administrator for CMS&H should direct that District 4 and 12 managers reinforce MSHA policy and procedure concerning standards that can be cited as Section 104(g)(1) training orders and on records that must be inspected to ensure that an operator is providing all required training.	This will be addressed during the April 2012, training of all District 4 and District 12 CMS&H inspectors and specialists.	Completed	04/30/12	---
5	CMS&H	PP	<p>The Administrator for CMS&H should direct revisions to the General Coal Mine Inspection Procedures and Inspection Tracking System Handbook to:</p> <ul style="list-style-type: none"> • Identify training records required by 30 CFR 75.338(a) and 75.1501(a)(3) as records that are to be inspected during a regular inspection, as well as any records of any other training required by MSHA regulations. • Specify the percentage of miners for which training records are to be inspected during a regular inspection. • Include the requirements of CMS&H Memo No. HQ-08-055-A that direct inspectors to question miners on their training related to roof control plans and document such information. The Administrator also should consider similar guidance regarding training related to ventilation plans. 	This is included in the Evaluation of Enforcement Policies and Procedures directed by the Assistant Secretary on July 21, 2010, which is well underway. All of the policies and procedures have been collected and identified, and during the week of January 17, 2012, the Assistant Secretary created a task force to begin the next phase to be overseen by the Deputy Assistant Secretary of Operations. The next phase is the review of the draft handbook and the development of a final handbook for inspectors to use. The final handbook will also include the revisions outlined in this recommendation and any additional procedure and policy changes identified in the internal review report.	Completed	12/31/12	---

Count	Lead Program Area	Category	Recommendation	Proposed Corrective Action	Status	Expected Completion Date	Revised Completion Date
6	EPD	T	The Assistant Secretary should instruct the Directors of EPD and TS to develop and provide advanced technical training on longwall mining equipment. This training should be provided to MSHA regular inspectors who are qualified electricians and electrical specialists agency-wide.	MSHA provides training to all entry-level CMS&H inspectors on high voltage longwall equipment. Upon instructions from the Assistant Secretary, the Director of TS will work with the Director of EPD to develop and provide advanced technical training on longwall mining equipment for MSHA inspectors who are qualified electricians and electrical specialists. This training will be provided agency-wide.	Completed	09/01/12	09/30/12
7	CMS&H	PP	The Administrator for CMS&H should direct the revision of the General Coal Mine Inspection Procedures and Inspection Tracking System Handbook to direct electrical or permissibility inspections of longwall systems to be conducted by electrical specialists or inspectors who hold a current MSHA electrical qualification card.	<p>This is included in the Evaluation of Enforcement Policies and Procedures directed by the Assistant Secretary on July 21, 2010, which is well underway. All of the policies and procedures have been collected and identified, and during the week of January 17, 2012, the Assistant Secretary created a task force to begin the next phase to be overseen by the Deputy Assistant Secretary of Operations. The next phase is the review of the draft handbook and the development of a final handbook for inspectors to use. The final handbook will also include any additional procedure and policy changes identified in the internal review report.</p> <p>The Administrator has directed inter-district training for coal mine inspectors from District 4 and District 12 to travel and inspect at other longwall districts. Training will be given to both electrical and non-electrical inspectors on how to conduct permissibility inspections on longwalls.</p>	Completed	12/31/12	---

Count	Lead Program Area	Category	Recommendation	Proposed Corrective Action	Status	Expected Completion Date	Revised Completion Date
8	CMS&H	PP	The Administrator for CMS&H should direct the revision of the PPM to establish policy for determining compliance with 30 CFR 75.1725(a) as it relates to damaged or missing cutting bits, bit lugs, or bit lug inserts on continuous mining machines and longwall shearers.	Consistent with the Assistant Secretary's instructions to the Deputy Assistant of Secretary for Operations to develop a draft centralized administrative review process for directives, the CMS&H Administrator will develop guidance to the district managers determining compliance with 30 CFR 1725(a) as it relates to bits. The PPM will be revised for 30 CFR 75.1725(a) as it relates to damaged or missing cutting bits, bit lugs, or bit lug inserts on continuous mining machines and longwall shearers.	In Progress	12/31/13	---
9	CMS&H	PP	The Administrator for CMS&H should direct the revision of the Uniform Mine File (UMF) Procedures Handbook to clarify what sections of the UMF inspectors and specialists must review for a "limited inspection" as described in the Handbook. At a minimum, the roof control and ventilation plans and any other plans pertinent to that inspection should be reviewed. This revision should also clarify what constitutes a "limited inspection" as described in the Handbook.	Consistent with the Assistant Secretary's instructions to the Deputy Assistant of Secretary for Operations to develop a draft centralized administrative review process for directives, the UMF Procedures Handbook will be revised to clarify sections of the UMF that inspectors and specialists must review for a limited inspection. In the interim, the Administrator for CMS&H will instruct district managers on what constitutes a limited inspection for review.	In Progress	12/31/13	---
10	CMS&H	PP	The Administrator for CMS&H should direct the committee revising the Carbon Monoxide (CO) and AMS Inspection Procedures Handbook to identify the salient parts of an AMS or CO system inspection. The CO Handbook should describe how an inspector would conduct an inspection to address each salient part to determine the system is being operated and maintained in compliance with the appropriate safety standards. Any portions of the system inspection that require an electrical specialist's attention should be clearly identified.	The Administrator for CMS&H will instruct the committee to revise the AMS/CO Handbook to include the salient parts of an AMS or CO inspection, so long as this is consistent with the Assistant Secretary's instructions to the Deputy Assistant of Secretary for Operations to develop a draft centralized administrative review process for directives.	In Progress	06/30/13	---

Count	Lead Program Area	Category	Recommendation	Proposed Corrective Action	Status	Expected Completion Date	Revised Completion Date
11	CMS&H	PP	The Administrator for CMS&H should direct the revision of the General Coal Mine Inspection Procedures and Inspection Tracking System Handbook to specify those procedures outlined in the CO Handbook that are to be completed during each regular inspection.	CMS&H's revisions to its General Inspection Procedures Handbook and Inspection Tracking System Handbook are included in the Evaluation of Enforcement Policies and Procedures directed by the Assistant Secretary on July 21, 2010, which is well underway. All of the policies and procedures have been collected and identified, and during the week of January 17, 2012, the Assistant Secretary created a task force to begin the next phase to be overseen by the Deputy Assistant Secretary for Operations. The next phase is the review of the draft handbook and the development of a final handbook for inspectors to use. The final handbook is also to include any additional procedure and policy changes as identified in the internal review report that need to be included.	Completed	12/31/12	---
12	CMS&H	PP	<p>The Administrator for CMS&H should direct the revision of the General Coal Mine Inspection Procedures and Inspection Tracking System Handbooks to describe the purpose of an inspector's review of the operators' examination records, and how the review should be utilized during inspections. The revised procedures should also identify specific items that should be checked when reviewing mine examination records, such as whether:</p> <ul style="list-style-type: none"> • examinations have been conducted at required intervals; • examination records indicate violations of mandatory safety or health standards; • hazardous conditions have been properly recorded; • records of violations or hazardous conditions indicate a need for inspectors to follow up; • corrective actions have been recorded for reported hazardous conditions; and • ventilation of worked out and outby areas have been evaluated properly. 	This is included in the Evaluation of Enforcement Policies and Procedures directed by the Assistant Secretary on July 21, 2010, which is well underway. All of the policies and procedures have been collected and identified, and during the week of January 17, 2012, the Assistant Secretary created a task force to begin the next phase to be overseen by the Deputy Assistant Secretary of Operations. The next phase is the review of the draft handbook and the development of a final handbook for inspectors to use. The final handbook will also include the revisions outlined in this recommendation and any additional procedure and policy changes identified in the internal review report.	Completed	12/31/12	---

Count	Lead Program Area	Category	Recommendation	Proposed Corrective Action	Status	Expected Completion Date	Revised Completion Date
13	CMS&H	PP	The Administrator for CMS&H should direct the revision of the Coal Mine Safety and Health Supervisor's Handbook to provide guidance to supervisors on methods they can use during Accompanied Activities (AA) to determine if inspectors are reviewing the mine operators' examination records and using information in the records in accordance with inspection procedures.	Consistent with the Assistant Secretary's instructions to the Deputy Assistant Secretary for Operations to develop a draft centralized administrative review process for directives, the Administrator for CMS&H will direct revisions to the Coal Mine Safety and Health Supervisor's Handbook regarding records reviewed by supervisors of pre-shift, on-shift and weekly examinations.	In Progress	12/31/13	---
14	EPD	T	<p>The Administrator for CMS&H should collaborate with the Director of EPD to revise the curriculum at the National Mine Health and Safety Academy regarding inspection procedures for evaluating operator compliance with examination standards. The training should explain the purpose and utilization of an inspector's review of mine examination records. This training should be provided to entry-level inspectors, journeyman inspectors, specialists, supervisors, and assistant district managers. The training should provide instructions on:</p> <ul style="list-style-type: none"> • determining whether adequate examinations have been conducted; • determining whether the operator has recorded in the examination book the specific corrective action taken to eliminate the hazard; • identifying incomplete records of examinations, including missing air quantities and air quality measurements; • using examination records to aid in the enforcement of 30 CFR 75.360, 75.362, 75.363, and 75.364; • traveling with and evaluating at least one pre-shift examiner, one on-shift examiner, and one weekly examiner during each regular inspection; • determining whether the operator conducted on-shift examinations of dust control parameters; and • using examination records in the evaluation of the operator's negligence for violations of other safety and health standards. 	National Mine Health and Safety Academy personnel have for the past several months, been working on a revision of the curriculum concerning 75.364 to address the purpose and utilization of an inspector's and supervisor's review of mine examination records. The training will be included in the journeyman, specialist, supervisory and entry-level training.	Completed	08/31/12	09/30/12

Count	Lead Program Area	Category	Recommendation	Proposed Corrective Action	Status	Expected Completion Date	Revised Completion Date
15	PEIR	IS	<p>The Director of PEIR should provide the following to enhance enforcement of 30 CFR 75.403 and minimize rock dust data input errors.</p> <ul style="list-style-type: none"> • The Rock Dust Sample Submission (RDSS) and the Rock Dust Data Retrieval System (RDDR) applications should be incorporated into IPAL and MSIS. • The Rock Dust Sample Submission Form and the MSHA enterprise database should be modified to include fields to document the location of the last row of samples collected during rock dust surveys. • Lab analysis reports should be modified to include surveys where no samples were submitted for analysis (e.g., all wet sample locations) to confirm data transfer. Such documents should be included in inspection reports, consistent with current MSHA inspection procedures, rather than Rock Dust Sample Submission Forms. • Standard oversight reports should be developed and distributed to headquarters, district, and field offices to monitor: <ul style="list-style-type: none"> (a) Rock dust surveys with no samples collected, including surveys containing all “No Sample” or “Wet” locations. (b) Sample collection rates from previously wet locations for each underground bituminous coal mine. (c) Non-compliant spot rock dust samples with no subsequent enforcement actions. This may require additional fields on the Rock Dust Sample Submission Form showing the purpose for collecting a spot sample (i.e., previously wet sample location, violation abatement sample, or compliance sample). 	<p>PEIR has been working diligently over the last eight months with TS and Enforcement on this effort. The team is currently working to deploy Air Gas Samples within MSIS first as outlined by the stakeholders. PEIR is anticipating a deployment date for Rock Dust (including the Rock Dust Sample Submission Form) in MSIS in April 2013. PEIR estimates that the RDSS and RDDR applications will be implemented in IPAL April 2013. The standard oversight reports will not be developed until the above changes are implemented in MSIS and IPAL.</p>	In Progress	08/15/13	---

Count	Lead Program Area	Category	Recommendation	Proposed Corrective Action	Status	Expected Completion Date	Revised Completion Date
16	CMS&H	PP	The Administrator for CMS&H should direct the revision of the PPM for 30 CFR 75.400-2 to clarify that the cleanup program required by this standard also applies to methods for preventing accumulations of coal and float coal dust on retreating sections, including longwalls. Policy should provide strategies for requiring operators to revise deficient cleanup programs or identify other enforcement incentives that can be used when operators fail to comply with their programs.	Consistent with the Assistant Secretary's instructions to the Deputy Assistant of Secretary for Operations to develop a draft centralized administrative review process for directives, the PPM for 75.400-2 and 75.402 will be revised to clarify issues relating to the clean-up program.	In Progress	12/31/13	---
17	CMS&H	PP	The Administrator for CMS&H should issue a Program Information Bulletin (PIB) advising operators of the need for them to sample or test mine dust to ensure compliance with 30 CFR 75.403.	CMS&H's Administrator will issue a PIB to advise mine operators to sample or test mine dust to ensure compliance with 30 CFR 75.403.	Completed	12/31/12	---

Count	Lead Program Area	Category	Recommendation	Proposed Corrective Action	Status	Expected Completion Date	Revised Completion Date
18	CMS&H	PP	<p>The Administrator for CMS&H should direct the revision of the General Coal Mine Inspection Procedures and Inspection Tracking System Handbook to improve planning, tracking, and oversight of rock dust sampling.</p> <ul style="list-style-type: none"> • Inspectors should be directed to evaluate the adequacy of rock dust maintenance by collecting spot samples from a representative number of locations in outby areas. Sampling strategies should provide analysis results ahead of second mining, including longwall gate entries. • Inspectors should be directed to plot rock dust sample locations on regular inspection tracking maps. Sample collection dates and locations too wet to sample should be specified on the map. • Consideration should be given to replacing the Rock Dust Survey Wet Locations Tracking Form with tracking maps, or provide instruction to use the Form in the Handbook. If retained, the Form should be modified to include documentation of the inspector's name and date that the wet area was re-inspected. Also, the sample location status options on the Form should match those available on the computer application. • Inspectors should be directed to document in their notes the locations of section loading points and the last row of samples collected during rock dust surveys. • When collecting rock dust samples, inspectors should be directed to document in their notes the facts needed to evaluate negligence and gravity of potential 30 CFR 75.403 violations. • Inspectors should be directed to collect crosscut samples in the first row of each rock dust survey and in each third row thereafter. • Inspectors should be directed to resample non-compliant locations after re-dusting and before terminating any related enforcement actions. • Enforcement procedures should ensure re-dusting at all noncompliant sample locations, even if the survey was compliant. 	<p>This is included in the Evaluation of Enforcement Policies and Procedures directed by the Assistant Secretary on July 21, 2010, which is well underway. All of the policies and procedures have been collected and identified, and during the week of January 17, 2012, the Assistant Secretary created a task force to begin the next phase to be overseen by the Deputy Assistant Secretary of Operations. The next phase is the review of the draft handbook and the development of a final handbook for inspectors to use. The final handbook will also include the revisions outlined in this recommendation and any additional procedure and policy changes identified in the internal review report.</p>	Completed	12/31/12	---

Count	Lead Program Area	Category	Recommendation	Proposed Corrective Action	Status	Expected Completion Date	Revised Completion Date
19	CMS&H	T	The Administrator for CMS&H should direct that training be provided to supervisors on using standard oversight reports to ensure inspectors have valid reasons for not collecting samples, including visiting some areas that inspectors indicated were too wet to sample.	Training will be provided to supervisors on using standard oversight reports to ensure inspectors have valid reasons for not collecting samples, including visiting some areas that inspectors indicated were too wet to sample.	Completed	09/30/12	---
20	TS	PP	The Administrator for CMS&H should collaborate with the Director of TS and NIOSH to develop a standard method for collecting mine dust samples for operators and inspectors to use to determine compliance with 30 CFR 75.403. The agency should consider recent research regarding sample collection methodology, including that related to sample depth and elevated surfaces.	Recent NIOSH research has suggested possible changes to the longstanding band sampling method which has historically been used by CMS&H. For instance, information has been presented in various NIOSH publications suggesting sampling of 1/8 to 1/4 inch from the mine floor. NIOSH has also mentioned possible plug samples as an alternative or supplement to band samples during recent discussions. Ultimately, the true measure of the validity of a sampling procedure is how well it correlates with explosion test results. This is information that only NIOSH can address through their extensive body of research, laboratory, and large-scale testing. The CMS&H Administrator will issue a memo to TS requesting their assistance and guidance. MSHA will draft a letter to NIOSH to recommend an appropriate and practical rock dust sampling procedure and methodology for inspectors or operators to use which will ensure the proper detection of potentially hazardous conditions in underground coal mines.	Completed	06/01/12	---
21	CMS&H	T	The Administrator for CMS&H should direct the District 4 and 12 Managers to: reinstruct inspectors in the General Coal Mine Inspection Procedures and Inspection Tracking System Handbook directive to check and document checking Part 50 records during every regular inspection. The district managers should hold inspection supervisors accountable for enforcing compliance with this directive.	This will be included in the training that will be provided to all District 4 and District 12 CMS&H inspectors and specialists in April 2012.	Completed	04/30/12	---

Count	Lead Program Area	Category	Recommendation	Proposed Corrective Action	Status	Expected Completion Date	Revised Completion Date
22	EPD	T	The Administrator for CMS&H should collaborate with the Directors of EPD and TS to provide refresher training for District 4 and 12 regular inspectors to assure they have appropriate skills to ensure uniform recognition of electrical violations.	The CMS&H Administrator will request TS and EPD assistance on refresher training on electrical violations. This will be included in the training that will be provided to all District 4 and District 12 CMS&H inspectors and specialists in April 2012.	Completed	04/30/12	---
23	CMS&H / MNMS&H	PP	The Administrators for CMS&H and Metal and Nonmetal should direct the revision of their general inspection procedures handbooks to be consistent with the recommended revisions of the PPM regarding enforcement of Section 103(a).	<p>CMS&H's revisions to its General Inspection Procedures Handbook are included in the Evaluation of Enforcement Policies and Procedures directed by the Assistant Secretary on July 21, 2010, which is well underway. All of the policies and procedures have been collected and identified, and during the week of January 17, 2012, the Assistant Secretary created a task force to begin the next phase to be overseen by the Deputy Assistant Secretary for Operations. The next phase is the review of the draft handbook and the development of a final handbook for inspectors to use. The final handbook is also to include any additional procedure and policy changes as identified in the internal review report that need to be included. MNMS&H has established a handbook committee to update and revise its General Inspection Procedures Handbook.</p> <p>Consistent with the Assistant Secretary's instructions to the Deputy Assistant of Secretary for Operations to develop a draft centralized administrative review process for directives, CMS&H and MNMS&H will take the lead to ensure that revisions to their General Procedures Handbooks are consistent with revisions to the PPM.</p>	<p>Completed</p> <p>In Progress</p>	<p>12/31/2012</p> <p>12/31/2013</p>	---

Count	Lead Program Area	Category	Recommendation	Proposed Corrective Action	Status	Expected Completion Date	Revised Completion Date
24	CMS&H / MNMS&H	PP	The Administrators for CMS&H and MNMS&H should consult with the SOL, Mine Safety and Health Division, to revise the PPM to address actions by operators, their agents, or their employees that constitute advance notice of inspections. The Manual explicitly should instruct that Section 103(a) is violated when an operator gives advance notice of MSHA's presence on mine property to outlying surface and underground facilities with the intent to impede an inspection, regardless of whether the inspection already has commenced or whether the inspector explicitly has warned the operator against providing such notice.	On August 26, 2010, MSHA issued PIB P10-15 to remind operators, miners' representatives, MSHA personnel and other interested parties that Section 103 of the Mine Act prohibits advance notice. The Administrators will consult with SOL and instruct district managers regarding advance notice of inspectors to address this recommendation.	Completed	6/30/2012	---
				Consistent with the Assistant Secretary's instructions to the Deputy Assistant Secretary for Operations to develop a draft centralized administrative review process for directives, CMS&H will revise the PPM to address actions that constitute advance notice of inspections.	In Progress	12/31/2013	---
25	EPD	PP	The Director of EPD should collaborate with the Administrators for CMS&H and MNMS&H to revise the On the Job Training (OJT) Booklet to include only practical competency skills that need to be demonstrated in the field. The National Mine Health and Safety Academy should track the academic components of entry level training; demonstration of OJT tasks should be tracked by field personnel.	Consistent with the Assistant Secretary's instructions to the Deputy Assistant Secretary for Operations to develop a draft centralized administrative review process for directives, EPD will collaborate with CMS&H and MNMS&H to update the APPM to clarify the duties and responsibilities concerning OJT training. EPD is in the process of incorporating OJT responsibility training into both journeyman and supervisor training. EPD is implementing the electronic tracking of the OJT tasks and will re-train those individuals responsible for the execution of this program.	In Progress	12/31/13	---
26	EPD	PP	The Director of EPD should collaborate with the Administrators for CMS&H and MNMS&H to revise the APPM to include the OJT responsibilities guidance.	Consistent with the Assistant Secretary's instructions to the Deputy Assistant Secretary for Operations to develop a draft centralized administrative review process for directives, EPD will collaborate with CMS&H and MNMS&H to update the APPM to clarify the duties and responsibilities concerning OJT training. EPD is in the process of incorporating OJT responsibility training into both journeyman and supervisor training. EPD is implementing the electronic tracking of the OJT tasks and will re-train those individuals responsible for the execution of this program.	In Progress	12/31/13	---

Count	Lead Program Area	Category	Recommendation	Proposed Corrective Action	Status	Expected Completion Date	Revised Completion Date
27	EPD	PP	The Director of EPD should collaborate with the Administrators for CMS&H and MNMS&H to incorporate OJT responsibilities into journeyman inspector and supervisor training and develop and provide training for District OJT Coordinators.	Consistent with the Assistant Secretary's instructions to the Deputy Assistant Secretary for Operations to develop a draft centralized administrative review process for directives, EPD will collaborate with CMS&H and MNMS&H to update the APPM to clarify the duties and responsibilities concerning OJT training. EPD is in the process of incorporating OJT responsibility training into both journeyman and supervisor training. EPD is implementing the electronic tracking of the OJT tasks and will re-train those individuals responsible for the execution of this program.	In Progress	12/31/13	---
28	OAASEI	PP	The Director of OAASEI should collaborate with the Administrators for CMS&H and MNMS&H to revise the Accountability Program Handbook to: <ul style="list-style-type: none"> • Remove references to accountability reviews led by MSHA Headquarters. • Provide for evaluation of the effectiveness of corrective actions. Where practical, these evaluations should include objective measurements of results and effects of the corrective actions. In cases where training is identified as a corrective action, knowledge checks or equivalent means should be conducted to ensure an adequate understanding of the material. 	OAASEI will, in collaboration with CMS&H and MNMS&H, revise the Accountability Handbook to remove references to MSHA Headquarters accountability reviews, replacing those reviews with those conducted by the Office of Accountability. The Handbook revisions will also contain requirements for Accountability Office reviews to evaluate the effectiveness of corrective actions taken to address previously identified issues.	Completed	12/31/12	---
29	CMS&H	PP	The Administrator for CMS&H should direct the revision of the Coal Mine Safety and Health Supervisor's Handbook to instruct managers and supervisors on methods for tracking Field Activity Reviews (FAR), AAs, and mine visits to ensure that they are properly completed and documented.	The CMS&H Administrator will instruct district managers to promptly complete and document oversight of the required number of FARs, AAs, and mine visits. Consistent with the Assistant Secretary's instructions to the Deputy Assistant Secretary for Operations to develop a draft centralized administrative review process for directives, CMS&H will revise the Coal Mine Safety and Health Supervisor's Handbook.	In Progress	12/31/13	---

Count	Lead Program Area	Category	Recommendation	Proposed Corrective Action	Status	Expected Completion Date	Revised Completion Date
30	CMS&H	HR	The Administrator for CMS&H should investigate and resolve issues surrounding double-encumbering temporarily vacant positions to improve oversight and to maintain an experienced staff of enforcement personnel.	The CMS&H Administrator concurs with this recommendation and will explore actions to improve timeliness of promptly filling district manager and supervisory vacancies. Once vacancy announcements have been posted and closed, CMS&H will interview and fill vacancies prior to their expiration. However, the Administrator does not have the authority to double encumber.	In Progress	Ongoing ⁴	---
31	CMS&H	PP	The Administrator for CMS&H should direct staff to audit the District 4 and 12 ventilation plans to determine whether the methane and dust control plans have been incorporated into the mine ventilation plans, subject to a single review date.	The Administrator for CMS&H will direct the safety division to conduct audits of the District 4 and 12 ventilation plans to determine whether the methane and dust control plans have been incorporated into the mine ventilation plans, subject to a single review date.	Completed	10/01/12	---
32	PEIR	IS	The Director of PEIR should collaborate with the Administrator for CMS&H to revise the MPA database system to track the time required to process ventilation plans and supplements. The Administrator should direct district managers to use MPA to monitor the time required to process plans and take appropriate administrative actions when necessary.	PEIR will collaborate with CMS&H to revise the MPA database system to track the time required to process ventilation plans and supplements. The Administrator for CMS&H will direct district managers to use MPA to monitor the time required to process plans and take appropriate administrative actions when necessary.	Completed	12/07/12	---
33	CMS&H	T	The Administrator for CMS&H should direct the District 4 and 12 managers to provide inspectors and specialists with training to ensure that six-month reviews are conducted and documented in accordance with the Mine Ventilation Plan Approval Procedures Handbook. District managers should monitor the six-month reviews after the training is completed to verify its effectiveness and take follow-up corrective action if necessary.	This will be addressed during April 2012 training for all District 4 and District 12 CMS&H inspectors and specialists. Inspectors and specialists will also be provided training regarding the conduct and documentation of six-month reviews of ventilation plans.	Completed	04/30/12	---

⁴ MSHA has implemented actions to promptly fill enforcement positions within MSHA, which it will continue to do, subject to sequestration and other budgetary events. It has also developed a succession plan underway to help improve oversight and maintain an experienced staff of enforcement personnel, which---again subject to sequestration and other budgetary events---it intended to begin to implement in FY 2013.

Count	Lead Program Area	Category	Recommendation	Proposed Corrective Action	Status	Expected Completion Date	Revised Completion Date
34	CMS&H	PP	The Administrator for CMS&H should direct the revision of the Mine Ventilation Plan Approval Procedures Handbook to specify that ventilation specialists conduct the physical inspection portion of six-month ventilation plan reviews for mines with complex ventilation systems, such as those with longwall mining.	Consistent with the Assistant Secretary's instructions to the Deputy Assistant Secretary for Operations to develop a draft centralized administrative review process for directives, the Administrator for CMS&H will direct revisions to the Mine Ventilation Plan Approval Procedures Handbook to specify that ventilation specialists conduct the physical inspection portion of the six-month ventilation plan reviews for mines with complex ventilation systems, such as those with longwall mining.	In Progress	12/31/13	---
35	CMS&H	PP	The Administrator for CMS&H should direct the District 4 and 12 managers to revise SOPs to ensure that both the Health and Ventilation Departments contribute to the correspondence sent to mine operators after each six-month ventilation plan review.	SOP revisions will be completed by June 30, 2012, and follow-up will be addressed in the Performance Management System and Accountability Reviews.	Completed	06/30/12	---
36	CMS&H	PP	The Administrator for CMS&H should direct the District 4 and 12 managers to revise the technical department SOPs to provide for the review of each proposed plan or revision by appropriate technical departments to check for consistency with other plans approved for the mine. A method for documenting this process should be established. These SOPs should direct specialists to maintain a record of all written correspondence with mine operators regarding proposed plan reviews, particularly regarding changes to proposed plans submitted by operators during the review process.	CMS&H has already directed District 4 and 12 managers to revise the technical department SOPs. Those revisions will be completed by June 30, 2012.	Completed	06/30/12	---
37	CMS&H	PP	The Administrator for CMS&H should direct the revision of the PPM to provide guidance on when it is appropriate to cite an operator for a violation of 30 CFR 75.372(a) or (b) when it fails to submit an up-to-date and complete mine ventilation map. The Administrator should also direct the revision of the Mine Ventilation Plan Approval Procedures Handbook to implement the revised policy.	Consistent with the Assistant Secretary's instructions to the Deputy Assistant Secretary for Operations to develop a draft centralized administrative review process for directives, the Mine Ventilation Plan Approval Procedures Handbook and the PPM will be revised to provide guidance on when it is appropriate to cite an operator for a violation of 30 CFR 75.372(a) or (b) when it fails to submit an up-to-date and complete mine ventilation map.	In Progress	12/31/13	---

Count	Lead Program Area	Category	Recommendation	Proposed Corrective Action	Status	Expected Completion Date	Revised Completion Date
38	CMS&H	PP	The Administrator for CMS&H should direct the revision of the PPM to apply reduced respirable dust standards, including those from deactivated MMUs, to other MMUs working in the same section of the mine with similar mining equipment, until sampling establishes a new standard.	The policy governing the establishment of MMU numbers contained in 70.207 will be modified to indicate that the respirable dust standard due to the presence of quartz will continue when equipment on the MMU is changed. This particular provision of the PPM is being revised and is in the process for review and approval, subject to the Assistant Secretary's instructions to the Deputy Assistant Secretary for Operations to develop a draft centralized administrative review process for directives.	Completed	06/30/13	---
39	CMS&H	PP	The Administrator for CMS&H should direct the revision of the Mine Ventilation Plan Approval Procedures Handbook to require pertinent accident reports and technical studies to be maintained in the appropriate department active mine files to ensure that relevant historical information is available to specialists and supervisors. Consideration should also be given to including this information in the active mine file of other mines with similar seam and geological conditions.	The CMS&H Administrator will instruct districts to create a new file to include accident reports and technical studies and to retain these documents in the mine file as part of the mine ventilation plan and supplements reviews. Consistent with the Assistant Secretary's instructions to the Deputy Assistant of Secretary for Operations to develop a draft centralized administrative review process for directives, the Administrator for CMS&H will direct revisions to the Mine Ventilation Plan Approval Handbook.	In Progress	12/31/13	---
40	CMS&H	PP	The Administrator for CMS&H should direct the revision of the UMF Procedures Handbook to require pertinent accident reports and technical studies to be maintained in the UMF for the subject mine.	Consistent with the Assistant Secretary's instructions to the Deputy Assistant Secretary for Operations to develop a draft centralized administrative review process for directives, the UMF Procedures Handbook will be revised to require pertinent accident reports and technical studies to be maintained in the UMF for the subject mine.	In Progress	12/31/13	---
41	CMS&H	T	The Administrator for CMS&H should direct that training be provided to appropriate CMS&H personnel on the agency policy requiring reduced standards on deactivated MMUs to be continued with newly-activated MMUs. The training should include instruction on the revised guidelines of the Mine Ventilation Plan Approval Procedures Handbook.	Chapter 1 of the Health Inspection Procedure Handbook is being revised to (1) clarify the application of the reduced standards to MMUs and (2) clarify the abatement time for excessive dust citations. This requirement has been communicated to the districts multiple times during health supervisor meetings. Training will be provided to all District Health Supervisors on the 70.207 policy.	In Progress	06/30/13	---

Count	Lead Program Area	Category	Recommendation	Proposed Corrective Action	Status	Expected Completion Date	Revised Completion Date
42	CMS&H	PP	The Administrator for CMS&H should direct staff to monitor the implementation of new regulations to ensure districts enforce the provisions of final rules within the effective dates specified.	The Administrator will direct staff to monitor the implementation of new rules/regulations through FARs, AA, Second Level reviews, and District Peer reviews.	Completed	04/30/12	---
43	CMS&H	T	The Administrator for CMS&H should direct that training be provided to enforcement personnel, including supervisors and managers, to apply the policy during inspections of haulage ventilation controls.	All CMS&H inspectors will be trained to inspect ventilation controls when haulage entries are inspected paying particular attention to the maintenance of ventilation controls and ensuring equipment doors maintained reasonably airtight construction.	Completed	06/30/12	---
44	EPD	T	The Administrator for CMS&H should collaborate with the Director of EPD to provide instruction on bleeder system evaluations during biannual retraining of all underground enforcement personnel and supervisors.	<p>The CMS&H Administrator and the Director of EPD will collaborate on providing periodic retraining on bleeder system evaluations to CMS&H underground enforcement personnel, including supervisors and managers. Training will be provided for supervisors by October 2012, and all enforcement by July 2013.</p> <p>Seals and Bleeders training is part of the FY 2011-2012 Journeyman Coal Mine Inspectors curriculum and will be given to all Journeyman inspectors by the end of this fiscal year. Bleeder evaluation training is provided to all CMS&H entry level inspectors in the Ventilation II course that is required prior to graduation from the program. Bleeder evaluation training will also be part of upcoming CMS&H supervisors training, currently in development.</p>	In Progress	<p>6/30/2013</p> <p>3/31/2013</p>	---

Count	Lead Program Area	Category	Recommendation	Proposed Corrective Action	Status	Expected Completion Date	Revised Completion Date
45	CMS&H	PP	<p>The Administrator for CMS&H should direct revision of the PPM to:</p> <ul style="list-style-type: none"> • Establish policy for 30 CFR 75.1716-1 to define the manner in which mine operators must provide notice to the district manager prior to the commencement of mining operations when planning to mine under any river, stream, lake, or other body of water. The policy also should state explicitly that “other body of water,” includes water pools in overlying mines. • Clearly state the agency’s interpretation of “water pools above,” as referenced in 30 CFR 75.1200(j), by explicitly stating that the phrase “water pools above” includes water pools in overlying mines. • Instruct district personnel to request that an operator identify pools of water in overlying mines where applicable when submitting mine ventilation maps. • Clarify the detail to be shown on mine ventilation maps to include elevations on 10-foot contours in overlying and underlying mines when elevations are available on overlying or underlying mine maps. • Direct district managers to exercise their authority under 30 CFR 75.1203 to require that operators furnish a current 75.1200 map at the same time the annual mine ventilation map is submitted. Both maps should be updated as of the same date. 	Consistent with the Assistant Secretary's instructions to the Deputy Assistant Secretary for Operations to develop a draft centralized administrative review process for directives, the PPM will be revised accordingly.	In Progress	12/31/13	---
46	CMS&H	PP	<p>The Administrator for CMS&H should direct that a Roof Control Plan Approval Handbook be developed to consolidate the numerous Procedure Instruction Letters (PIL), PIBs, and CMS&H memoranda. This will provide plan reviewers with a discrete set of guidelines and instructions for evaluating and processing roof control plans. The handbook should specify that correspondence between the coal operators and plan reviewers be maintained as part of the plan approval record. This should include procedures for tracking responses due from operators following MSHA requests for plan revisions.</p>	Consistent with the Assistant Secretary's instructions to the Deputy Assistant Secretary for Operations to develop a draft centralized administrative review process for directives, CMS&H will develop, issue and implement a Roof Control Plan Approval Handbook to address this recommendation.	In Progress	12/31/13	---

Count	Lead Program Area	Category	Recommendation	Proposed Corrective Action	Status	Expected Completion Date	Revised Completion Date
47	CMS&H	PP	The Administrator for CMS&H should direct the District 4 and 12 managers to revise the roof control plan SOP to comply with the established PPM requirements as identified by the OIG report.	The CMS&H Administrator will direct the District 4 Manager (with instructions) to revise the roof control plan SOP to comply with the PPM requirements.	Completed	04/30/12	---
48	CMS&H	T	The Administrator for CMS&H should direct the District 4 and 12 managers to provide training to inspectors and specialists regarding the use of the required checklists and proper documentation of six-month plan reviews.	This will be addressed in the training that will be provided to all District 4 and District 12 CMS&H inspectors and specialists in April 2012.	Completed	04/30/12	---
49	CMS&H	T	The Administrator for CMS&H should direct the District 4 and 12 managers to ensure that the six-month reviews of roof control plans for complex mines be conducted by roof control specialists. When deemed appropriate, complex mine plans should continue to be forwarded to TS for evaluation.	PIL I11-V-01 provides instructions that the six-month reviews of roof control plans for complex mines are conducted by the roof control specialists as required, and that complex plans should be forwarded to TS as appropriate for evaluation. This corrective action is completed.	Completed	04/30/12	---
50	CMS&H / MNMS&H	PP	The Administrators for CMS&H and MNMS&H should direct the revision of the Mine Rescue Instruction Guide to require a “firewall” to prevent personnel who have had personal contact with family members from participating in command center decisions.	CMS&H and MNMS&H Administrators will act according to the instructions of the Assistant Secretary in addressing the recommendation to MSHA to revise the Mine Rescue Instruction Guide.	In Progress	TBD ⁵	---
51	CMS&H / MNMS&H	PP	The Administrators for CMS&H and MNMS&H should re-instruct Family Liaisons to keep a log of significant events. The Administrators should direct revisions to the instructions in the Headquarters Mine Emergency Response Guidelines and the Accident/Illness Investigations Procedures Handbooks to clarify that notes should be recorded privately away from the areas where families are gathered and at a time that does not disrupt the interaction between the liaisons and the family members.	The CMS&H and MNMS&H Administrators will reinstruct the Family Liaisons to keep a log of significant events and remind them of the Handbook instructions.	Completed	07/31/12	---

⁵ MSHA has held a number of meetings with its stakeholders and is pursuing a plan to develop a single mine rescue response strategy. As a result, MSHA has deferred the issue of creating a “firewall” to the group of experts developing the response strategy.

Count	Lead Program Area	Category	Recommendation	Proposed Corrective Action	Status	Expected Completion Date	Revised Completion Date
52	CMS&H	T	The Administrator for CMS&H with the assistance of the Chief of Mine Emergency Operations should modify the existing Mine Emergency Response Development (MERD) program to train appropriate MSHA personnel in command center duties and responsibilities and established mine rescue protocols. This training should include: how to evaluate the level of acceptable risk to mine rescue teams using all available relevant information; the use of back-up and standby teams; systematic exploration, including “tying in” areas of the mine; communications between mine rescue teams and the fresh air base; re-ventilation of areas affected by explosions; use and evaluation of inert gases; and possible survivors in refuge alternatives.	The CMS&H Administrator will collaborate with the Chief of Emergency Operations to modify existing MERD training to address these recommendations and provide training to managers and supervisors.	Completed	11/30/12	---
53	OAASEI	IS	The Administrators for CMS&H and MNMS&H, the Director of OAASEI, and the Director of PEIR should collaborate in developing a management tool to monitor the resources districts devote to special investigations.	CMS&H, MNMS&H, and OAASEI will collaborate with PEIR to develop a tool to monitor special investigation resources using the DOL-required System Design Lifecycle Management to process. CMS&H, MNMS&H, and OAASEI in consultation with PEIR will develop the business requirements and PEIR will develop the tool. Using data currently available in MSIS, reports and key indicators will be developed to monitor time and activity reported against special investigation events.	Completed	07/31/12	---

Count	Lead Program Area	Category	Recommendation	Proposed Corrective Action	Status	Expected Completion Date	Revised Completion Date
54	CMS&H / MNMS&H	PP	<p>The Administrators for CMS&H and MNMS&H should collaborate with SOL and the Director of OAASEI to revise Volume III of the PPM:</p> <ul style="list-style-type: none"> • Define a “potentially flagrant violation” using the numbered objective criteria referenced in the Citation and Order Writing Handbook for Coal and Metal and Nonmetal Mines. • Add “potentially flagrant violations” to the list of violations that are required to be reviewed for special assessment. The matrix that follows this list also should be clarified to include “potentially flagrant violations.” • Explicitly require that all Special Assessment Review Forms for potentially flagrant violations be submitted to the Administrator along with supporting documentation, even if the district manager does not recommend a flagrant violation special assessment because of the perceived absence of substantial and proximate cause or the presence of mitigating factors. • Include the “Potential Flagrant Violations Not Assessed” oversight report with the reference to the “Assessable Violations Not Marked Report (R-119 Report) for regular review by district personnel. • Update guidance on legal requirements for implementing assessments of flagrant violations, including whether repeat flagrant violations must be related to the same distinct hazard. 	Consistent with the Deputy Assistant Secretary for Operations to develop a draft centralized administrative review process for directives, CMS&H, MNMS&H, OAASEI and SOL will collaborate to revise Volume III of the PPM to address flagrant violation issues in the internal review report. These revisions will include each of the five recommended changes enumerated in this recommendation.	In Progress	12/31/13	---

Count	Lead Program Area	Category	Recommendation	Proposed Corrective Action	Status	Expected Completion Date	Revised Completion Date
55	CMS&H / MNMS&H	PP	<p>The Administrators for CMS&H and MNMS&H should collaborate with the SOL, Mine Safety and Health Division, to revise the Citation and Order Writing Handbook for Coal and Metal and Nonmetal Mines to incorporate applicable provisions from PIL I08-III-02. The Handbook should:</p> <ul style="list-style-type: none"> • Define the term “substantial and proximate cause” and explain the inspector’s role, if any, in its evaluation. • Include instructions that clearly direct inspectors and specialists to complete a SAR Form for each violation that meets the “numbered objective criteria” for screening potentially flagrant violations. The second scenario in the “Flagrant Citations and Orders” chapter of the Handbook should reference whether the example should be reviewed as a potentially flagrant violation. • Direct inspectors and specialists to include a SAR Form in the packet to be sent to the District Office for each violation meeting the “numbered objective criteria.” 	Consistent with the Assistant Secretary's instructions to the Deputy Assistant Secretary for Operations to develop a draft centralized administrative review process for directives, CMS&H and MNMS&H will work with SOL to issue a new PIL and the Citation and Order Writing Handbook will be revised to address this recommendation.	In Progress	12/31/13	---
56	OAASEI	PP	<p>The Administrators for CMS&H and MNMS&H and the Director of OAASEI should revise the PPM and the Special Investigations Procedures Handbook to be consistent with the procedures and instructions contained in the Citation and Order Writing Handbook for Coal and Metal and Nonmetal Mines pertaining to possible knowing and/or willful violation reviews. Instructions for completing MSHA Form 7000-20 should be included in the Citation and Order Writing Handbook for Coal and Metal and Nonmetal Mines.</p>	<p>OAASEI will take the lead in revising the PPM and Special Investigations Procedures Handbook to be consistent with the applicable sections of the Citation and Order Writing Handbook. In addition, OAASEI will revise MSHA Form 7000-20 and the instructions for completing the form and will work with CMS&H and MNMS&H to include these instructions in the Citation and Order Writing Handbook.</p> <p>Consistent with the Assistant Secretary's instructions to the Deputy Assistant of Secretary for Operations to develop a draft centralized administrative review process for directives, OAASEI will work with CMS&H and MNMS&H to include these instructions in the Citation and Order Writing Handbook. Consistent with the Deputy Assistant Secretary for Operations' development of a draft centralized administrative review process for directives, CMS&H, MNMS&H, OAASEI and SOL will revise Volume III of the PPM to address flagrant violation issues identified in the internal review report.</p>	<p>Completed</p> <p>In Progress</p>	<p>12/31/2012</p> <p>12/31/2013</p>	---

Count	Lead Program Area	Category	Recommendation	Proposed Corrective Action	Status	Expected Completion Date	Revised Completion Date
57	CMS&H	HR	The Administrator for CMS&H should consult with district managers to determine whether the additional staffing is sufficient to address Section 110(c) special investigation demands, particularly at highly noncompliant mines.	The Administrator will consider more positions within the special investigations branch on an as needed basis as the budget allows.	Completed	06/30/12	---
58	CMS&H	T	The Administrator for CMS&H should direct the District 4 and District 12 managers to require their Supervisory Special Investigators (SSI) to prepare and maintain a memorandum detailing the reasons for not conducting a special investigation in cases where the district manager decides to take no further action, in accordance with the Special Investigations Procedures Handbook.	The CMS&H Administrator will instruct District 4 and District 12 to require their SSIs to prepare and maintain a memorandum detailing the reasons for not conducting special investigations.	Completed	04/30/12	---
59	OAASEI	PP	The Assistant Secretary should direct OAASEI to evaluate implementation of corrective actions resulting from internal reviews during each annual district review.	OAASEI will take the lead and, in collaboration with CMS&H and MNMS&H, will revise the Accountability Handbook to include a requirement for Accountability Office reviews to evaluate the effectiveness of corrective actions taken to address previously identified issues, including issues identified during both internal and accountability reviews. OAASEI will also address recommendations from the OIG's ongoing review of the Accountability Program.	Completed	12/31/12	---
60	OAASEI	PP	The Administrator for CMS&H should collaborate with the Director of OAASEI to provide a means for evaluation of the effectiveness of corrective actions for deficiencies identified in this report and in future accountability reviews. Where practical, these evaluations should include objective measurements of results and effects of the corrective actions. In cases where training is identified as a corrective action, knowledge checks or equivalent means should be conducted to ensure an adequate understanding of the material. In the "General Conclusions and Recommendations" section of the report, the Internal Review team has outlined an approach that could be used for evaluating the effectiveness of corrective actions implemented to address identified deficiencies.	OAASEI will, in collaboration with CMS&H and MNMS&H, revise the Accountability Handbook to remove references to MSHA Headquarters accountability reviews, replacing those reviews with those conducted by the Office of Accountability. The Handbook revisions will also contain requirements for Accountability Office reviews to evaluate the effectiveness of corrective actions taken to address previously identified issues. OAASEI will address recommendations from the OIG's ongoing review of the Accountability Program. CMS&H, MNMS&H and EPD will collaborate on developing an online training with knowledge checks.	Completed	12/31/12	---

Count	Lead Program Area	Category	Recommendation	Proposed Corrective Action	Status	Expected Completion Date	Revised Completion Date
61	CMS&H	PP	<p>The Administrator for CMS&H should direct the revision of the PPM to:</p> <ul style="list-style-type: none"> • Clarify when it is appropriate to establish a new MMU number, including situations when mining equipment is replaced with similar machinery. Policy should clearly explain procedures for assigning respirable dust standards when a new MMU is approved to account for the mine's history of reduced respirable dust standards and expected geological conditions. • Clarify application of 30 CFR 70.207(a) as it relates to the collection of bimonthly samples by mine operators and provide training on the revised policy. This policy should provide guidance on when an MMU has operated a sufficient number of days during a bimonthly period to warrant operator sampling. • Establish criteria for determining abatement times for citations issued for excessive respirable dust concentrations. • Provide consistent guidance between Section I.103-4 of the PPM and the Coal Mine Health Inspection Procedures Handbook. Revisions should clarify when MSHA will collect respirable dust samples on each operating MMU and state that invalid or voided samples do not count for fulfilling this obligation. 	<p>CMS&H will modify Chapter I (Respirable Dust) in the Health Inspection Procedures Handbook to specify when MMU numbers may be changed and what historical information such as the reduced dust standard due to quartz must be continued even when a new MMU number is generated. In addition, consistent with the Assistant Secretary's instructions to the Deputy Assistant Secretary for Operations to develop a draft centralized administrative review process for directives, the PPM will be revised to clearly state the requirement to collect valid respirable dust sample as part of a complete inspection.</p>	In Progress	06/30/13	---
62	CMS&H	IS	<p>The Administrator for CMS&H should direct revisions to MSHA Form 2000-142 to eliminate the reference "Headquarters Only" for Item 7C and to require the serial number of the mining machine(s) and an explicit reference to the section or location in the mine for each MMU to be recorded for Item 11 (Remarks).</p>	<p>MSHA form 2000-142 will be modified in conjunction with the implementation of the new respirable dust computer system scheduled for release in March 2012. The setting of the standard due to percentage of quartz has been available since 1981 to the districts as noted in the instructions for completion of MSHA Form 2000-142. Form 2000-142 has been revised and is being shared with the National Council of Field Labor Locals for approval.</p>	Completed	05/30/12	---

Count	Lead Program Area	Category	Recommendation	Proposed Corrective Action	Status	Expected Completion Date	Revised Completion Date
63	EPD	T	The Administrator for CMS&H should collaborate with the Director of EPD to provide training on the revised policies for district health department supervisors, assistant district managers–technical, and other appropriate CMS&H personnel. This training should also include procedures for using the revised MSHA Form 2000-142.	EPD through the Training Committee will work with CMS&H to ensure the National Mine Health and Safety Academy curriculum is up-to-date with all revised policies. Training being developed for potential supervisors will cover changes made based on revised policies.	Completed	07/31/12	---
64	CMS&H	IS	The Administrator for CMS&H should consider whether it is appropriate to store serial numbers and the section/location designations for each MMU in the MSHA enterprise database.	The new respirable dust computer system scheduled for release in March 2012 has a required field for specifying the location of the MMU.	Completed	03/31/12	04/18/12
65	CMS&H	T	The Administrator for CMS&H should direct that training be provided to District 4 and 12 inspectors, specialists, supervisors, assistant district managers, and other appropriate personnel on proper procedures for conducting, documenting, and reviewing MSHA respirable dust surveys.	Training has been provided to all district health supervisors on the conduct, documentation and review of respirable dust surveys during multiple national health supervisor meetings. This will also be addressed during the April 2012, training for District 4 and District 12 CMS&H inspectors and specialists.	Completed	04/30/12	---
66	PEIR	IS	The Director of PEIR should develop and implement a standard report to track abatement times for respirable dust violations, and the Administrator for CMS&H should direct the Health Division to use the report to monitor district performance.	PEIR will develop the requested report to track abatement times for respirable dust violations. The development is dependent on the successful Samples COBOL Conversion release to allow for the linkage of the sample and the violation. The Administrator for CMS&H will direct the Health Division to use the report to monitor district performance.	Completed	05/30/12	---

Count	Lead Program Area	Category	Recommendation	Proposed Corrective Action	Status	Expected Completion Date	Revised Completion Date
67	EPD	IS	The Director of EPD should collaborate with the Administrators for CMS&H and MNMS&H to improve the tracking of retraining of supervisors, inspectors, and specialists. The Administrators should provide an annual report to the Assistant Secretary detailing compliance with this policy.	<p>EPD currently has a system to track retraining of inspectors and is working on updating the reports to better reflect the retraining inspectors receive at the National Mine Health and Safety Academy. Additionally, EPD will begin working on integrating input screens for use by CMS&H and MNMS&H to track retraining conducted at other sites and certified by CMS&H and MNMS&H. After these changes are completed, reports on retraining will be available from one reporting system.</p> <p>The estimated completion date for integrating a common tracking system along with tracking journeyman training through the program areas is March 2013.</p>	<p>Completed</p> <p>In Progress</p>	<p>10/31/2012</p> <p>3/31/2013</p>	---
68	CMS&H / MNMS&H	PP	The Administrators for CMS&H and MNMS&H should direct the revision of the PPM to clarify MSHA's interpretation of the phrase "mine in its entirety at least four times a year," as referenced by Section 103(a) of the Mine Act.	Consistent with the Assistant Secretary's instructions to the Deputy Assistant of Secretary for Operations to develop a draft centralized administrative review process for directives, the PPM will be revised to clarify MSHA's interpretation of the phrase "mine in its entirety at least four times a year" as referenced in Section 103(a) of the Mine Act.	In Progress	12/31/13	---
69	CMS&H	PP	The Administrator for CMS&H should direct the revision of the Coal Mine Safety and Health Supervisor's Handbook to address correction of inspection deficiencies identified after a fiscal quarter expires, so that salient inspection activities can be conducted four times a year. Supervisors should direct inspectors responsible for deficiencies to reopen regular inspections and complete deficient activities related to salient parts of regular inspections. Prior to implementation, the Administrator should consult with the Director of PEIR to ensure that other programs or computer-based oversight tools will not be adversely affected when regular inspections are reopened after the end of a fiscal quarter.	Consistent with the Assistant Secretary's instructions to the Deputy Assistant of Secretary for Operations to develop a draft centralized administrative review process for directives, the Coal Mine Safety and Health Supervisor's Handbook will be revised to address correction of inspection deficiencies identified after a fiscal quarter expires, so that salient inspection activities can be conducted four times a year. CMS&H will consult with PEIR to ensure that other programs or computer-based oversight tools will not be adversely affected when regular inspections are reopened after the end of a fiscal quarter.	In Progress	12/31/13	---

Count	Lead Program Area	Category	Recommendation	Proposed Corrective Action	Status	Expected Completion Date	Revised Completion Date
70	CMS&H	PP	<p>The Administrator for CMS&H should direct the following revisions to the General Coal Mine Inspection Procedures and Inspection Tracking System Handbook:</p> <ul style="list-style-type: none"> • Define the salient parts of a regular inspection consistent with the requirements of subsections 103(a)(3) and (4) of the Mine Act. • Provide instruction on preparing Inspection Tracking System (ITS) lists at the start of a regular inspection, and update them thereafter, to provide a complete list of salient items that need to be inspected. Inspection activities currently listed only in the Inspection Procedure Header Documentation tables should be incorporated into ITS lists in a manner that permits eliminating the former. The Handbook should explain that the purpose of the ITS includes planning and coordinating inspection activities, rather than proving their completion. • Provide instruction on obtaining, preparing, and maintaining regular inspection tracking maps. Inspectors should be directed to label MMUs and approved evaluation/measurement point locations on tracking maps. Inspectors should update the map to show the extent of mining when the MMU was inspected. Instruction to show the “extent of daily travels” on the map should be clarified to also direct inspectors to show travel start and stop points, the inspector’s initials, and date of inspection. Where possible, the ITS should be streamlined to avoid duplication with the tracking map documentation. Line diagrams should not be used in lieu of tracking maps. • Define activities that Right of Entry inspector trainees may perform at a mine before they receive their AR credentials. 	<p>This is included in the Evaluation of Enforcement Policies and Procedures directed by the Assistant Secretary on July 21, 2010, which is well underway. All of the policies and procedures have been collected and identified, and during the week of January 17, 2012, the Assistant Secretary created a task force to begin the next phase to be overseen by the Deputy Assistant Secretary for Operations. The next phase is the review of the draft handbook and the development of a final handbook for inspectors to use. The final handbook will also include any additional procedure and policy changes identified in the internal review report.</p>	Completed	12/31/12	---

Count	Lead Program Area	Category	Recommendation	Proposed Corrective Action	Status	Expected Completion Date	Revised Completion Date
71	CMS&H	PP	The Administrator for CMS&H should establish a procedure to update the list of records and postings contained in the General Coal Mine Inspection Procedures and Inspection Tracking System Handbook when new regulations require the operator to maintain additional records or postings.	This is included in the Evaluation of Enforcement Policies and Procedures directed by the Assistant Secretary on July 21, 2010, which is well underway. All of the policies and procedures have been collected and identified, and during the week of January 17, 2012, the Assistant Secretary created a task force to begin the next phase to be overseen by the Deputy Assistant Secretary for Operations. The next phase is the review of the draft handbook and the development of a final handbook for inspectors to use. The final handbook is also to include any additional procedure and policy changes as identified in the internal review report.	Completed	12/31/12	---
72	CMS&H	T	The Administrator for CMS&H should direct District 4 and 12 managers to conduct follow-up reviews of inspection reports to evaluate the effectiveness of training provided and take appropriate corrective actions for any deficiencies identified.	This will be addressed during the April 2012, training for all District 4 and District 12 CMS&H inspectors and specialists. Annual training will be scheduled for all new supervisors on a recurring basis.	Completed	04/30/12	---
73	CMS&H	IS	The Administrator for CMS&H should direct a complete evaluation of the effectiveness of the ITS. This evaluation should consider the time used to maintain and update the system and the value realized in tracking the progress of an inspection. Continued use of the ITS and possible modifications to the system would be determined from this analysis. Modifications should eliminate areas of duplication, minimize the time required to document complete inspections, and provide enforcement personnel with a useful resource for conducting quality inspections.	This is included, in part, with the Evaluation of Enforcement Policies and Procedures directed by the Assistant Secretary on July 21, 2010, which is well underway. All of the policies and procedures have been collected and identified, and during the week of January 17, 2012, the Assistant Secretary created a task force to begin the next phase to be overseen by the Deputy Assistant Secretary of Operations. The next phase is the review of the draft handbook and the development of a final handbook for inspectors to use. The final handbook will also include any additional procedure and policy changes identified in the internal review report. Following the completion of the handbook by December 31, 2012, the Administrator for CMS&H will evaluate the effectiveness of the ITS in accordance with this recommendation.	In Progress	09/30/13	---

Count	Lead Program Area	Category	Recommendation	Proposed Corrective Action	Status	Expected Completion Date	Revised Completion Date
74	PEIR	IS	The Assistant Secretary should instruct the Director of PEIR to develop, to the extent possible, fillable forms to be used by inspectors when completing approved forms as part of an inspection or investigation. These fillable forms should be incorporated into the IPAL application to allow the inspector to interact with the directives system in a seamless, user-friendly fashion.	PEIR will modify IPAL to pre-populate data such as Event Number, Mine ID, Mine Name and Operator Name, etc. The following forms will be fillable: 2000-34 new, 2000-84 new, 2000-86, 2000-87, 2000-96, 2000-142 new, 2000-146, 2000-207 new, 2000-209, 2000-223, 4000-29, 4000-125a, 4000-127a, 7000-33 new, 7000-34 new, 7000-35 new, ATF Form 5030.5, and ATF Form 5400.5. The expected implementation date is dependent on union notification and acceptance.	Completed	09/30/12	---
75	EPD	T	The Administrator for CMS&H and the Director of EPD should develop a training program for temporarily promoted supervisors to address pertinent parts of the Coal Mine Safety and Health Supervisor's Handbook. This training should include a knowledge check. Consideration should be given to utilizing distance learning options. In addition, guidelines should be developed for assistant district managers to provide the level of oversight necessary for work groups with inexperienced acting field office supervisors.	EPD is working with CMS&H to develop the curriculum for a course for newly promoted or acting supervisors. The course will cover key material and responsibilities that individuals need to have as soon as possible after assuming a new supervisory position. This course will be developed and delivered online through the existing distance learning format and will contain knowledge checks. CMS&H will issue guidelines for assistant district managers to provide the level of oversight necessary for work groups with inexperienced acting field office supervisors.	Completed	09/30/12	---
76	CMS&H / MNMS&H	PP	The Administrators for CMS&H and MNMS&H should direct the revision of the PPM to address criteria for determining when Section 103(i) inspections will be required for reasons other than methane liberation. Criteria should define when section 103(i) inspections are required at a mine where there exists "some other especially hazardous condition." The PPM also should be revised to define the degree of injury resulting from an ignition or explosion that would require Section 103(i) inspections.	Consistent with the Assistant Secretary's instructions to the Deputy Assistant of Secretary for Operations to develop a draft centralized administrative review process for directives, CMS&H and MNMS&H will revise the PPM to address this issue.	In Progress	12/31/13	---

Count	Lead Program Area	Category	Recommendation	Proposed Corrective Action	Status	Expected Completion Date	Revised Completion Date
77	CMS&H	PP	The Administrator for CMS&H should direct the revision of the UMF Procedures Handbook to include an up-to-date copy of the Mine Information Form generated from MSIS.	Consistent with the Assistant Secretary's instructions to the Deputy Assistant Secretary for Operations to develop of a draft centralized administrative review process for directives, the UMF Procedures Handbook will be revised to include an up-to-date copy of the Mine Information Form generated from MSIS.	In Progress	12/31/13	---
78	CMS&H	PP	<p>The Administrator for CMS&H should collaborate with the Director of PEIR to revise the General Coal Mine Inspection Procedures and Inspection Tracking System Handbook to:</p> <ul style="list-style-type: none"> • Include procedures for inspectors to use IPAL to upload air sample collection data. • Define when inspectors are to collect total methane liberation air samples, consistent with guidance in the Coal Mine Safety and Health Supervisor's Handbook. In addition, guidance should address sample collection timing with respect to coal production and major air changes. • Define situations where more precise methods are to be used for measuring air velocity and provide instruction on how to take them. • Include checks for compliance with 30 CFR 75.400 and 75.403 in the listing of inspection activities that can be conducted during Section 103(i) spot inspections at mines selected for such inspections due to excessive methane liberation, methane hazards, or ignitions. • Direct inspectors to review each item on the Mine Information Form for completeness and accuracy during a regular inspection. This should include instructions for when and how to update the form. 	<p>This is included in the Evaluation of Enforcement Policies and Procedures directed by the Assistant Secretary on July 21, 2010, which is well underway. All of the policies and procedures have been collected and identified, and during the week of January 17, 2012, the Assistant Secretary created a task force to begin the next phase to be overseen by the Deputy Assistant Secretary for Operations. The next phase is the review of the draft handbook and the development of a final handbook for inspectors to use. The final handbook is also to include any additional procedure and policy changes as identified in the internal review report that need to be included.</p> <p>PEIR will collaborate with CMS&H to ensure that the General Coal Mine Inspection Procedures and Inspection Tracking System Handbooks as well as the IPAL users' guide include procedures for inspectors to upload air sample collection data into IPAL.</p>	Completed	12/31/12	---
79	PEIR	IS	The Director of PEIR should complete revisions to IPAL to provide data-entry validation and permit inspectors to upload air sample collection data directly to the enterprise database for integration with the LIMS.	IPAL coding changes to upload air sample collection data have been completed. Union notification occurred on February 15, 2012. PEIR is awaiting union acceptance to begin implementation of this IPAL modification.	Completed	03/31/12	---

Count	Lead Program Area	Category	Recommendation	Proposed Corrective Action	Status	Expected Completion Date	Revised Completion Date
80	TS	IS	The Director of TS should collaborate with the Director of PEIR to complete planned upgrades to NADL to replace outdated equipment and computer systems and integrate LIMS into the MSHA enterprise database.	Effective June 1, 2011, the management and operation of the NADL was transferred from CMS&H to TS. It is being incorporated into the Pittsburgh Safety and Health Technology Center as a new division. This laboratory processes approximately 50,000 inspector rock dust samples for Total Incombustible Content and 40,000 mine gas samples per year. The assigned goal is to decrease the turn-around-time and eventually receive accreditation by a nationally recognized body. Currently, the staffing of the laboratory has been increased by 3 contract employees (an increase of 10 FTE is planned for FY 2012). New equipment has been procured and implemented to a limited extent. A local area network was installed including a complete computer system upgrade. Through MSHA funding, a general upgrade to the physical site (space renovation, increased HVAC) has been designed by the General Services Administration, and construction is scheduled to begin in April 2012. The integration of the NADL data system, the Pittsburgh LIMS, and MSIS is on-target and is consistent with the contemplated changes of MSIS for CMS&H. Further improvements to meet the assigned goals are dependent on the completion of the laboratory physical site upgrade which is targeted for August 2012.	Completed	12/31/12	---
81	PEIR	IS	The Director of PEIR should direct modifications to IPAL to automatically insert the following statement into the Condition or Practice for each Section 104(d) action: "This violation is an unwarrantable failure to comply with a mandatory standard."	IPAL will be modified to automatically insert text for Section 104(d) violations with minimal development time.	Completed	03/31/12	---

Count	Lead Program Area	Category	Recommendation	Proposed Corrective Action	Status	Expected Completion Date	Revised Completion Date
82	EPD	T	The Director of EPD should direct the revision of training programs for citation and order writing to reflect changes in policies and procedures. The training should be provided to all enforcement personnel, supervisors, and managers. Knowledge checks should be used to determine the effectiveness of the training.	<p>EPD will develop refresher online training for inspectors on citation and order writing. Knowledge checks will be used to determine the effectiveness of the training.</p> <p>EPD will work with the Deputy Assistant Secretary for Operations to put a procedure in place ensuring that training programs for all enforcement personnel, supervisors and managers on citation and order writing incorporate in a timely fashion, all changes in new policies and procedures, including regulatory changes.</p>	<p>Completed</p> <p>In Progress</p>	<p>7/31/2012</p> <p>6/30/2013</p>	---
83	CMS&H / MNMS&H	PP	The Administrators for CMS&H and MNMS&H should collaborate with the SOL, Mine Safety and Health Division, to revise the Citation and Order Writing Handbook for coal mines and metal and nonmetal mines to provide a clear evaluation process for inspectors to determine gravity and negligence for each relevant item on the Mine Citation/Order Form. This direction should include definitions for each level of likelihood listed on the Form. The revised Handbook also should incorporate definitions for the levels of negligence that are consistent with those listed in 30 CFR Part 100 and clearly incorporate the meaning of "mitigating circumstances."	SOL guidance on this issue is pending. Once received, and consistent with the Assistant Secretary's instructions to the Deputy Assistant of Secretary for Operations to develop a draft centralized administrative review process for directives, CMS&H and MNMS&H will begin efforts to address this recommendation.	In Progress	06/30/13	---

Count	Lead Program Area	Category	Recommendation	Proposed Corrective Action	Status	Expected Completion Date	Revised Completion Date
84	CMS&H	PP	The Administrator for CMS&H should direct the revision of the Coal Mine Safety and Health Supervisor's Handbook to provide supervisors with a list of fundamental procedures for reviewing enforcement actions. The Handbook should direct assistant district managers to routinely review a representative number of enforcement actions for conformity to these procedures. Managers should review a representative number of extensions to citations to ensure that inspectors provide specific reasons for extending termination due times that give primary consideration to the health and safety of miners and are not for the convenience of the mine operator or MSHA.	<p>Guidance will be provided to supervisors and managers through either face-to-face or video teleconferencing training on the proper review of inspection reports and enforcement actions. Key indicator reports are reviewed at the district and the headquarters level on outstanding violations that are not abated. Managers at the district level will be trained to address extensions and assure that extensions are warranted.</p> <p>Consistent with the Assistant Secretary's instructions to the Deputy Assistant Secretary for Operations to develop a draft centralized administrative review process for directives, CMS&H will revise the Coal Mine Safety and Health Supervisor's Handbook to provide supervisors with a list of procedures for reviewing enforcement actions.</p>	<p>Completed</p> <p>In Progress</p>	<p>9/30/2012</p> <p>12/31/2013</p>	---
85	CMS&H	PP	The Administrator for CMS&H should consider removing the Health/Safety/Other block from the Mine Citation/Order Form. The Administrator also should consider revising the Citation and Order Writing Handbook for Coal Mines and Metal and Nonmetal Mines to remove the direction for CMS&H inspectors to complete this field. The Director of PEIR should make corresponding changes to the IPAL data input screen.	CMS&H will consider this recommendation, and if appropriate, work with PEIR to remove these blocks on the citation and order form.	Completed	09/30/12	---

Count	Lead Program Area	Category	Recommendation	Proposed Corrective Action	Status	Expected Completion Date	Revised Completion Date
86	CMS&H /MNMS&H	PP	The Administrators for CMS&H and MNMS&H should direct the revision of their General Inspection Procedure Handbooks to move note-taking instructions related to enforcement actions to the Citation and Order Writing Handbook for coal mines and metal and nonmetal mines. The Handbook should direct inspectors to document both the facts necessary for evaluating compliance, gravity, and negligence and the logic for deriving conclusions from the facts. Inspectors should identify in their notes the records (specific to the record type, dates, and relevant information from such records) used as a factor to determine negligence for each violation.	This is included in the Evaluation of Enforcement Policies and Procedures directed by the Assistant Secretary on July 21, 2010, which is well underway. All of the policies and procedures have been collected and identified, and during the week of January 17, 2012, the Assistant Secretary created a task force to begin the next phase to be overseen by the Deputy Assistant Secretary for Operations. The next phase is the review of the draft handbook and the development of a final handbook for inspectors to use. The final handbook is also to include any additional procedure and policy changes as identified in the internal review report that need to be included. MNMS&H has established a handbook committee to update and revise all handbooks, including its General Inspection Procedures. That handbook will be revised to address the issue of note-taking instructions.	In Progress	12/31/12	12/31/13
87	CMS&H	PP	The Administrator for CMS&H should revise the General Coal Mine Inspection Procedures and Inspection Tracking Handbook to include a statement that approved plans for the first panel in a longwall district are often unique. Inspectors should review these plans carefully and focus on compliance with these requirements during inspections of longwalls.	CMS&H's revisions to its General Inspection Procedures Handbook are included the Evaluation of Enforcement Policies and Procedures directed by the Assistant Secretary on July 21, 2010, which is well underway. All of the policies and procedures have been collected and identified, and during the week of January 17, 2012, the Assistant Secretary created a task force to begin the next phase to be overseen by the Deputy Assistant Secretary for Operations. The next phase is the review of the draft handbook and the development of a final handbook for inspectors to use. The final handbook is also to include any additional procedure and policy changes as identified in the internal review report that need to be included.	Completed	12/31/12	---

Count	Lead Program Area	Category	Recommendation	Corrective Action	Status	Expected Completion Date	Revised Completion Date
88	OAS	C	The Assistant Secretary should convene a panel of mine rescue experts from industry, state and federal government, labor, and academia to review, refine, and develop mine rescue and recovery protocol to address lessons learned from the UBB disaster. The panel should also consider the conditions and events surrounding other recent mine accidents, including events occurring in other countries. The panel should include mine rescue team members or trainers.	On May 7, 2012, the Assistant Secretary convened a two-day mine rescue summit at the National Mine Health and Safety Academy. Mine rescue experts from all sectors of the mining world were invited to attend. The summit coincided with mine rescue competitions, so that participants could attend the summit as well. The goal of the summit was to provide information from all sectors about the latest improvements in mine rescue, to identify gaps in mine rescue response and preparedness, and to decide what further actions are needed to ensure that a swift and comprehensive response occurs from government, industry and others when a mine emergency occurs.	Completed	5/7/12	---

Count	Lead Program Area	Category	Recommendation	Corrective Action	Status	Expected Completion Date	Revised Completion Date
89	OAS	PP	The Assistant Secretary should reestablish the functionality and improve the utility of the MSHA Directives System.	<p>In a Memorandum dated July 21, 2010, the Assistant Secretary asked the Administrators for CMS&H and MNMS&H to establish a detailed plan for the review of all of the policies and procedures inspectors must follow when conducting inspections. A plan was then put into place that has resulted in a draft of the General Coal Mine Inspection Procedures and Inspection Tracking System Handbook (MNMS&H has established its own committee to revise all of the MNMS&H handbooks, including its General Procedures Handbook).</p> <p>On January, 17, 2012, the Assistant Secretary created a task force to be overseen by the Deputy Assistant Secretary for Operations to begin the next phase of the project to review the draft coal mine enforcement handbook and develop an improved handbook for use by CMS&H mine inspectors. The improved handbook will also include any additional procedure and policy changes identified by the internal review report. The task force has also been charged with identifying and developing changes to the Directives System's ITS technology so that the handbook and forms included in the handbook interact in a seamless user-friendly fashion.</p> <p>On February 23, 2012, the Assistant Secretary also assigned the Deputy Assistant Secretary for Operations the responsibility for developing a centralized administrative review process for updating and monitoring all of MSHA's directives and the Directives System so that MSHA's enforcement and other personnel are well informed and MSHA programs operate in a fair and consistent manner. The administrative process will have procedures in place to monitor policy development, evaluate the program directives for need, consistency and impact on the agency, and facilitate the activities of the policy coordinators from all MSHA programs.</p>	Completed	2/23/12	---

Count	Lead Program Area	Category	Recommendation	Corrective Action	Status	Expected Completion Date	Revised Completion Date
90	OAS	PP	The Assistant Secretary should direct the revision of the APPM to incorporate APL A11-I-01 which established policies and procedures for required continuing education of ARs. In addition, the APPM should be revised to include a permanent requirement for two-week biannual training for field office supervisors. Newly-selected supervisors should be provided this training at the earliest possible date.	The Assistant Secretary directed staff to incorporate APL A11-I-01, which establishes policies and procedures for required continuing education for ARs into the APPM no later than December 31, 2013. This includes permanent requirements for two-week biannual training for field office supervisors at the earliest possible date.	Completed	6/26/12	---
91	OAS	PP	As outlined in the May 11, 2011 Memorandum of Understanding (MOU) with the Interstate Mining Compact Commission (IMCC), the Assistant Secretary should continue to pursue MOUs with states having enforcement agencies or state-sponsored mine rescue teams for the mining industry. These MOUs should focus on the cooperation of federal and state agencies during a mine emergency operation, including an agreement that the agencies will not act independently.	The Assistant Secretary and MSHA have held many stakeholder meetings on mine rescue (such as meetings in May, July and September 2012), including several with the states and the IMCC (the organization representing a group of states with significant mining interests). State by state MOUs were discussed with the IMCC state agency group, and a plan is being pursued to develop a single mine rescue response strategy, instead of entering into MOUs with each state (In coal, for example, in 2012, there were 25 coal producing states), which could result in varying and conflicting agreements.	In Progress ⁶	Ongoing	---
92	OAS	HR	The Assistant Secretary should direct the completion and implementation of his succession plan already in development. The plan should address required staffing levels and projected attrition to ensure that the agency can effectively fulfill its enforcement responsibilities under the Mine Act. The plan also should identify the level of staffing necessary to maintain a core of fully trained and experienced inspectors. This plan should explore the feasibility of enabling double-encumbering enforcement positions.	MSHA has developed a succession plan that has been transmitted to DOL for its review. MSHA intends to begin implementation of the plan in 2013.	In Progress	09/30/13	---

⁶ MSHA has held several meetings with stakeholders, including the IMCC, the organization that represents states with significant mining interests. As a result of these meetings, MSHA has decided that rather than pursue state-by-state MOUs, which could result in varying and conflicting agreements, a plan involving a single mine rescue strategy with an organization outside of MSHA, should be pursued. The first step is development of an organization structure for implementation and this is in progress. MSHA cannot at this time reasonably predict when it will be completed.

Count	Lead Program Area	Category	Recommendation	Corrective Action	Status	Expected Completion Date	Revised Completion Date
93	OAS	HR	The Assistant Secretary should consider making some EFS specialists ARs to assist in the inspection of training records and establish protocol for coordinating with district managers to provide these services when needed.	The Assistant Secretary considered the recommendations to make EFS specialists ARs as recommended by the Internal Review report and determined that the role of EFS training specialists should not be changed to include enforcement authority. Inspectors, as part of their regular inspections, review training records. EFS training specialists assist enforcement personnel by conducting evaluations of training programs. If an EFS review uncovers noncompliance issues, this information is forwarded to the district manager for appropriate enforcement action.	Completed	02/11/13	---
94	OAS	HR	The Assistant Secretary should instruct the Director of EPD to provide resources to assist CMS&H by conducting additional Part 50 Audits. The Assistant Secretary should consider making some EFS specialists ARs to enable them to conduct audits independently of CMS&H inspectors.	The Assistant Secretary considered the recommendations to make EFS specialists ARs as recommended by the Internal Review report and determined that the role of EFS training specialists should not be changed to include enforcement authority. EFS specialists have a long history of working successfully within the mining industry, without having enforcement authority. While the enforcement and EFS roles are different, they complement each other as they are now structured, and their responsibilities are both important in ensuring miners receive necessary and effective training. The Assistant Secretary agrees that EFS specialists should continue to provide resources to assist inspectors conduct Part 50 audits upon request as they have in the past.	Completed	02/11/13	---

Count	Lead Program Area	Category	Recommendation	Corrective Action	Status	Expected Completion Date	Revised Completion Date
95	OAS	C	The Assistant Secretary should request that NIOSH develop a method to identify operators or mines for Part 50 Audits. Potential criteria could include compliance records of operators, hazardous condition complaints, respirable dust issues, and allegations of under-reporting.	The Internal Review report recommended that the Assistant Secretary request that NIOSH develop a method to identify operators or mines for Part 50 audits. The Internal Review report suggested that potential criteria could include a handful of factors, including allegations of under-reporting of accidents and injuries. MSHA and DOL are very interested in the issue of underreporting and agree that further study is needed. As a result, DOL's Office of Policy commissioned an outside entity to perform a study on underreporting, its scope, causes and potential improvements to MSHA's auditing program. That study is ongoing. In addition, in March, 2013, one of the Independent panel members is presenting a research proposal on Part 50 audits. Following the review of these studies, MSHA will determine next steps.	In Progress ⁷	No date provided	---
96	OAS	R	The Assistant Secretary should consider rulemaking to revise 30 CFR 75.402 to require the use of: <ul style="list-style-type: none"> • high-pressure rock-dusting machines to continuously apply rock dust into the air stream at the tailgate end of the longwall face whenever cutting coal; • rock-dusting machines to regularly apply rock dust at the outby edges of active pillar lines on retreating continuous mining machine sections; and • rock-dusting machines to regularly apply rock dust at approaches to other inaccessible areas downwind of coal dust-generating sources. 	On October 19, 2010, MSHA published a proposed rule to lower miners' exposure to respirable coal dust. The remaining recommendation related to rock dust is currently under consideration for rulemaking. Any regulatory action MSHA undertakes must be done in accordance with the Mine Act and Administration regulatory procedures and will extend beyond 2013.	In Progress	Cannot predict with reasonable certainty when rulemaking will be completed	---

⁷ DOL commissioned an outside entity to perform a study of underreporting, its scope, causes and potential improvements to MSHA's auditing program. MSHA is awaiting the completion of that study so it can review it. When that study is complete, MSHA will be in a position to determine if assistance from NIOSH or other entity is needed. Until MSHA has had an opportunity to analyze the results of ongoing research, it cannot reasonably predict an expected completion date for this recommendation.

Count	Lead Program Area	Category	Recommendation	Corrective Action	Status	Expected Completion Date	Revised Completion Date
97	OAS	R	The Assistant Secretary should consider rulemaking to require the use of equipment doors in lieu of permanent stoppings, or to control ventilation within an air course, be subject to approval in the mine ventilation plan. This regulation also should consider a provision which would require all equipment doors installed in travelways to utilize an interlock system to ensure only one door can be opened at any time to maintain the separation of air courses.	The recommendation as it relates to ventilation is currently under consideration for rulemaking. Any regulatory action MSHA undertakes must be done in accordance with the Mine Act and Administration regulatory procedures and will extend beyond 2013.	In Progress	Cannot predict with reasonable certainty when rulemaking will be completed	---
98	OAS	R	The Assistant Secretary should consider rulemaking to modify the provisions of 30 CFR Parts 100 and 104 to minimize the effect of the more subjective gravity and negligence determinations on penalty proposals and pattern of violation determinations, without reducing the incentive for operators to comply with standards and regulations.	The final Pattern of Violations rule, published on January 23, 2013, revises Part 104. The remaining recommendation related to 30 CFR Part 100 is currently under consideration for rulemaking. Any regulatory action MSHA undertakes must be done in accordance with the Mine Act and Administration regulatory procedures and will extend beyond 2013.	In Progress	Cannot predict with reasonable certainty when rulemaking will be completed	---
99	OAS	R	The Assistant Secretary should consider rulemaking to modify the provisions of 30 CFR Part 100 to provide for increased penalties for the failure of mine operators to report accidents, injuries, and illnesses.	MSHA has drafted a proposed rule addressing the assessment of civil penalties, and this proposed rule was submitted to the Office of Management and Budget for review on December 2, 2011. The remaining recommendation related to 30 CFR Part 100 is currently under consideration for rulemaking. Any regulatory action MSHA undertakes must be done in accordance with the Mine Act and Administration regulatory procedures and will extend beyond 2013.	In Progress	Cannot predict with reasonable certainty when rulemaking will be completed	---

Count	Lead Program Area	Category	Recommendation	Corrective Action	Status	Expected Completion Date	Revised Completion Date
100	OAS	R	The Assistant Secretary should consider rulemaking to require mine operators to regularly determine the adequacy of rock dusting using a method approved by the Secretary. This could be achieved by requiring mine operators to sample mine dust for analysis or conduct CDEM testing at sufficient locations and intervals to determine if any area of the mine needs re-dusting. The rule should consider requirements for certification, recordkeeping (including a map of sample locations), and corrective actions similar to examination standards. During the interim, the Administrator for CMS&H should issue a PIB advising operators of the need for them to sample or test mine dust to ensure compliance with 30 CFR 75.403. Upon implementation of such rule, the Administrator should consider revising inspection procedures to replace tracking of wet sample locations with a spot sampling program in outby areas sufficient to evaluate the operators' sampling program.	The recommendation as it relates to rock dust is currently under consideration for rulemaking. Any regulatory action MSHA undertakes must be done in accordance with the Mine Act and Administration regulatory procedures and will extend beyond 2013. In advance of rulemaking on rock dust sampling, the Administrator for CMS&H, on January 25, 2013, issued a PIB encouraging operators to collect and measure mine dust samples to verify sufficient application of rock dust in underground coal mines. CMS&H is also instituting additional enforcement measures, including improving sampling for incombustible content to ensure operators are properly rockdusting throughout mines, and focusing on the highest risk areas, float coal dust in mines, and operator clean-up programs. On August 16, 2010, the Administrator for CMS&H issued 4 PIBs regarding ventilation.	In Progress	Cannot predict with reasonable certainty when rulemaking will be completed	---

Legend	
Broad Categories	
Training	T
Information Systems	IS
Policies and Procedures	PP
Human Resources and Succession Planning	HR
Rulemaking	R
Collaboration with External Entities	C

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Exhibit 3**Independent Panel Report Recommendations**

Recommendation # 1			
Modify the strategic paradigm that informs MSHA enforcement activities			
Goal #	Independent Panel's Suggested Goals to Assist in the Implementation of Recommendations	Does MSHA believe goal has merit?	MSHA's Response
1	Replace technical rules with performance standards.	N	MSHA has reviewed this Independent Panel recommendation and has concluded that the model developed by Congress when it was considering passage of the 1969 Mine Act is still sound and the correct approach for MSHA going forward. Making the change suggested by the Independent Panel, which is not supported in its report, could well reverse the long-term safety and health gains made with the current approach.
2	Incentivize mine operators to hire in-house specialists.	Y	Some mine operators should take greater responsibility for the development and oversight of mining plans. The Internal Review report contained a number of recommendations for regulatory action, including certification of mining personnel, and MSHA will be addressing those in the near future in its regulatory actions. For all the certification of mining personnel recommendations contained in the Independent Panel report that require rulemaking action, MSHA has a number of regulatory actions in process, and its rulemaking agenda going forward has not yet been determined. This is subject to Office of Management and Budget review.

Recommendation # 1			
Modify the strategic paradigm that informs MSHA enforcement activities			
Goal #	Independent Panel's Suggested Goals to Assist in the Implementation of Recommendations	Does MSHA believe goal has merit?	MSHA's Response
3	Encourage the use of occupational safety and health management systems.	Y	MSHA believes that effective safety and health management programs in mining will create a sustained industry-wide effort to eliminate hazards and will result in the prevention of injuries and illnesses. As a result, MSHA has been gathering information about these systems, and on September 9, 2010, published a request for information in the Federal Register and gave notice of three public meetings.
4	Evaluate the requirement that MSHA inspect all underground mines on a quarterly basis.	N	The requirement for quarterly inspections at underground mines has been the keystone of the Mine Act since 1969. Frequent MSHA inspections identify and require the correction of hazards and violations that have not been corrected by the mine operator, thereby exposing miners to harm. Congress concluded decades ago that quarterly inspections were needed to protect the Nation's miners, and these inspections have been highly effective in reducing deaths, injuries and illnesses in the Nation's mines. MSHA believes that Congress had it right and disagrees with altering this important protection, which could unravel the improvements made and place miners in greater jeopardy. The fatal rate has dropped approximately 88% since the passage of the 1969 Mine Act.

Recommendation # 1			
Modify the strategic paradigm that informs MSHA enforcement activities			
Goal #	Independent Panel's Suggested Goals to Assist in the Implementation of Recommendations	Does MSHA believe goal has merit?	MSHA's Response
5	Evaluate MSHA's use of, and the potential effectiveness of, MSHA's enforcement authorities.	Y	MSHA agrees that it should evaluate the effectiveness of its enforcement authorities and it has a process in place to do this. These evaluations have increased since the Assistant Secretary arrived at MSHA. Several new enforcement initiatives have been implemented recently, and MSHA is evaluating them for effectiveness and improvements. They include the impact inspection initiative, revised PPOV program, End Black Lung Act Now, Rules to Live By, and pre-contest conference initiatives.
6	Place responsibility for data collection on the mine operator.	Y	Mine operators are currently required by regulation to collect considerable data and information, including information on air measurements, sampling of respirable dust, and other safety and health information. More data collection by mine operators could improve mine safety and better sampling procedures are needed. MSHA provided technical advice supporting technologies, such as atmospheric monitoring and use of CDEMs to determine the combustibility of coal mine dust quickly, to the drafters of the Byrd Act, which was introduced in both the Senate and House in 2010.

Recommendation # 1			
Modify the strategic paradigm that informs MSHA enforcement activities			
Goal #	Independent Panel's Suggested Goals to Assist in the Implementation of Recommendations	Does MSHA believe goal has merit?	MSHA's Response
7	Explore new solutions to improve workforce readiness.	Y	MSHA agrees that increased training is important but that more needs to be done and NIOSH has already taken a number of steps to respond. MSHA is already utilizing new creative forms of training, including distance learning and web-accessible training, for not only MSHA employees, but for operators and miners as well. Some of this is being done as part of its corrective actions in response to the Internal Review report.
8	Improve MSHA's utilization of information technology.	Y	MSHA agrees that improvements are needed in the utilization of information technology and to upgrade its technological systems. Many of the reforms that MSHA has undertaken involved the reorganization of MSHA's Office of Assessments into OAASEI. This restructuring has resulted in better management and oversight over MSHA's special enforcement and investigations, worker voice and accountability audit programs, and better information sharing across the special enforcement, investigation and auditing groups.

Recommendation #2			
Improve the scope and value of MSHA's internal reviews			
Goal #	Independent Panel's Suggested Goals to Assist in the Implementation of Recommendations	Does MSHA believe goal has merit?	MSHA's Response
1	Revise Section 1204(b).	Y	MSHA agrees that the APPM, which governs the conduct of the Internal Review, needs to be revised. For several months, the agency has been working on those revisions, which include requiring root cause analyses and changes to the interview section. Provided MSHA has resources available, these should be finalized by the 3 rd quarter of FY2013.
2	Utilize specially trained, outside interviewers.	Y	MSHA agrees that the quality of the Internal Review interviews could have been better, and it is exploring options, such as greater SOL involvement and mandating special training on interview techniques for those who conduct interviews, to correct this. Prior to the issuance of the IP report, MSHA had already been working with the Federal Bureau of Investigation to provide training to agency accident and special investigators on agency investigation and interview techniques.

Recommendation #3			
Ensure that corrective actions are effectively implemented.			
Goal #	Independent Panel's Suggested Goals to Assist in the Implementation of Recommendations	Does MSHA believe goal has merit?	MSHA's Response
1	The IP proposed that DOL's Chief Evaluation Office (in the Office of the Assistant Secretary for Policy) appoint an Independent Monitor to oversee implementation of the corrective actions.	N	MSHA does not believe that the Chief Evaluation Office is equipped to perform this function. Instead, the agency has charged OAASEI with evaluating the effectiveness of MSHA's corrective actions which plan should be completed in FY 2013. In addition, MSHA program areas are responsible for implementing the corrective actions, meeting time lines and reporting the results through an MSHA internal review process to assure that corrections have been implemented. A final review is made at the Assistant Secretary level.

Recommendation #4			
Address technical deficiencies in current mining practice that could compromise safety.			
Goal #	Independent Panel's Suggested Goals to Assist in the Implementation of Recommendations	Does MSHA believe goal has merit?	MSHA's Response
1	Develop best practices for ventilating the longwall face and its tailgate corner to minimize dangerous accumulations of methane gas.	Y	The Internal Review report contained a number of recommendations for regulatory action regarding ventilation, and there were other ventilation issues, including recommendations in the IP report which MSHA will be addressing in the near future.
2	Define relative merits of bleeder and bleederless ventilation systems for controlling methane accumulation on longwall panels.	Y	MSHA has engaged in extensive discussions about the ventilation of mines with bleeder and bleederless systems over the years. The agency has conducted training sessions and workshops addressing this issue and plans to continue them in the future. Bleeder systems are governed by MSHA regulations, and the merits of bleeder vs. bleederless systems were thoroughly debated during the 1992 and 1996 revisions of the ventilation rules; the final rule reflected public input. MSHA's rule permits bleederless systems only in mines that have the highest potential for spontaneous combustion. The UBB mine was not such a mine.

Recommendation #4			
Address technical deficiencies in current mining practice that could compromise safety.			
Goal #	Independent Panel's Suggested Goals to Assist in the Implementation of Recommendations	Does MSHA believe goal has merit?	MSHA's Response
3	Develop best practices for the location of monitors on and around the face to readily detect dangerous levels of methane.	Y	The application of improved atmospheric monitoring technology is long overdue in this country, and MSHA supports its use. MSHA provided technical advice on this technology to the drafters of the Byrd Act, which was first introduced in both the Senate and House in 2010. Under the draft legislation, NIOSH would develop recommendations on the implementation of atmospheric monitoring technology, and the Secretary of Labor would develop regulations based on those recommendations. The atmospheric monitoring issues addressed in the Internal Review, Independent Panel, and elsewhere will be considered as part of MSHA's regulatory review.
4	Develop best practices for employing monitoring systems to detect unexpected changes to ventilation systems and to identify and forecast potentially dangerous conditions.	Y	MSHA stated that the application of improved atmospheric monitoring technology is long overdue in this country, and MSHA supports its use. MSHA provided technical advice on this technology to the drafters of the Byrd Act, which was first introduced in both the Senate and House in 2010. Under the draft legislation, NIOSH would develop recommendations on the implementation of atmospheric monitoring technology, and the Secretary of Labor would develop regulations based on those recommendations. The atmospheric monitoring issues addressed in the Internal Review, Independent Panel and elsewhere will be considered as part of MSHA's regulatory review. This includes best practices for employing monitoring systems to detect unexpected changes to ventilation systems and to identify and forecast potentially dangerous conditions.

Recommendation #4			
Address technical deficiencies in current mining practice that could compromise safety.			
Goal #	Independent Panel's Suggested Goals to Assist in the Implementation of Recommendations	Does MSHA believe goal has merit?	MSHA's Response
5	Develop appropriate sampling procedures to detect and determine if adequate inertization of float dust has occurred	Y	MSHA agrees that better sampling procedures are needed. The agency provided technical advice supporting the CDEM technology to the drafters of the Byrd Act, which was first introduced in both the Senate and House in 2010. MSHA has completed other Internal Review corrective action recommendations related to rock dust, including: beginning a collaboration with NIOSH on developing a standard method for collecting mine samples for operators and inspectors to be used to determine compliance with 30 CFR 75.403; and providing training for supervisors on using standard oversight reports to ensure that inspectors have valid reasons for not collecting samples.
6	Determine the relative merits of applying active and passive barriers in specific circumstances.	Y	Considerable research has been conducted on the prevention of coal dust-fueled coal mine disasters over the years. Recent research by NIOSH, completed in 2010, recommended that rock dust be increased in coal mines so that coal mine dust would have a total incombustible content of at least 80% in order to prevent mine explosions. MSHA acted on that recommendation and immediately published (on September 23, 2010) an emergency temporary standard that adopted NIOSH's recommendation. After notice and comment by the public, MSHA published its final rule in June 2011. This rule required all underground coal mine operators to meet the 80% total incombustible standard, which MSHA believes will prevent coal dust-fueled explosions. If the operator at UBB had adequately rock dusted the mine, the localized methane ignition would not have propagated into a massive coal dust explosion

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Appendices

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Appendix A

Background

The mission of MSHA is to prevent death, disease, and injury from mining and to promote safe and healthful workplaces for the Nation's miners. To fulfill this mission, the Mine Act, as amended by the Mine Improvement and New Emergency Response Act of 2006, requires MSHA to develop and promulgate mandatory safety and health standards, inspect mines to determine whether there is compliance with those standards, and investigate accidents to determine their causes. Moreover, MSHA's APPM (Volume III, Chapter 1200) requires that an Internal Review of MSHA's enforcement activities be conducted after each mining accident that results in three or more fatalities.

On April 5, 2010, a longwall face methane ignition at the UBB Mine-South transitioned into a small methane explosion that propagated into a massive coal dust explosion. Twenty-nine miners were killed and two seriously injured in the deadliest U.S. coal mine disaster in nearly 40 years. The MSHA accident investigation team determined that the explosion occurred because Performance Coal Company and its parent company, Massey Energy Company, violated fundamental safety standards and failed to take corrective actions to prevent the catastrophic explosion.

Prior to the explosion, the level of enforcement at UBB was among the highest in the nation. Beginning FY 2009 and ending April 5, 2010, MSHA issued 689 citations and orders pursuant to Section 104 for violations at UBB.⁸ These included the second highest number of Section 104(d) citations and orders issued at any coal mine in the Nation.⁹ Section 104(d) orders require the mine operator to withdraw all persons from the area affected by the violation except those necessary to correct the condition until the violation has been abated.

On April 29, 2010, MSHA's Assistant Secretary instructed the Director of PEIR to conduct an Internal Review of MSHA's actions at UBB. The Internal Review team was comprised of MSHA employees with various specialties and expertise who did not have current enforcement responsibility in CMS&H District 4. The Internal Review team evaluated MSHA's actions relative to the UBB explosion and made recommendations to improve MSHA's performance in order to better protect the Nation's miners from similar disasters in the future. The Internal Review team primarily focused on MSHA enforcement and plan approval activities during the 18 months preceding the explosion. Where appropriate, the team examined relevant historical information beyond the 18-month review period.

On March 6, 2012, MSHA issued the Internal Review report. The Internal Review team did not find evidence that the actions of District 4 personnel or inadequacies in MSHA safety and health standards, policies, or procedures caused the explosion, but the Internal Review team found several instances where enforcement efforts at UBB were

⁸ This does not include five citations and orders that subsequently were vacated.

⁹ During FY 2009, UBB received the highest number of Section 104(d) actions in the nation.

compromised because MSHA and District 4 did not follow MSHA's policies and procedures. The Internal Review team also found inspectors would have benefited if certain policies and procedures had been more clearly drafted and more effectively implemented. The significant findings contained in the Internal Review report were related to deficiencies with the following:

- Inspections
- Use of elevated enforcement tools
- Float coal dust and rock dust sampling
- Mine plans (ventilation plan and roof control plan)
- Review and use of mine examination records
- Respirable dust

The Internal Review found that some of the agency deficiencies were related to funding limitations at MSHA in years prior to the UBB disaster that resulted in a shortfall of experienced agency enforcement personnel that had hampered MSHA in enforcement of the Mine Act at the time of the UBB tragedy. The OIG audit did not address that matter.

Some of the deficiencies identified in the Internal Review report are currently being addressed or have already been addressed by MSHA. Where appropriate, the Internal Review report also included recommendations to enhance MSHA's performance and better promote the safety and health of miners. The Internal Review report contains 100 recommendations, and as of September 30, 2012, MSHA reported on its 'Corrective Action Tracking' website that 38 recommendations were completed. The 38 recommendations addressed deficiencies related to the following:

- Mine plan approvals
- Respirable dust at UBB
- Inspections (i.e., Sections 103a and 103i)
- Use of Section 104 enforcement authority
- Enforcement of specific provisions and standards for contributory violations (i.e., enforcement of 30 CFR parts 48.3, 75.360, 75.362, 75.363, 75.364, 75.400, and 75.403)
- Enforcement of specific standards for non-contributory violations (i.e., enforcement of electrical standards and enforcement of 30 CFR part 50)
- Management issues
- Mine rescue and recovery
- Proposed assessment of civil penalties

For the fourth quarter in Calendar Year 2012 (October 1, 2012 through December 31, 2012) MSHA completed 16 recommendations, and these recommendations were posted in MSHA's 'Corrective Action Tracking' website on January 31, 2013. As of February 15, 2013, MSHA told the OIG it was moving steadily forward in implementing the remaining 44 recommendations.

On April 16, 2010, the Secretary of Labor asked the Director of NIOSH to identify a team with relevant experience to provide an independent analysis of MSHA's internal review for UBB. The purpose of this independent assessment was to assure transparency and accountability, and this independent assessment focused on the policy, process, and outcomes of the UBB internal review. On March 22, 2012, the Independent Panel issued its report, which contained four recommendations intended to complement the recommendations contained in the Internal Review report:

1. Modify the strategic paradigm that currently informs MSHA's enforcement activities.
2. Improve the quality of internal investigations that MSHA (or independent investigators) conduct following mine disasters such as UBB.
3. Ensure that corrective actions are effectively implemented.
4. Address technical deficiencies in current mining practice that could compromise safety.

MSHA formally met with the Independent Panel on March 20, 2013 to discuss the recommendations.

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Appendix B

Objectives, Scope, Methodology, and Criteria

Objectives

We performed audit work to answer the following questions:

1. What methodology did MSHA use to prioritize the recommendations for implementation?
2. Can MSHA document the recommendations reported as completed?
3. Is MSHA on track to meet its milestones for implementation of recommendations?

Scope

Our audit covered the 100 recommendations in the Internal Review report, and the four recommendations in the Independent Panel report.

We conducted all audit work at MSHA's headquarters located in Arlington, VA. We tested 38 of the 100 recommendations in the Internal Review report, completed between February 2012 and September 2012.

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

We obtained an understanding of the internal review process established by MSHA in March 2012 to implement the recommendations in the Internal Review report. To answer our audit objectives, we (1) determined whether MSHA has policies and procedures for the implementation of corrective actions to address the recommendations from internal reviews; (2) interviewed key officials from OAS and the MSHA program areas; (3) determined the methodology that MSHA used to prioritize the implementation of the recommendations in the Internal Review report; (4) determined if MSHA could document the Internal Review recommendations reported as completed in MSHA's 'Corrective Action Tracking' website; and (5) determined if MSHA is on track to meet its implementation milestones for the recommendations in the Internal Review report.

Independent Panel Report

We met with MSHA officials to discuss the implementation progress for the recommendations in the Independent Panel report, and we interviewed two Independent Panel members to gain an understanding of the four recommendations. We also asked MSHA to complete a questionnaire regarding the implementation status (i.e., completed, in progress, or will not be completed) and the milestones (i.e., expected completion date) for the recommendations.

Data Reliability

To determine the reliability of the data contained in the 'Internal Tracking' spreadsheet, 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). The 'Internal Tracking' spreadsheet contains the 87 recommendations from the Internal Review report that were assigned to the MSHA program areas. We used the data contained in the 'Internal Tracking' spreadsheet to identify the recommendations that were completed between February 2012 and September 2012, and to determine the milestones established for these recommendations. Based on our assessment and tests, we concluded the data on the 'Internal Tracking' spreadsheet were sufficiently reliable to be used in meeting our objectives.

Sampling

We determined that some of the Internal Review recommendations that were completed between March 2012 and September 2012 required that training be provided to the ARs in CMS&H Districts 4 and 12, and we obtained attendance sheets for a random sample of ARs in these two districts. Specifically, we identified the number of district and field offices in CMS&H Districts 4 and 12, and we randomly selected four field offices from a universe of nine field offices. Also for the ARs located in these four field offices, we obtained attendance sheets and we determined that the ARs completed the required training. Projections were not necessary because the purpose of the sample was to determine whether MSHA could document that the required training was provided to the ARs in CMS&H Districts 4 and 12.

Testing

Policies and Procedures

We reviewed MSHA's APPM, Volume III, Chapter 1200 (April 24, 1992), and we determined that MSHA is revising Chapter 1200 of the APPM. Specifically, MSHA is revising the interview section (Chapter 1240) and adding a section that will require root cause analyses to be performed in future internal reviews. MSHA expects to complete the APPM revisions by the end of FY 2013.

Documentation of Recommendations

For the 38 recommendations reported as completed in MSHA's 'Corrective Action Tracking' website as of September 30, 2012, we obtained the documentation that supported the corrective actions taken by OAS and the MSHA program areas. We reviewed the documentation and determined whether the documentation supported the corrective actions taken.

Implementation Prioritization

We interviewed MSHA officials to determine the methodology that MSHA used to prioritize the implementation of the recommendations in the Internal Review report. We analyzed the recommendations assigned to the MSHA program areas and determined that the recommendations can be classified in one of the following broad categories: (1) training; (2) information systems; (3) policies and procedures; (4) human resources and succession planning; (5) collaboration with external entities; and (6) rulemaking. We also analyzed the types and the number of recommendations completed between February 2012 and September 2012 and the fourth quarter of CY 2012, and the nature and type of recommendations that MSHA expects to implement during CY 2013.

Implementation Milestones

To determine whether MSHA is on track to meet its implementation milestones for the recommendations in the Internal Review report, we analyzed the information contained in the 'Internal Tracking' spreadsheet (dated January 4, 2013) and the spreadsheet containing the OAS recommendations. Specifically, we identified (1) the milestones (expected completion dates) that were set for the recommendations; (2) whether the milestones were regularly revised; (3) the number and the nature and type of recommendations completed during the last quarter of CY 2012; and (4) the number and the nature and type of recommendations that MSHA expects to complete during CY 2013. Also for the 44 recommendations remaining to be implemented, we asked MSHA to provide information (as of February 2013) about the following:

- A description of the corrective actions accomplished to date (i.e., February 2012 through February 2013);
- A description of what needs to be accomplished; and
- Any anticipated circumstances or challenges that may delay implementation beyond December 31, 2013.

We determined that by December 31, 2013, MSHA expects to complete 91 of the 100 recommendations. MSHA has not set due dates for implementation of the remaining nine recommendations, such as those involving rulemaking, funding contingencies, research, and legal reviews.

Internal Control

In planning and performing our audit, we considered MSHA's internal controls that were relevant to our audit objectives by obtaining an understanding of those controls, and assessing control risk for the purposes of achieving our objectives. The objective of our audit was not to provide assurance on the internal controls. Therefore, we did not express an opinion on the internal controls as a whole. Our consideration of MSHA's internal controls relevant to our audit objectives would not necessarily disclose all matters that might be reportable conditions. Because of the inherent limitations on internal controls, noncompliance may nevertheless occur and not be detected.

Criteria

- Federal Mine Safety & Health Act of 1977
- MSHA's Administrative Policy and Procedures Manual, Volume III, Chapter 1200 (April 24, 1992)

Appendix C

Acronyms and Abbreviations

AA	Accompanied Activity
AMS	Atmospheric Monitoring System
APL	Administrative Policy Letter
APPM	Administrative Policy and Procedures Manual
AR	Authorized Representative
Byrd Act	Robert C. Byrd Safety Protection Act
CDEM	Coal Dust Explosibility Meter
CMS&H	Coal Mine Safety and Health
CO	Carbon Monoxide
EFS	Educational Field Services
EPD	Educational Policy and Development
FAR	Field Activity Review
FY	Fiscal Year
IMCC	Interstate Mining Compact Commission
IPAL	Inspectors' Portable Application for Laptops
ITS	Inspection Tracking System
LIMS	Laboratory Information Management System
MERD	Mine Emergency Response Development
Mine Act	Federal Mine Safety and Health Act of 1977
MMU	Mechanized Mining Unit
MNMS&H	Metal and Nonmetal Mine Safety and Health
MOU	Memorandum of Understanding

MPA	Mine Plan Approval
MSHA	Mine Safety and Health Administration
MSIS	MSHA's Standardized Information System
NADL	National Air and Dust Laboratory
NIOSH	National Institute for Occupational Safety and Health
OAASEI	Office of Assessments, Accountability, Special Enforcement and Investigations
OAS	Office of the Assistant Secretary
OIG	Office of Inspector General
OJT	On the Job Training
Panel	Independent Panel
PEIR	Program Evaluation and Information Resources
PIB	Program Information Bulletin
PIL	Procedure Instruction Letter
PPM	Program Policy Manual
PPOV	Potential Pattern of Violation
RDDR	Rock Dust Data Retrieval
RDSS	Rock Dust Sample Submission
SI	Special Investigations
SOL	Office of the Solicitor
SOP	Standard Operating Procedures
TS	Technical Support
UBB	Upper Big Branch
UMF	Uniform Mine File

Appendix D

MSHA's Response to Draft Report

U.S. Department of Labor

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



MAR 28 2013

MEMORANDUM FOR ELLIOT P. LEWIS

Assistant Inspector General for Audit

FROM:

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

A handwritten signature in blue ink, reading "Joseph A. Main", is written over the typed name and title.

SUBJECT:

Response to OIG Draft Audit Report no. 15-13-003-06-001,
*"MSHA is on Track to Implement Upper Big Branch Internal Review
Recommendations and is Undertaking Actions on the Independent
Panel Report"*

Thank you for the opportunity to review your draft report. My highly dedicated staff and I take the findings in the Internal Review and Independent reports very seriously. We have worked hard to identify shortcomings in mine safety and at MSHA, to implement actions to fix those following the Upper Big Branch tragedy and to improve mine safety and health in the nation's mines. I appreciate the recognition of those efforts as reflected in the draft audit.

MSHA has undertaken a wide range of actions following the Upper Big Branch disaster that have resulted in improvements in mine safety enforcement, and agency policies, procedures and organizational structure. In the wake of the tragedy at the Upper Big Branch mine, MSHA did not wait for the Internal Review to issue findings, but took immediate actions, including the publishing of an emergency temporary standard on rock dust, which became a final rule; implementing impact inspections; and revising its Pattern of Violations (POV) program to rein in chronic violators. For the first time in the history of the Mine Act, MSHA placed mines on a 104 (e) pattern of violations.

Also for the first time, the Department successfully brought an action for injunctive relief under section 108(a)(2) of the Mine Act. In addition to these actions, MSHA issued notices to the mining industry on several issues raised by the Upper Big Branch mine explosion such as advance notice, mine ventilation, rock dusting and miners' rights, and ramped up enforcement on those critical matters. It also overhauled several agency policies and procedures.

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You can now file your MSHA forms online at www.MSHA.gov. It's easy, it's fast, and it saves you money!

In addition, MSHA made significant structural changes. It divided District 4 into two separate districts, reorganized MSHA's Mt. Hope dust lab into a national dust laboratory and reorganized its Office of Assessments to manage MSHA's special enforcement initiatives, including impact inspections, pattern of violations, scofflaw accountability audits, and special investigations on worker voice and miner claims of retaliation.

We took these and other actions at the same time we were conducting one of the most thorough and methodical accident investigations and agency internal reviews in the history of the Mine Act, and implementing other actions and initiatives that we had started just prior to the disaster. These included the "Rules to Live By" initiative intended to prevent the most common mining deaths, the End Black Lung---Act Now Campaign aimed at eradicating the black lung disease among underground coal miners and an overhaul of a mine emergency response system in need of improvements following a series of mine accidents and disasters.

Just prior to the disaster, MSHA was facing some significant challenges. These included severe losses of managerial and inspection experience through attrition. Reduced hiring due to funding shortfalls resulted in an inexperienced inspectorate, where about half of MSHA inspectors had 2 years or less enforcement experience in 2009. MSHA was also contending with an enormous backlog of more than 80,000 contested citations and orders pending before the Federal Mine Safety and Health Review Commission.

MSHA is continually retraining its inspectors, supervisors, and specialists, including special investigators and other staff, to improve enforcement of the Mine Act. It has also implemented several other new measures to improve mine safety, including the promulgation of MSHA's final rule on examinations, which took effect in August, 2012 and requires operators in underground coal mines to proactively find and fix hazardous conditions; and the final rule on Pattern of Violations aimed at reining in chronic violators.

The comprehensive actions we have taken have made mines safer than at any other time in mining history. Our impact inspection program has resulted in 579 impact inspections, over 10,000 citations, more than 900 orders and over 40 safeguards since it began in April, 2010. A review of mines that received impact inspections between September, 2010 and September, 2012, shows that these impact inspections are making a

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real difference. As of December 31, 2012, violations per inspection hour were down 16%, S&S violations down 21%, unwarrantable failures down 50% and lost time injury rates, down 10%.

Our revised POV program has also produced positive results and reduced the number of chronic violators. In our first year screening in 2010, fifty-three mines were identified and 17 mines received Proposed Pattern of Violation (PPOV) notices as a result. By October 2012, during the third screening, 20 mines were identified and 3 were identified as having a potential pattern of violations. This demonstrates a significant reduction in mines meeting the agency's criteria for measuring mines with the most serious compliance issues. MSHA has also reviewed the violation and injury records of the 19 coal mines and 3 metal/nonmetal mines that received PPOV notices and have had at least one complete inspection since undergoing the PPOV process. As of December 31, 2012, the total violation rate among these mines was down 34 percent, the total S&S violation rate down 56 percent, the rate of unwarrantable failure violations down 80 percent, and the lost time injury rate down 39 percent.

In 2012, MSHA and the Office of the Solicitor (SOL) filed the most temporary reinstatement requests in history to return miners back to their jobs while their claims for retaliation are pending. Since we began our campaign to end Black Lung, a disease that has afflicted coal miners since the start of mining, the respirable coal dust levels in underground coal mines have dropped. In FY2012 the levels dropped approximately 14% to the lowest levels in history. MSHA has worked earnestly to respond to an unprecedented number of FOIA requests, and despite its other ongoing activities, was able in 2012 to reply to the most FOIA requests in MSHA's history. We have also made improvements in mine emergency response and have, with the assistance of SOL, reduced the contested citation and order backlog to about 50,000 violations from a high of 89,000, resolving about 100,000 citations and orders in the process.

Most importantly, the year 2011 was the safest year in mining history as measured by both fatal rates and injury rates; and preliminary data show even more improvement, with 2012 at new historic lows. MSHA's hard work is yielding results.

MSHA's mission is to enforce the Mine Act to protect the nation's miners from injury, illness and death. The Agency is working hard to carry out that mission, while at the same time carrying out the actions outlined above, and as the draft report notes, aggressively implementing the 100 Internal Review recommendations we committed to

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and responding to the Independent Panel report. MSHA's dedicated staff from virtually all parts of the agency has invested considerable time and effort in this massive undertaking.

As your draft report notes, by December 31, 2012, the agency had completed over one-half of its corrective actions and is on track to meet its milestones for implementing the remaining Internal Review recommendations that have due dates, subject however to budget impacts or unforeseen circumstances.

There are some Internal Review recommendations for which MSHA cannot reasonably set due dates at this time. These recommendations involve rulemaking, research, legal reviews and funding contingencies. The rulemaking agenda going forward is subject to OMB review before release. However, as per your Recommendation (2), MSHA will continue to work on those recommendations to ensure they are being diligently pursued.

Your draft report also finds that MSHA is undertaking action on many of the recommendations of the Independent Panel, some in conjunction with the Internal Review recommendations. MSHA has already completed some actions, including the Independent Panel's suggestion to establish a transparent process to oversee the effective implementation of corrective actions and to ensure their effectiveness. MSHA has taken a different but equally effective approach to this Independent Panel suggestion by establishing an internal review process, and in the interest of transparency, posting its actions on its website. I appreciate that your report notes that MSHA has "adopted a transparent web-based public reporting mechanism and robust process for verifying the implementation of recommendations before reporting them as complete."

To implement the Internal Review's recommendation on this issue, I issued a directive to the Office of Assessments, Accountability, Special Enforcement and Investigations (OAASEI) to develop a means for evaluating the effectiveness of corrective actions. The OAASEI revised the Accountability Program Handbook to address this recommendation, completing its work by December 31, 2012. MSHA has undertaken other actions to respond to the Independent Panel suggestions, posted on MSHA's website.

Concerning MSHA's communications with the Independent Panel, the agency has had ongoing discussions with Dr. Jeffery Kohler, Associate Director of Mining at NIOSH's Office of Mine Safety and Health Research (OMSHR). Dr. Kohler is a member of the Independent Panel and the individual who testified on behalf of the Panel about the Independent Panel Report at a hearing of the House Education and the Workforce Committee in March 2012. MSHA has communicated with Dr. Kohler and NIOSH staff regularly on projects critical to mine safety and health, including matters discussed in the Independent Panel report such as rock dusting, the Coal Dust Explosibility Meter and Atmospheric Monitoring Systems.

Section 501 of the Mine Act provides a vehicle for NIOSH to transmit research findings and recommendations on mine safety and health matters to MSHA. We would fully expect NIOSH to continue to bring any important mine safety or health matter to our attention. With regard to our discussions with the Independent Panel on its recommendations, NIOSH will need to do additional research and support work. We will be in communication with NIOSH to follow up on those discussions.

Recently, MSHA published its new rock dust protocol aimed at preventing coal dust explosions, such as the one that caused the tragedy at the Upper Big Branch mine. Rock dusting was identified as an issue in the Internal Review and the Independent Panel reports, and MSHA developed the protocol in collaboration with NIOSH. MSHA has briefed stakeholders, conducted training for its enforcement personnel and had follow-up meetings with stakeholders in the coal fields. In addition, in January 2013, MSHA issued a Program Information Bulletin to the mining industry advising operators of the need to use Coal Dust Explosibility meters to check coal mine dust to prevent explosions. The Bulletin cited NIOSH research on the device. This was another issue cited in the Internal Review and Independent Panel reports and was implemented in conjunction with NIOSH.

As your draft report notes, MSHA supports improvements to atmospheric monitoring systems. It has requested that NIOSH provide recommendations for the implementation of this improved technology. We look forward to working with NIOSH in this important area.

We previously provided you with much of this information, including information on the discussions we have had with NIOSH; however, the draft report does not reflect it. The report should be revised to acknowledge this interaction and ongoing dialogue.

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Also, as a matter of clarification, page 8 of the draft report states that MSHA's contented the Recommendation #1 is outside of the scope of the Independent Panel's charge. However, it was the Independent Panel that noted in its report it was making the recommendation even though it was beyond the scope of its review.

In addition, while the draft report states that MSHA did not concur with two of the Independent Panel's recommendations, it should also note that NIOSH, in a letter to a stakeholder (the UMWA), stated it did not support a number of Independent Panel recommendations.

Below are MSHA's specific responses to your recommendations.

OIG Recommendation No. 1: *Build a process into its Internal Review Framework to rank and prioritize recommendations*

MSHA prioritized the implementation of the Internal Review recommendations. It agrees that the agency should build a process into its internal review framework to prioritize recommendations similar to the process it utilized with the Upper Big Branch Internal Review recommendations. As a result, MSHA is currently revising its internal review policies and procedures, in place since the 1989 Pyro mine disaster to include such a process.

A note of caution: when tragedy strikes, MSHA needs the ability to respond quickly and cannot wait months or years for an internal review to complete its work. I want to be careful that any new processes do not hamstring agency leadership from taking action to protect miners. We undertook actions quickly following the Upper Big Branch tragedy and many others were well underway when the Internal Review report was released on March 6, 2012.

As a result, Objective 1 should be revised to clarify that appropriate actions such as the type of actions MSHA undertook following the Upper Big Branch tragedy should be undertaken in response to a future mine accident where delay could result in unnecessary risks. For MSHA to await the investigation, formulation, ranking and prioritizing of findings and recommendations of an internal review before taking corrective actions would in fact place miners at risk.

OIG Recommendation No. 2: *Continue work on those recommendations that do not currently have anticipated due dates to ensure they are being diligently pursued*

As further outlined in Exhibit 2 to your draft report, there are some Internal Review recommendations for which MSHA cannot reasonably set due dates at this time. As we have stated, these recommendations involve rulemaking, research, legal reviews and funding contingencies. The rulemaking agenda going forward is subject to OMB review before release. MSHA agrees and will continue to work on those recommendations to ensure they are being diligently pursued.

If you have any questions, please feel free to contact me or my staff.

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Appendix E

Acknowledgements

Key contributors to this report were Nicholas Christopher (Audit Director), S. Marisela Sookraj (Audit Manager), Donald Evans, Elizabeth Garcia, N. Renee Kelly, Carmelle Paytes, and Mary Lou Casazza.

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