

# U.S. Department of Labor

Office of Inspector General—Office of Audit

**MINE SAFETY AND HEALTH  
ADMINISTRATION**



**MSHA'S OFFICE OF COAL MINE SAFETY AND  
HEALTH NEEDS TO STRENGTHEN ITS  
ACCOUNTABILITY PROGRAM**

**Date Issued: August 24, 2007**

**Report Number: 05-07-002-06-001**

## **BRIEFLY...**

Highlights of Report Number 05-07-002-06-001, to the Assistant Secretary for Mine Safety and Health Administration, August, 2007.

### **WHY READ THE REPORT**

The Federal Mine Safety and Health Act of 1977 (Mine Act) established the Mine Safety and Health Administration (MSHA) in 1978. MSHA is responsible for administering the provisions of both the Mine Act and the 2006 MINER Act. MSHA's primary goals are to (1) eliminate fatal accidents; (2) reduce the frequency and severity of nonfatal accidents; (3) minimize health hazards; and (4) promote improved safety and health conditions in the nation's mines.

### **WHY OIG DID THE AUDIT**

Based on our ongoing assessment of MSHA's safety and health programs and responsibilities, we initiated an audit of MSHA's Accountability Program within CMS&H. We focused on the Accountability Program within CMS&H, in part because of the increase in coal mining accidents during CY 2006. As of December 31, 2006, there were 47 fatalities in the coal mining sector, as opposed to 28 and 22 coal mining fatalities reported for CYs 2004 and 2005, respectively.

The Accountability Program was established to evaluate the quality of MSHA enforcement activities by conducting peer reviews of District activities, and to provide reasonable assurance that policies and procedures are being complied with consistently throughout Coal Mine Safety and Health. The Accountability Program has two levels of review, Headquarters Reviews of Districts (HQR) and District Peer Reviews (DPR) of field offices.

### **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/2007/05-07-002-06-001>

## **MSHA's Office of Coal Mine Safety and Health Needs to Strengthen its Accountability Program**

### **WHAT OIG FOUND**

We determined that MSHA's Accountability Program, as designed, did not provide adequate assurance that CMS&H's oversight responsibilities were effectively and consistently performed. In addition, implementation of the Program varied across CMS&H nationwide. Finally, CMS&H did not effectively use the results of its accountability reviews to improve its operations timely and consistently.

### **WHAT OIG RECOMMENDED**

We made 14 recommendations to the Assistant Secretary for MSHA in the areas of Design and Planning, Implementation, and Reporting and Analysis to improve the performance and results of the Accountability Program, as summarized below:

- Ensure that the selection of enforcement activities for review during HQRs and DPRs rely primarily on measures of internal performance; and ensure the selection of which enforcement activities to review during DPRs cannot be influenced to prevent negative results.
- Include mine visits during DPRs; ensure the independence of DPR review teams; and ensure a consistent type or depth of analyses during DPRs.
- Use a standard format for DPR reports; ensure the timely development, implementation, and monitoring of corrective actions; use a centralized tracking system; and ensure that identified common deficiencies, corrective actions, and best practices are communicated.

MSHA planned corrective actions to address 9 of our 14 recommendations. The remaining five recommendations are unresolved. MSHA did not fully agree with two and did not directly address two more recommendations. MSHA did not provide a corrective action milestone date for one recommendation.

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# **Executive Summary**

The Office of Inspector General (OIG) completed a performance audit of the Accountability Program administered by the Mine Safety and Health Administration (MSHA). While the program encompasses both the Office of Coal Mine Safety and Health (CMS&H) and Metal and Nonmetal Mine Safety and Health, our audit focused only on CMS&H.

MSHA's Accountability Program, which was revised in March 2004, was established to (1) evaluate the quality of its enforcement activities, and (2) provide reasonable assurance that its enforcement personnel consistently comply with policies and procedures. The Program has two levels of accountability reviews, Headquarters Reviews (HQR) of District Office operations and District Peer Reviews (DPR) of Field Office operations.

## **Results**

Preliminary findings were reported to MSHA in a September 29, 2006, management letter and as a result, CMS&H began to take steps to improve their current program. Further actions are needed to strengthen the integrity and usefulness of the program's results.

We performed work to accomplish three specific audit objectives. The three objectives, our conclusions and recommendations are summarized as follows:

**Objective 1** Was MSHA's Accountability Program designed to provide adequate assurance that CMS&H's oversight responsibilities were effectively and consistently performed?

MSHA's Accountability Program, as designed, did not provide adequate assurance that CMS&H's oversight responsibilities were effectively and consistently performed. Specifically, the selection of which enforcement activities to review during HQRs and DPRs did not rely primarily on measures of internal performance and was usually restricted to only a portion of CMS&H's area of responsibility, and the selection of which enforcement activities to review during DPRs could be influenced to prevent negative results.

The criteria that CMS&H primarily used to select activities to examine in HQRs and DPRs emphasized measures of mine operator performance and underground coal mines. As a result, the potential of the accountability reviews to evaluate the quality of enforcement activities and to provide assurance that CMS&H personnel were consistently complying with policies and procedures was reduced. CMS&H could strengthen the effectiveness of its accountability reviews by primarily focusing on

personnel-based performance indicators in selecting activities to review and by assuring that all activities have the possibility of being selected for review.

In addition, for DPRs, an inherent conflict of interest existed for the District Manager in choosing the work to be reviewed. This conflict created a risk that the District Manager could improperly affect the selection to influence the review results. While our audit did not identify any instances of improper influence by a District Manager, MSHA should define the process to eliminate conflicts of interest (actual or perceived) or establish controls to lessen the risk associated with such conflicts.

**Objective 2** Was the Accountability Program adequately and consistently implemented throughout CMS&H?

Implementation of the Accountability Program varied across CMS&H. Accountability reviews did not always: (1) include mine visits during DPRs, (2) assure the independence of DPR review teams, (3) include a consistent type or depth of analyses during DPRs, or (4) include interviews of appropriate individuals during DPRs and HQRs. As a result, CMS&H officials lacked assurance that the Accountability Program was adequately and consistently implemented nationwide. These deficiencies occurred for several reasons: a) the Accountability Program Handbook did not provide sufficient guidance to ensure consistent interpretation and implementation across districts; and b) there was no regular communication among District Peer Review Coordinators (DPRCs).

Requiring mine visits and interviews be conducted during DPRs and HQRs, improving the independence of review team members, and assuring a consistent type and depth of analyses during reviews will promote uniformity and improve the overall effectiveness of CMS&H's Accountability Program.

**Objective 3** Was CMS&H effectively using the results of its accountability reviews to report, monitor and improve its operations?

CMS&H did not effectively use the results of its accountability reviews to improve its operations timely and consistently. Specifically, the program did not (1) require a standard format for DPR reports; (2) assure the timely development, implementation, and monitoring of corrective actions; (3) have a centralized system to record and track deficiencies, corrective actions and best practices; and (4) communicate identified common deficiencies, corrective actions, and best practices. As a result, CMS&H could not assure the timely and effective correction of individual deficiencies, identification of systemic problems, and dissemination of best practices across the organization.

Improving the reporting and tracking of DPR and HQR results, assuring the timely and effective correction of operational deficiencies, and sharing best practices across the organization will strengthen the benefits from CMS&H's Accountability Program.

## **Recommendations**

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In addition to the 5 recommendations reported in our management letter, we make the following 14 recommendations to the Assistant Secretary for MSHA in the areas of Design and Planning, Implementation, and Reporting and Analysis for the Accountability Program:

### Design and Planning

1. Develop a process and criteria for the selection of activities to be examined during accountability reviews that emphasizes measures and indicators of CMS&H performance and provides the possibility that any activity (related to any mine operation) could be selected; and
2. prohibit District Managers, or anyone in their subordinate chain of command, from selecting the activities to be reviewed in DPRs.

### Implementation

3. Ensure that accountability review team members cannot independently review work they have performed or supervised;
4. require that DPR teams include at least one appropriate individual from outside the District conducting the review;
5. provide guidance and instruction that is more detailed on specific procedures and tasks required to complete an effective DPR;
6. establish a minimum scope for DPRs and HQRs that includes at least a review of two non-consecutive quarters of enforcement documentation from the preceding 12 months;
7. require that the timeframe for completion of DPRs and HQRs be planned in a way to ensure an accurate and thorough review; and
8. require that DPRCs regularly communicate to discuss common issues, resolutions and best practices to ensure consistency and compliance nationwide.

### Reporting and Analysis

9. Require HQR teams to be involved in the development of appropriate corrective actions;
10. require a timeframe be established for the development of all corrective action plans resulting from DPRs;
11. incorporate dates into corrective action plans for the implementation and completion of actions resulting from DPRs and HQRs;
12. require a timely evaluation by District Managers to ensure that completed corrective actions are adequately addressing the deficiencies identified during DPRs and HQRs;
13. require that District Offices utilize the same tracking system, once it is developed and implemented by HQ, to record and track the results of their DPRs (e.g.,

identified deficiencies, planned corrective actions, potential best practices, etc.); and

14. require that identified issues, deficiencies, corrective actions and best practices be communicated within a district's field offices and disseminated nationwide, as appropriate, in a timely manner.

## **Agency Response**

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In response to the draft report, DOL's Assistant Secretary for Mine Safety and Health stated that he believes it contains sound recommendations and concepts applicable to the MSHA Accountability Program. He stated that MSHA will work to improve accountability practices within its enforcement programs through appropriate revisions to its Accountability Program Handbook and the resultant restructuring of the program.

The Assistant Secretary stated that, on June 28, 2007, MSHA released the internal review reports of the three fatal accidents at Sago, Aracoma, and Darby Mines in 2006. Concurrent with the release of the results of these reviews, MSHA also announced the establishment of the Office of Accountability. The purpose of this office will be to increase oversight of MSHA's accountability and enforcement programs to ensure that necessary management controls are fully implemented and effective.

The Assistant Secretary further stated that, as noted in the findings of MSHA's internal reviews, and supported by the recommendations in the OIG's report, MSHA must improve oversight of its Accountability Program to correct past deficiencies and prevent potential future lapses in enforcement.

On July 27, 2007, MSHA provided a milestone date of January 1, 2008, for revising its Accountability Program Handbook, which will take into consideration our recommendations.

See Appendix E for the agency's complete response to our draft report.

## **OIG Conclusion**

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The actions proposed by MSHA address 9 of our 14 recommendations; the 9 recommendations are resolved. They will be closed after MSHA provides documentation that the agreed upon corrective actions have been completed. The remaining 5 recommendations are unresolved. MSHA did not fully agree to recommendations 2 and 4 and did not directly address recommendations 7 and 8. In addition, MSHA did not provide a corrective action milestone date for recommendation 13.



U.S. Department of Labor

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## **Assistant Inspector General's Report**

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The Office of Inspector General (OIG), Office of Audit, conducted a performance audit of the Mine Safety and Health Administration's (MSHA's) Accountability Program. While the program encompasses both the Office of Coal Mine Safety and Health (CMS&H) and Metal and Nonmetal Mine Safety and Health, this audit focused only on CMS&H. Specifically, we performed work to address the following questions:

1. Was MSHA's Accountability Program designed to provide adequate assurance that CMS&H's oversight responsibilities were effectively and consistently performed?
2. Was the Accountability Program adequately and consistently implemented throughout CMS&H?
3. Was CMS&H effectively using the results of its accountability reviews to report, monitor and improve its operations?

We found that CMS&H personnel contacted in both Headquarters and the district offices were conscientious in carrying out requirements of the Accountability Program; however, we identified several areas where CMS&H could improve and strengthen its current program.

MSHA's Accountability Program, as designed, did not provide adequate assurance that CMS&H's oversight responsibilities were effectively and consistently performed. In addition, implementation of the Accountability Program varied across CMS&H. Finally, CMS&H did not effectively use the results of its accountability reviews to improve its operations timely and consistently.

MSHA established its Accountability Program in 1989 to (1) evaluate the quality of its enforcement activities, and (2) provide reasonable assurance that its enforcement personnel consistently comply with policies and procedures. The program, which was revised most recently in March 2004, is implemented through the policy and guidelines contained in the Accountability Program Handbook (AH04-III-10, March 2004). Major revisions included mandated District level internal Peer Reviews, Headquarters oversight of field activities, and the elimination of internal review procedures dealing with low-risk issues such as MSHA equipment, recordkeeping, forms and reference materials. MSHA has two levels of accountability reviews, Headquarters Reviews (HQR) of District Office operations, and District Peer Reviews (DPR) of Field Office operations.

HQRs include in-depth reviews of the enforcement activities for a selected mine operation(s). These reviews identify strengths and weaknesses in the District's operations and examine the steps taken to correct significant issues identified during previous HQRs and DPRs. MSHA conducts a review of each District Office biannually.

DPRs are intended to provide field managers and supervisors with feedback on the quality and conduct of their enforcement programs and to facilitate the implementation of timely and effective actions to eliminate the root causes of deficiencies. HQ personnel use the results of the DPRs to assess enforcement consistency nationwide, identify systemic weaknesses and trends, and detect potential best practices within MSHA's inspection programs. Each District must conduct DPRs on a selection of its field offices annually.

Additional background information is contained in Appendix A.

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 audit scope, methodology, and criteria are detailed in Appendix B.

## **A. DESIGN AND PLANNING**

### **Objective 1 -Was MSHA's Accountability Program designed to provide adequate assurance that CMS&H's oversight responsibilities were effectively and consistently performed?**

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MSHA's Accountability Program, as designed, did not provide adequate assurance that CMS&H's oversight responsibilities were effectively and consistently performed. Specifically: (1) the selection of which enforcement activities to review during HQRs and DPRs did not rely primarily on measures of internal performance and were usually restricted to only a portion of CMS&H's area of responsibility, and (2) based on the current structure, the selection of which enforcement activities to review during DPRs could be influenced to prevent negative results.

In a management letter issued September 29, 2006, the OIG reported some initial observations about how MSHA's Accountability Program selected mines to review and who made those selections. Though our audit was still ongoing at that time, we reported our concerns because CMS&H had several HQRs scheduled between September 1, 2006, and December 31, 2006, before we would complete our audit. We made recommendations for improving the mine selection process based on those initial observations. To address our recommendation, CMS&H worked with MSHA's statisticians to derive a method to assure that all entities (underground, surface and facility) had a possibility of selection and that the selection was not within the control of any individual (i.e. random). CMS&H piloted this approach during the last quarter of CY 2006. After piloting the approach, MSHA disagreed with our recommendations in its response dated November 29, 2006, to the management letter. Based on our now completed audit work, we have redefined our initial concerns as part of a broader issue and updated our recommendations for improving CMS&H's Accountability Program. Assuring that the selection of activities to review (1) primarily focuses internally on measures of MSHA personnel performance and not externally on operator performance, (2) has the potential to examine any of CMS&H's areas of responsibility, and (3) is protected from improper influence, is critical to the integrity and usefulness of the program's results.

#### **Criteria Used to Select Activities Reviewed during HQRs and DPRs Did Not Primarily Focus on CMS&H Performance and Did Not Adequately Consider All Activities**

The criteria that CMS&H primarily used to select activities to examine in HQRs and DPRs emphasized measures of mine operator performance and underground coal mines. As a result, the potential of the accountability reviews to evaluate the quality of enforcement activities and to provide assurance that CMS&H personnel were consistently complying with policies and procedures was reduced. Standards on performing peer reviews state that review entities should be selected in such a way that

the sample can be expected to be representative of the population; include a reasonable cross-section of the entities' practices; and be selected without regard to size, shape, location, or physical features (see Exhibit A). CMS&H could strengthen the effectiveness of its accountability reviews by primarily focusing on personnel-based performance indicators in selecting activities to review and by assuring that all activities have the possibility of being selected for review.

#### Activities Selected for Review Were Based on Measures of Mine Operator Performance

CMS&H selected activities for HQR and DPR teams to review through a method that emphasized external (i.e., mine operator) performance measures rather than internal (i.e., CMS&H) performance measures. CMS&H officials determined the activities to be examined in an accountability review by first selecting a specific mine operation within the district or field office under review. For HQRs, the Accountability Handbook states, "The review team shall select mine operation(s) to concentrate on during its review of District enforcement activities." While the Accountability Handbook does not contain similar instructions for DPRs, selection of a mine operation is implicit in the description of the enforcement records to be prepared for review prior to the DPR. Based on the mine operation(s) selected, the accountability review focused on the recent work produced by CMS&H enforcement personnel (i.e., inspectors, supervisors, etc.) assigned to that mine operation.

In selecting a mine operation for review, CMS&H officials identified mines they believed to be at high risk for safety and health problems. To do this, CMS&H concentrated on measures that primarily focused on poor mine performance (e.g., accident rate, frequency of violations, etc.). This approach implied that a poor performing mine operation indicated potential poor performance by CMS&H personnel, and vice versa. However, a mine operation's performance measures do not necessarily indicate a parallel performance level by CMS&H. For example, "good" mine performance (e.g., low number of violations) might indicate poor oversight by the assigned inspector. Likewise, "poor" mine performance (e.g., high number of violations) could indicate CMS&H personnel performed their duties diligently.

Selecting activities for review based on measures of a mine operation's safety and health "risk" also resulted in the disproportionate, and sometimes exclusive, coverage of CMS&H activities at underground mines. Our analysis of accountability reviews conducted in CYs 2005 and 2006 showed that more than three-fourths of these reviews focused on underground coal mines, which represented only one-third of coal mine operations during that period. For the same period, officials in four of seven districts we contacted stated that they chose only underground coal mines as the focus of accountability reviews, and CMS&H officials stated that they selected only underground coal mines for their HQRs. After the issuance of our September 2006 management letter, CMS&H included, in addition to an underground mine, both a surface coal mine and a facility in HQRs, as a pilot test. CMS&H officials have not indicated whether they will continue this practice.

**Table # 1**

**Comparison of Categories of Mining Operations Versus Their  
Representation in DPRs and HQRs**

Type of Operation	Total # as of 8/9/06	% of Total	DPRs		HQRs	
			#	% of Total	#	% of total
Underground Coal Mine	712	32.3 %	81	75.7 %	9	81.8 %
Surface Coal Mine	999	45.3 %	14 <sup>(1)</sup>	13.1 %	1 <sup>(2)</sup>	9.1 %
Coal Processing Facility	493	22.4 %	12 <sup>(1)</sup>	11.2 %	1 <sup>(2)</sup>	9.1 %
	2,204	100.0 %	107	100.0 %	11	100.0 %

Notes: (1) CMS&H District 6 completed 11 of the 26 surface/facility locations examined in DPRs.

(2) CMS&H included surface/facility locations in HQRs as a pilot test subsequent to our September 2006 management letter.

By limiting or excluding the selection of certain categories of mine operations when defining the activities to be examined in an accountability review, CMS&H reduced the likelihood that review results reflected CMS&H's entire performance.

Since the goal of the Accountability Program is to evaluate the quality of enforcement activities and to provide assurance that CMS&H personnel are consistently complying with policies and procedures, the criteria for selecting activities to review should emphasize measures that reflect the performance of CMS&H personnel. Two of the seven districts included in our audit scope did consider personnel-based performance indicators in identifying activities to examine in their accountability reviews. An MSHA staff member stated that the following performance indicators were used in the employee's district:

- a low number or percentage of citations or closure orders issued by an inspector (compared to other enforcement personnel in the district or for that mine)
- a high number of or significant change (increase or decrease) in the number of challenged (conferenced) citations
- incomplete or late mandatory inspections
- a high percentage of "off site" or "in office" time charges.

Standardized selection criteria, used by all CMS&H districts, that emphasize measures of CMS&H performance would increase the assurance provided by accountability reviews that its personnel were adequately and consistently carrying out their responsibilities.

While targeting accountability reviews using a "risk based approach" might be viewed as a more effective use of limited resources, the proper risks must be measured. Activities to be examined in CMS&H's accountability reviews should be targeted based on measures of its own performance rather than measures of a mine operation's

performance. Reviews should also be targeted in a manner that does not exclude any portion of CMS&H's overall activity.

## **Recommendation**

The OIG recommends that the Assistant Secretary for MSHA:

1. Develop a process and criteria for the selection of activities to be examined during accountability reviews that
  - a. emphasizes measures and indicators of CMS&H performance and
  - b. provides the possibility that any activity (related to any mine operation) could be selected.

## **Agency Response**

For recommendation 1, MSHA agreed its Accountability Program must primarily emphasize MSHA's own performance. MSHA plans to strengthen the effectiveness of its accountability reviews by focusing on key internal performance indicators and the root causes of deficiencies. Further, it will provide for the possibility that activities related to any mine operation or enforcement activity may be selected for review. As MSHA revises its Accountability Program and Handbook, criteria for internal indicators of performance will be established. However, the risk associated with a particularly unsafe mine and MSHA's oversight of that mine are related, and therefore MSHA will continue to examine mine operator characteristics together with indicators of internal performance.

## **OIG Conclusion**

This recommendation is resolved based on MSHA's proposed actions and corrective action milestone date<sup>1</sup>. The recommendation will be closed after MSHA provides documentation that the actions have been completed.

## **Selection of Enforcement Activities to Review During a DPR Could be Structured to Prevent Negative Results**

For DPRs, an inherent conflict of interest existed for the District Manager in choosing the work to be reviewed. This conflict created a risk that the District Manager could improperly affect the selection to influence the review results. While our audit did not identify any instances of improper influence by a District Manager, MSHA should define the process to eliminate conflicts of interest (actual or perceived) or establish controls to lessen the risk associated with such conflicts.

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<sup>1</sup> In a subsequent communication dated July 27, 2007, MSHA stated it has developed a corrective action plan based on the Sago, Aracoma and Darby internal reviews. In that plan, MSHA has committed to revising its Accountability Program Handbook by January 1, 2008.

As discussed above, a DPR was based on the selection of an operation within the district to be reviewed. After the operation was selected, the review team examined the enforcement activity related to that operation. The Accountability Handbook does not state who should select the operation(s) for review. However, in all seven districts examined, the District Manager had final approval over selections. The District Manager was also the individual ultimately responsible for the work under review. The results of the DPR, whether positive or negative, were a reflection of the District Manager's performance. This created a conflict of interest and an associated risk that the District Manager could select an operation that was more likely to provide positive results or avoid negative results.

To increase the reliability of the Accountability Program, MSHA should reduce the risk associated with the inherent conflict of interest through implementation of a compensating control,<sup>2</sup> or eliminate the conflict of interest altogether. MSHA could reduce the level of risk by requiring multiple individuals to be involved in setting or concurring with the review design. The conflict of interest could be eliminated by placing the authority and responsibility for selecting the activities to be reviewed in the DPR with an individual outside the district being reviewed (e.g., CMS&H HQ), or through an objective, systematic method, such as a centralized sample selection by CMS&H Headquarters. This latter option provides an added benefit in that the selection process would be completed in a uniform manner for all DPRs.

### **Recommendation**

In the September 29, 2006, management letter, we recommended that no single individual have the ability to select the operation(s) used to define the DPR scope. Based on our additional work, we have modified that recommendation.

We recommend that the Assistant Secretary for MSHA:

2. Prohibit District Managers, or anyone in their subordinate chain of command, from selecting the activities to be reviewed in DPRs.

### **Agency Response**

For recommendation 2, MSHA stated it agreed with the intent of our recommendation. MSHA suggested that prohibiting District Managers or their subordinates from having any input into DPR activities would be ill advised because of their wealth of experience regarding enforcement issues. However, MSHA stated its Accountability Program can be revised to ensure that Headquarters select enforcement activities for DPRs and that

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<sup>2</sup> A compensating control limits the severity of a deficiency and prevents it from rising to the level of a significant deficiency or material weakness. Although compensating controls mitigate the effects of a deficiency, they do not eliminate the deficiency.

input from District management could serve to complement a standardized process of DPR activity selection independent of District Manager or subordinate approval.

**OIG Conclusion**

We consider recommendation 2 unresolved pending receipt and evaluation of MSHA's specific corrective action plan and completion milestone that ensures that the Accountability Program and Handbook are revised to establish a standardized process of DPR activity selection independent of District Manager or subordinate input or approval.



## **B. IMPLEMENTATION**

### **Objective 2 -Was the Accountability Program adequately and consistently implemented throughout CMS&H?**

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Implementation of the Accountability Program varied across CMS&H. Accountability reviews did not always: (1) include mine visits during DPRs, (2) assure the independence of DPR review teams, (3) include a consistent type or depth of analyses during DPRs, or (4) include interviews<sup>3</sup> of appropriate individuals during DPRs and HQRs. As a result, CMS&H officials lacked assurance that the Accountability Program was adequately and consistently implemented nationwide. These deficiencies occurred for several reasons: a) the Accountability Program Handbook did not provide sufficient guidance to ensure consistent interpretation and implementation across districts; and b) there was no regular communication among District Peer Review Coordinators.

The OIG reported issues (1) and (4) in a September 29, 2006, management letter and made corresponding recommendations to improve these areas. MSHA officials agreed with our recommendation for issue (1) and will require review teams to conduct mine visits on all accountability reviews. They partially agreed with our recommendation for issue (4) and will require review teams to conduct interviews of management level personnel during all accountability reviews. However, this corrective action does not fully address our recommendation because it limits the group of potential interviewees to only "management" personnel. We continue to recommend that review teams consider interviewing anyone with appropriate knowledge of the operations under review. In addition, our audit work resulted in issues (2) and (3), which are reported below for the first time, with corresponding recommendations.

Requiring mine visits and interviews be conducted during DPRs and HQRs, improving the independence of review team members, and assuring a consistent type and depth of analyses during reviews will promote uniformity and improve the overall effectiveness of CMS&H's Accountability Program.

#### **District Peer Reviews Did Not Always Include Mine Visits**

As reported in the OIG's management letter, CMS&H review teams did not routinely conduct mine visits during DPRs (see Exhibit B). This occurred because the Accountability Program Handbook did not require such visits as part of the DPR process. A review solely based on records increased the risk that errors (unintentional) or misrepresentations (intentional) in the documentation went undetected. Standards for performing peer reviews state that the review team should visit the selected entities under review (see Exhibit A).

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<sup>3</sup> For purposes of this report, we define interviews as communication initiated with appropriate individuals involved in or knowledgeable of district or field office activities.

The Accountability Handbook states that DPR teams “may decide to conduct a mine visit(s)” and that HQR teams “may include a visit to the selected operation(s) by one or more review team members.” The HQRs conducted during our audit period did include a visit by review team members to the mine(s) selected for review. However, only two Districts conducted mine visits for DPRs prior to the issuance of our September 2006 management letter. As stated in the Accountability Handbook, a mine visit allows the review team to “compare the actual conditions and practices at the operation with the results documented during the previous inspection activities under review.” The collection of this type of corroborating information provides a means of detecting erroneous or fraudulent inspection documentation. Without a mine visit, review teams are less likely to discover such performance problems. Requiring that review teams visit a mine selected for review would strengthen CMS&H's Accountability Program.

In the September 29, 2006, management letter, the OIG recommended that the Assistant Secretary for MSHA:

Require that one or more review team members observe portions of the mine operation(s) chosen for review.

In a November 29, 2006, response, MSHA's Assistant Secretary agreed to require mine visits for 1) all HQRs in accordance with the current practice; and 2) all DPRs to determine if conditions reflect the level of enforcement. The response stated that CMS&H would incorporate this requirement in a Policy Memo.<sup>4</sup>

### **District Peer Reviews Lacked Controls to Assure Independence**

The DPR teams lacked sufficient independence. Specifically, we found that the structure of DPR review teams allowed the possibility that team members could review their own work, and that DPR team members could be improperly influenced because they were under the direct supervision of the District Manager. Lack of independence for the review teams reduces the credibility of the review results.

Limited resources, especially in smaller CMS&H districts, created the possibility that DPR team members could review their own work. Standards for performing peer reviews state that it is desirable to assign individuals who were not otherwise involved in the performance of the program or tasks they are to review (see Exhibit A). However, some Field Office Supervisors, due to a shortage of inspectors, were conducting mine inspections in addition to performing their supervisory responsibilities. If a mine inspected by a Field Office Supervisor was selected for a DPR, that supervisor could

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<sup>4</sup>According to CMS&H officials, the root cause analyses and corrective actions arising from MSHA's Internal Reviews of the Sago, Aracoma and Darby mine accidents delayed issuance of the planned Policy Memo and may ultimately result in a different proposed corrective action or a different method of implementing the corrective action. As a result, the OIG will re-evaluate the status of this recommendation based on the agency's response to this audit report.

potentially review his or her own work. In those instances, independence would be violated and the integrity of the review results would be compromised.

MSHA's Accountability Program Handbook was written to reduce this risk by requiring DPR review teams to consist of at least three members. Therefore, if a conflict arose between one team member and the work being reviewed, one of the other team members could review that portion of work. Currently, the Accountability Handbook only states that DPRs "will be conducted by supervisory teams within each District" and that "team members shall consist of the coordinator and at least two supervisors." The Accountability Handbook addresses the need for independence for HQRs by stating, "Review team members shall be from outside the District being reviewed". However, no similar requirement was stated for DPRs. To clarify the independence requirement, the Accountability Handbook should specifically state that no accountability review team members can review work they have performed or supervised.

In addition, DPR results could be improperly influenced because the DPR team members were under the supervision of the District Manager, the individual who is ultimately responsible for all work performed in the district. This situation lacks appropriate independence, since the District Manager had the ability to exercise undue influence (e.g., performance evaluations, disciplinary actions, work assignments) over review team members. This influence, whether actual or perceived, could inhibit team members from reporting operational deficiencies they identify.

Overall resource and logistic (time, travel, etc.) limitations could prohibit staffing DPR teams entirely from outside the district. Alternatively, the independence of DPR teams could be improved by including, at a minimum, one team member from outside the District. As an added benefit, including an outside team member would bring an impartial opinion to the review by someone not influenced by a familiarity with normal operating procedures within that district. This cross-staffing of DPRs would also enhance the ability to share best practices across districts. One District Manager has already implemented this approach on DPRs in his district.

## **Recommendations**

The OIG recommends that the Assistant Secretary for MSHA:

3. Ensure that accountability review team members cannot independently review work they have performed or supervised.
4. Require that DPR teams include at least one appropriate individual from outside the District conducting the review.

## **Agency Response**

For recommendation 3, MSHA stated its Accountability Program will be revised and enhanced to ensure that accountability review team members cannot independently review work they have performed or supervised.

For recommendation 4, MSHA stated, if resources and time permitted, it would require DPR teams to include at least one appropriate individual from outside the District conducting a review.

## **OIG Conclusion**

Recommendation 3 is resolved based on MSHA's proposed actions and separate communication of a corrective action milestone date of January 1, 2008. The recommendation will be closed after MSHA provides documentation that the actions have been completed. We consider recommendation 4 unresolved. We are not convinced that a standard of "resources and time permitting" is sufficient to address the recommendation. We maintain that MSHA should always require that DPR teams include at least one appropriate individual from outside the District conducting a review.

## **District Peer Reviews Lacked Consistent Analyses**

CMS&H's review teams lacked consistency in the analyses they performed during accountability reviews. Specifically, the procedures completed by review teams varied in the types and documentation reviewed, and the types of analyses performed. Insufficient detailed guidance in the Accountability Program Handbook and lack of routine communication among District Peer Review Coordinators contributed to this lack of consistency. As a result, CMS&H lacked assurance that adequate reviews were performed on a consistent basis.

The documents and records reviewed by DPR teams varied. The Accountability Program Handbook identifies several documents, records, and other information for potential use during accountability reviews. For example, the handbook states the review coordinator should develop a "review package" that contains items such as inspection reports; mine maps; inspection, travel, and report time by event, person and activity codes; Safety and Health complaints; and supervisory reviews and visits. In addition, the review team is to examine the mine file to assure that complete inspections were performed. However, according to district personnel, these documents and records were not always examined by review teams during DPRs.

The amount of information examined during accountability reviews also varied. This occurred because the Accountability Program Handbook does not clearly specify a minimal time period or amount of data to be reviewed for DPRs or HQRs. The Accountability Program Handbook requires the review coordinator to collect some information for specific timeframes. For example, it states that the "review package" provided to the DPR or HQR team for the inspection(s) should include statistical data,

and documentation of supervisory reviews and visits during the previous 12 – 24 months, as well as a 12-month history of Safety and Health Complaints. The Handbook, however, does not state how much of this information the team should review. As a result, some DPR and HQR teams reviewed as little as 3 months of activity, while others reviewed up to a 1-year timeframe.

District officials explained that the size of the mine being reviewed affected the quantity of available documentation. Three month's activity for a large mine could generate as much documentation for review as a year's activity at a smaller mine. The quantity of documentation reviewed was generally determined by the time allotted for completion of the DPRs and HQRs. In our opinion, reviewing too short a timeframe could result in incomplete or incorrect review conclusions, and likewise, reviewing too long a timeframe could result in an ineffective use of resources. MSHA should determine and require an appropriate minimum review period for all DPRs and HQRs. In setting this minimum timeframe, MSHA should consider reviewing inspection activity during different operating seasons to address seasonal hazards (e.g., winter alert, summer roof issues) and, if possible, during different inspector assignments at the selected mine operation.

The types of analyses conducted during DPRs also varied significantly. The Accountability Program Handbook did not require specific analyses. As a result, each district determined the number and type of analyses it would perform in completing a DPR. For example, not all districts compared time and attendance records and inspector notes against annotated mine maps. District officials stated that because of the absence of specific guidance in this area, they were uncertain whether they were conducting DPRs in an appropriate way. Developing and requiring the completion of specific, minimum review procedures would increase the consistency of review results.

An additional cause of inconsistency in conducting DPRs was the lack of communication among District Peer Review Coordinators (DPRCs). Neither the Accountability Program Handbook nor CMS&H officials established a method for DPRCs to exchange information routinely among themselves. As a result, DPRCs developed individual and varying ways of interpreting and implementing the Accountability Program Handbook. Developing a periodic exchange of issues and ideas among DPRCs would improve the quality and consistency of DPRs nationwide.

Overall, CMS&H could improve the consistent implementation of its accountability reviews through more specific guidance, and the sharing of information and experiences among the districts.

## **Recommendations**

The OIG recommends that the Assistant Secretary for MSHA:

5. Provide guidance and instruction that is more detailed on specific procedures and tasks required to complete an effective DPR.

6. Establish a minimum scope for DPRs and HQRs that includes at least a review of two non-consecutive quarters of enforcement documentation from the preceding 12 months.
7. Require that the timeframe for completion of DPRs and HQRs be planned in a way to ensure an accurate and thorough review.
8. Require that DPRCs regularly communicate to discuss common issues, resolutions and best practices to ensure consistency and compliance nationwide.

### **Agency Response**

For recommendation 5, MSHA stated its Accountability Program Handbook will be revised to provide specific guidance and instruction on procedures and tasks required to conduct timely, effective, and thorough DPRs and HQRs - with a strong focus on internal performance indicators and root cause analysis.

For recommendation 6, MSHA stated its Accountability Program Handbook will be revised to include establishing a minimum scope for DPRs and HQRs, and minimum review timeframes (i.e., at least two non-consecutive quarters of enforcement documentation).

Recommendations 7 and 8 were not specifically addressed in MSHA's response.

### **OIG Conclusion**

Recommendations 5 and 6 are resolved based on MSHA's proposed actions and separate communication of a corrective action milestone date of January 1, 2008. The recommendations will be closed after MSHA provides documentation that the actions have been completed. Recommendations 7 and 8 are unresolved. MSHA stated in its response to recommendation 7 that it will establish a minimum scope for DPRs and HQRs, and minimum review timeframes. However, it did not directly address the issue of adequate time being allotted or the addition of more team members to adequately complete the reviews. MSHA stated in its response to recommendation 14 that there is value in sharing accountability review findings across the Districts, and will require regular dissemination of common issues, resolutions, and best practices. However, it did not directly address regular communication among DPRCs as proposed in recommendation 8.

### **Interviews Were Not Required as an Integral Part of DPRs and HQRs**

As reported in the OIG's September 29, 2006, management letter, CMS&H did not require interviews during DPRs and HQRs. This occurred because the Accountability Program Handbook did not require review team members to conduct any interviews. Omitting interviews of individuals involved in or knowledgeable of district or field office

activities (e.g., MSHA personnel, mine operators, union officials) limited the information used to assess those offices' operations. This increased the risk that operational deficiencies went undetected. Interviews of appropriate individuals during DPRs and HQRs would provide an opportunity to corroborate and expand on information about operational issues identified through other review sources.

In the September 29, 2006, management letter, the OIG recommended that the Assistant Secretary for MSHA:

Require review team members interview appropriate individuals during District Peer Reviews and HQ Reviews of Districts.

In his November 29, 2006, response, MSHA's Assistant Secretary agreed to require interviews of district management personnel in all HQ and District Peer Reviews, and stated CMS&H would incorporate this requirement in a Policy Memo.<sup>5</sup> Based on MSHA's response, the management letter recommendation is unresolved. Interviews conducted as part of DPRs and HQRs should not be limited to district management personnel alone. Omitting interviews of individuals involved in or knowledgeable of district or field office activities (e.g., mine operators, union officials, miners, MSHA staff, etc.) limits the scope of information used to assess those offices' operations. Standards for performing peer reviews state that the review team should interview personnel at various levels (see Exhibit A). This recommendation will remain unresolved until CMS&H provides evidence that DPR and HQR related interviews will be conducted routinely with all appropriate individuals.

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<sup>5</sup> See footnote 4 on p. 16.

## **C. REPORTING AND ANALYSIS**

### **Objective 3 -Was CMS&H effectively using the results of its accountability reviews to report, monitor and improve its operations?**

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CMS&H did not effectively use the results of its accountability reviews to improve its operations timely and consistently. Specifically, the program did not: (1) require a standard format for DPR reports; (2) assure the timely development, implementation, and monitoring of corrective actions; (3) have a centralized system to record and track deficiencies, corrective actions and best practices; and (4) communicate identified common deficiencies, corrective actions, and best practices. As a result, CMS&H could not assure the timely and effective correction of individual deficiencies, identification of systemic problems, and dissemination of best practices across the organization.

The OIG reported issues (1) and (3) in a September 29, 2006, management letter and made corresponding recommendations to improve these areas. MSHA officials agreed with our recommendation for issue (1) and will require districts to use a standard format for DPR reports and corrective action plans. They also agreed with our recommendation for issue (3) and will develop a centralized system to record and track deficiencies, corrective actions and best practices. In addition, our audit work resulted in issues (2) and (4), which are reported for the first time with corresponding recommendations.

Improving the reporting and tracking of DPR and HQR results, assuring the timely and effective correction of operational deficiencies, and sharing best practices across the organization will strengthen the benefits from CMS&H's Accountability Program.

#### **CMS&H Did Not Require a Standard Format for District Peer Review Reports**

As reported in the OIG's September 29, 2006, management letter, the Summary Accountability Reports that District Managers submitted to CMS&H officials from January 1, 2005, through June 30, 2006, presented peer review information in a variety of formats and levels of detail. This occurred because MSHA's Accountability Program Handbook did not require a standard format for DPR reports. As a result, it was difficult for CMS&H officials to assure that all review work was performed, results were reported, and corrective actions were identified. It also made it difficult to identify systemic problems by comparing information from all districts.

While MSHA indicated in its response to the management letter that a template for DPR reports was available but optional, we saw no evidence of its use. The methods used by districts to report their DPR findings and corrective actions varied significantly. For example, in three district summary reports we reviewed, deficiencies identified and the recommended corrective action for each were broken down by individual field office,



while two other districts provided summaries of the same information but without a breakdown by field office.

In addition, only three of five district summaries included specific information on the methods used by the review teams to measure the offices' effectiveness and monitoring activities. The other two districts' summary reports had no information on these factors. Finally, one of the five district summary reports we reviewed did not provide information on the root causes of deficiencies the review teams identified.

In the September 29, 2006, management letter, the OIG recommended that the Assistant Secretary for MSHA:

Require the use of a standard report format, in both presentation and content, for District Peer Review reports.

In its November 29, 2006, response, MSHA's Assistant Secretary agreed to 1) require districts to use a standard format for DPR reports and corrective action plans, and 2) provide guidance on the level of detail required in the summary reports to facilitate HQ oversight, review and analysis. The response stated CMS&H would incorporate this requirement in a Policy Memo.<sup>6</sup>

### **The Development, Implementation, and Monitoring of Corrective Actions Needs Improvement**

MSHA's Accountability Program did not consistently develop, implement and monitor corrective actions related to identified deficiencies in a timely manner. Specifically: (1) HQR teams did not routinely participate in the development of potential corrective actions with district management; (2) timeframes were not required for development of corrective action plans resulting from DPRs, and completion milestones were not required for the implementation of corrective actions resulting from either DPRs or HQRs; and (3) minimal monitoring was conducted to confirm the effectiveness of corrective actions implemented for DPRs and HQRs.

#### HQR Review Teams Were Not Required to Provide Input Into the Development of Appropriate Corrective Actions

HQR teams did not routinely discuss potential corrective actions with district management. This occurred because the Accountability Program Handbook does not require HQR teams that identify issues and/or deficiencies during a review to participate in the development of appropriate corrective actions. Responsibility for the development and implementation of corrective action plans resulting from both DPRs and HQRs rests with the District Manager.

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<sup>6</sup> See footnote 4 on p. 16.

The Accountability Program Handbook requires the HQR team, which consisted of headquarters and field personnel from other districts with working knowledge of enforcement activities and the Peer Review process, to summarize their review findings in a draft report within 10 days after the close-out conference. The Handbook, however, does not describe a further role for the review team after their site visit concluded. As prescribed by the Handbook, the District Manager develops proposed corrective actions to address the findings after the HQR team leaves the district. CMS&H's Accountability National Coordinator then reviews the District Manager's proposed corrective plan. According to the Handbook, in cases where an agreement could not be reached on the appropriate corrective action to reconcile an issue, the Deputy Administrator for CMS&H resolves the conflict.

While involvement of the review team in the development of corrective actions to resolve issues effectively was not specified in the Handbook, we found that in practice, input from review team members was sought. The National Coordinator did provide the District Manager's proposed corrective plan to the appropriate HQR team for review and comment. The requirement to have HQR teams involved in the corrective actions to resolve identified issues should be documented in the Handbook.

Further, District Managers should be encouraged to solicit input from HQR team members regarding appropriate corrective actions. By doing so, CMS&H could minimize delays in the development and implementation of corrective actions, thus reducing the risk of prolonging unsafe practices and procedures.

Timeframes Are Not Required for Development of Corrective Action Plans for DPRs and Implementation and Completion Dates Are Not Routinely Included in Plans for Both DPRs and HQRs

For DPRs, MSHA's Accountability Program Handbook does not require District Managers to develop a corrective action plan in a specified time period for issues and/or deficiencies identified. This was in contrast to the requirement for HQRs that District Managers develop a corrective action plan within 15 working days from receipt of the final report. Lack of a specific timeframe for District Managers to develop corrective action plans for DPRs could result in the possibility that inadequate practices and procedures might continue unchecked.

In addition, while the Accountability Handbook does require that implementation and completion dates for both DPRs and HQRs be incorporated into corrective action plans, we saw little evidence of this being followed. Without the establishment of dates for corrective actions, there is no way to monitor actions effectively.

From DPR and HQR reports reviewed for the period January 1, 2005, through December 31, 2006, implementation and completion dates were not consistently provided for all corrective actions. Only three of five districts included implementation and/or completion dates in their DPR and HQR corrective action plans.

Timely development of corrective action plans and completion of those actions appeared driven by the severity of the issue identified. CMS&H district and field personnel stated that corrective actions on deficiencies deemed serious were implemented immediately, while those determined to be less significant were corrected when time permitted.

Requiring a specific timeframe for the development of corrective action plans resulting from DPRs is essential in ensuring that districts consistently develop corrective action plans timely to address known deficiencies. Further, implementation and completion dates should be established for all corrective actions from both DPRs and HQRs, regardless of severity. Delay in completing corrective actions for any deficiencies identified during DPRs or HQRs could increase the risk of continuing unsafe practices and procedures in conducting enforcement activities. Specifying dates will permit effective tracking of actions, as well as enhance management oversight, consistency, and uniformity.

#### Lack of Monitoring and Evaluation of Corrective Actions for DPRs and HQRs

Minimal or no follow-up was conducted to verify the completion and effectiveness of corrective actions for both DPRs and HQRs. As a result, district personnel were not always sure if corrective actions either were completed or achieved their desired effect for the issues found during both DPRs and HQRs. Standards for performing peer reviews state that timely completion of corrective actions should be tracked by responsible personnel, and procedures should be established for resolution and followup of recommended corrective actions (see Exhibit A).

Responsibility for monitoring the completion and effectiveness of corrective actions resulting from both DPRs and HQRs rests with the District Manager. The MSHA Accountability Program Handbook states that the District Manager should evaluate the effectiveness of action plans for both DPRs and HQRs during *future* DPRs and monitor the action plans on an ongoing basis. We found a lack of consistency in CMS&H districts carrying out this requirement, thus limiting assurance that followup was conducted on both the implementation and effectiveness of the corrective actions.

For example, districts frequently cited training as a corrective action for both DPR and HQR identified issues. However, there was little or no followup to ensure not only that the training was given but also the effectiveness of the training. Of the seven districts we contacted, all districts consistently used training in addition to other methods, such as increased supervisory oversight, to address deficiencies found during DPRs and HQRs. Corrective actions such as training or supervisory oversight could fail to address deficiencies adequately if there is no followup to ensure that the issues found were effectively addressed.

CMS&H should ensure that districts are monitoring corrective actions from DPRs and HQRs on a continuous basis as is currently required; however, evaluation of the

effectiveness of such actions should not be limited to only future DPRs. CMS&H could strengthen the benefits from the Accountability Program by requiring ongoing evaluation of completed corrective actions by the districts.

## **Recommendations**

The OIG recommends that the Assistant Secretary for MSHA:

9. Require HQR teams to be involved in the development of appropriate corrective actions.
10. Require a timeframe be established for the development of all corrective action plans resulting from DPRs.
11. Incorporate dates into corrective action plans for the implementation and completion of actions resulting from DPRs and HQRs.
12. Require a timely evaluation by District Managers to ensure that completed corrective actions are adequately addressing the deficiencies identified during DPRs and HQRs.

## **Agency Response**

For recommendation 9, MSHA stated that HQR accountability teams will have the responsibility of conducting root-cause analysis to identify the deficiencies and subsequently submitting final corrective actions to District management. The development of the corrective actions may, in some cases, be a collaborative effort between the HQR accountability team and District management as they leverage their respective expertise to derive the most timely and effective remedies. MSHA stated it will revise their Accountability Program and Handbook to further define and formalize this process.

For recommendations 10 - 12, MSHA stated it strongly concurs with these recommendations. MSHA stated that timeframes for the development of corrective action plans are crucial to minimize the impact of practices which may negatively influence MSHA's enforcement program (and potentially the safety of miners). MSHA also stated that establishing dates for the implementation and completion of corrective action plans is equally important. In addition, MSHA stated that monitoring and evaluating the effectiveness of corrective action plans is vital at both the District and Headquarters level. Finally, MSHA stated it will revise the Accountability Program and Handbook to define and formalize these processes.

## **OIG Conclusion**

Recommendations 9 through 12 are resolved based on MSHA's proposed actions and separate communication of a corrective action milestone date of January 1, 2008. The

recommendations will be closed after MSHA provides documentation that the actions have been completed.

### **CMS&H Had No Centralized System to Record and Track Deficiencies, Corrective Actions, and Best Practices Identified during DPRs and HQRs**

As reported in the OIG's September 29, 2006, management letter, CMS&H did not have a centralized system to record and track deficiencies, corrective actions, and best practices. Without a method to track the results of accountability reviews, there was an increased risk that systemic and recurring deficiencies would not be readily identified and made known to all CMS&H districts; planned corrective actions would lack timely completion; and best practices would not be captured and shared across the organization.

According to industry standards on performing peer reviews, timely completion of corrective actions should be tracked by responsible personnel (see Exhibit A). A tracking system would facilitate CMS&H officials' ability to assure the timely completion of planned corrective actions and enhance their ability to review and analyze systemic weaknesses and trends.

In the September 29, 2006, management letter, the OIG recommended that the Assistant Secretary for MSHA:

Develop a system to record and track the results of District Peer Reviews and HQ Reviews of Districts (e.g., identified deficiencies, planned corrective actions, potential best practices, etc.).

In a November 29, 2006, response, MSHA's Assistant Secretary agreed with this recommendation and stated that a committee was formed to review various systems. This committee will recommend a proposed course of action to develop a centralized system that will not only record and track deficiencies but also ensure that corrective actions are implemented and completed in a timely manner. The response also stated that before system implementation, HQ personnel would consult with District Managers and District Peer Review Coordinators as well as IT specialists to ensure that the tracking system is simple to use and effective in facilitating review and analysis of systemic weaknesses and trends.

The response stated that CMS&H would implement this tracking system.<sup>7</sup> The district offices would also benefit from the ability to access the information contained in this tracking system. This would provide District Managers with another tool to effectively monitor the status and thus ensure the timely completion of corrective actions.

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<sup>7</sup> According to CMS&H officials, the root cause analyses and corrective actions arising from MSHA's Internal Reviews of the Sago, Aracoma and Darby mine accidents delayed implementation of the planned tracking system and may ultimately result in a different proposed corrective action or a different method of implementing the corrective action. As a result, the OIG will re-evaluate the status of this recommendation based on the agency's response to this audit report.

## **Recommendation**

The OIG recommends that the Assistant Secretary for MSHA:

13. Require that District Offices utilize the same tracking system, once it is developed and implemented by HQ, to record and track the results of their DPRs (e.g., identified deficiencies, planned corrective actions, potential best practices, etc.).

## **Agency Response**

MSHA concurred with recommendation 13. MSHA stated it will revise the Accountability Program and Handbook to define and formalize this process, i.e., require that District Offices utilize the same tracking system as Headquarters, to record and track the results of their DPRs.

## **OIG Conclusion**

We consider recommendation 13 unresolved pending receipt and evaluation of MSHA's specific corrective action plan and completion milestone date for the implementation of the tracking system at the District Office and HQ level.

## **CMS&H Did Not Consistently Communicate Deficiencies, Corrective Actions and Best Practices Resulting from DPRs and HQRs**

CMS&H did not consistently communicate deficiencies, corrective actions, and best practices identified during DPRs and HQRs, either within or among district offices. While the Accountability Program Handbook states that the District Manager is responsible for ensuring that findings from a HQR are reported to district personnel within 15 working days, it does not have a similar guideline for the dissemination of report findings from DPRs. In addition, there was no similar requirement for HQ to share appropriate findings, corrective actions, and best practice information across districts.

According to field office personnel, not all offices within a district were aware of issues identified by review teams conducting DPRs in their district. Additionally, we saw no evidence that best practices identified as part of these reviews were consistently shared within the districts' field offices. Within a district, this could hinder the ability to ensure timely corrective actions and/or enhancements in areas requiring improvement.

Further, among district offices, this inconsistent communication could also prevent districts from receiving information promptly on identified issues and proposed corrective actions, which also may exist in their districts. CMS&H should ensure that identified deficiencies, corrective actions and best practices are communicated timely within the appropriate district and field offices, and disseminated nationwide, as appropriate, in order to reduce recurring deficiencies and enhance the quality of enforcement activities overall.

The following table shows examples of different review teams from different districts identifying the same or similar issues. Knowledge of these recurring findings, as well as the proposed techniques to correct them, could reduce recurring deficiencies by making other districts aware of potential problems before they conduct their own DPR or HQR.

**Table # 2**

**Summary of Recurring Findings from Selected CMS&H's District Peer Reviews**

<b><u>Finding</u></b>	<b>District 5</b>	<b>District 6</b>	<b>District 10</b>	<b>District 11</b>
Incorrect and/or missing documentation	√	√	√	√
Inconsistencies with time and activity sheet entries	√	√	N/A	N/A
Deficiencies in note taking	√	√	√	√
Inconsistencies with Uniform Mine File	√	√	√	√
Violations incorrectly cited	√	√	√	√

Source:      OIG analysis of data provided by CMS&H. (Please note: The fifth district that we visited, District 9, was only to observe a HQR being conducted. No DPR reports were examined.)

CMS&H should ensure that all staff has a clear understanding of the issues identified during accountability reviews and how and why the corrective action plans and/or best practices will address those issues. Lack of specific requirements and procedures hinders the benefits associated with routinely and effectively disseminating this information. CMS&H can improve its Accountability Program by ensuring that such information is disseminated timely both within and across all district offices.

**Recommendation**

The OIG recommends that the Assistant Secretary for MSHA:

14.      Require that identified issues, deficiencies, corrective actions, and best practices be communicated within a district's field offices and disseminated nationwide, as appropriate, in a timely manner.

### **Agency Response**

For recommendation 14, MSHA stated it concurs with this recommendation. MSHA stated it will revise the Accountability Program and Handbook to require timely dissemination of accountability review findings, including common issues, resolutions, and best practices, within and across the Districts.

### **OIG Conclusion**

Recommendation 14 is resolved based on MSHA's proposed actions and separate communication of a corrective action milestone date of January 1, 2008. The recommendation will be closed after MSHA provides documentation that the actions have been completed.



**Elliot P. Lewis**  
**February 28, 2007**



## **Exhibits**

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## EXHIBIT A

### Attributes of Good Peer Review Programs

**Please Note:** The following list of attributes were compiled by the OIG from the sources identified in the footnotes.

#### Selection

- ❖ Review entities should be chosen without regard to size, shape, location, or other physical features.<sup>8</sup>
- ❖ Review entities selected should include a reasonable cross-section of the entities' practices.<sup>9</sup>
- ❖ Sample items should be selected in such a way that the sample can be expected to be representative of the population.<sup>10</sup>

#### Site Visits

- ❖ The review team should visit the selected entities under review.<sup>11</sup>

#### Independence

- ❖ Assign individuals to the peer reviews who are not otherwise involved in the performance of the entity under review.<sup>12</sup>

#### Documentation

- ❖ Documentation should contain sufficient information to enable an experienced reviewer, who has had no previous connection with the review, to understand the conclusions.<sup>13</sup>

#### Interviews

- ❖ The review team should interview personnel at various levels.<sup>14</sup>

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<sup>8</sup> Association of Independent Certified Public Accountants (AICPA) All Business Letter

<sup>9</sup> AICPA Peer Review Manual (PRM) Section 18200-Guide for Performing Inspections

<sup>10</sup> Statements of Accounting Standards (SAS) AU 350.05

<sup>11</sup> AICPA Standards for Performing and Reporting on Peer Reviews Section 57

<sup>12</sup> AICPA Peer Review Manual (PRM) Section 18200-Guide for Performing Inspections

<sup>13</sup> Government Accountability Office (GAO) 03-673G (4.22)

<sup>14</sup> AICPA Standards for Performing and Reporting on Peer Reviews Section 57 and Securities and Exchange Commission Practice Section (SECPS) AICPA Section 2000 and GAO 03-673G (3.54a)

### **Computerized Systems**

- ❖ Documentation should include evidential matter produced outside the computerized information system for direct testing of data within the system.<sup>15</sup>

### **Reporting and Follow-up Actions**

- ❖ A written report should be prepared to communicate the results of the peer review.<sup>16</sup>
- ❖ Timely completion of corrective actions should be tracked by responsible personnel.<sup>17</sup>
- ❖ Procedures should be established for resolution and follow-up of recommended corrective actions.<sup>18</sup>

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<sup>15</sup> GAO 03-673G (4.24c)

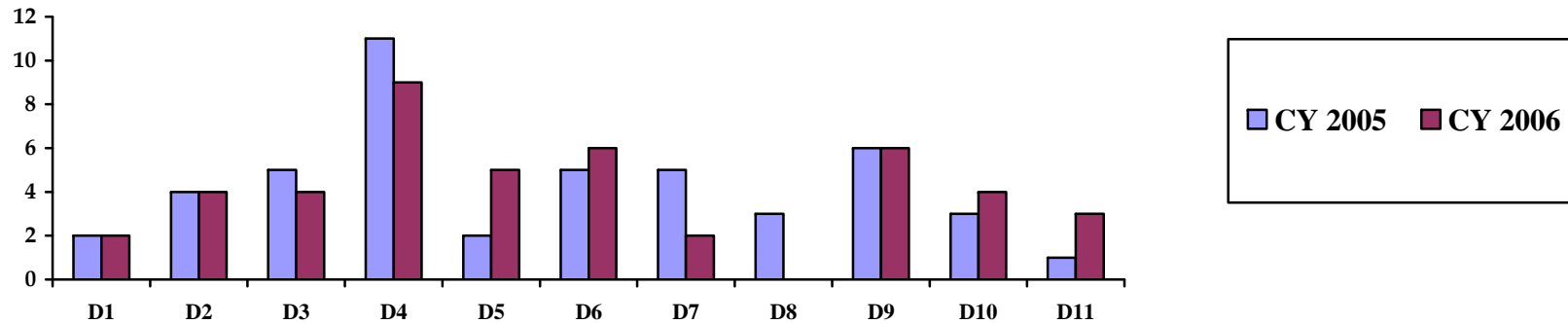
<sup>16</sup> GAO 03-673G (3.54d)

<sup>17</sup> AICPA All Business Letter

<sup>18</sup> Office of the Inspector General (OIG) President's Council on Integrity Efficiency (PCIE)

**EXHIBIT B**

**District Peer Reviews Conducted in CYs 2005 and 2006**



The table below shows the District Peer Reviews (DPRs) conducted with mine visits in CYs 2005 & 2006.

<b>District #</b>	<b>DPRs w/ mine visits CY 2005</b>	<b>DPRs w/ mine visits CY 2006</b>
District 1	0	0
District 2	0	0
District 3	0	1
District 4	0	0
District 5	0	1
District 6	10	12
District 7	0	0
District 8	0	0
District 9	0	0
District 10	1	2
District 11	0	1

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## **Appendices**

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## **APPENDIX A**

### **Background**

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#### **Mine Safety and Health Administration (MSHA)**

The Federal Mine Safety and Health Act of 1977 (Mine Act) established the Mine Safety and Health Administration (MSHA) in 1978. The Mine Act transferred the Federal enforcement program from the Department of the Interior to the Department of Labor (DOL) and placed coal mines and metal/nonmetal mines under a single law.

As a result of the increase in coal mine fatalities in early CY 2006, Congress enacted the Mine Improvement and New Emergency Response (MINER) Act on June 15, 2006. The MINER Act includes provisions for updated emergency response plans, increased training and availability of rescue teams, improved communication technology, and training programs for miners and mine inspectors.

MSHA is responsible for administering the provisions of both the Mine Act and the MINER Act. MSHA's primary goals are to (1) eliminate fatal accidents; (2) reduce the frequency and severity of nonfatal accidents; (3) minimize health hazards; and (4) promote improved safety and health conditions in the nation's mines. MSHA's organizational structure divides oversight responsibilities for all mines between the Office of Coal Mine Safety and Health (CMS&H) and the Office of Metal/Nonmetal Mine Safety and Health (MNMS&H). MSHA's budgeted operating costs totaled \$278 million for CY 2006 and \$279 million for CY 2005. MSHA's proposed budget for FY 2007 is \$288 million.

CMS&H is responsible for enforcing the Mine Act and MINER Act at coal mines. It administers 11 districts and 44 associated field offices with staff totaling approximately 1,000. Eight of its 11 districts are located in the Eastern United States, near coal seams located in or near the Appalachian Mountains.

#### **MSHA Accountability Program**

MSHA established its Accountability Program in 1989 to (1) evaluate the quality of its enforcement activities and (2) provide reasonable assurance that its enforcement personnel consistently comply with policies and procedures. MSHA revised the program most recently in March 2004 based on recommendations from MSHA's Internal Review of the Jim Walters Resources Company, Mine 5 accident. Major revisions included mandated District level internal Peer Reviews, Headquarters oversight of field activities, and the elimination of internal review procedures dealing with low-risk issues such as MSHA equipment, recordkeeping, forms and reference materials. The Accountability Program is implemented through the policy and guidelines contained in the Accountability Program Handbook (AH04-III-10, March 2004). The Handbook describes two levels of accountability reviews, Headquarters Reviews (HQR) of District Office operations and District Peer Reviews (DPR) of Field Office operations.

### Headquarters Reviews of District Offices

HQRs include in-depth reviews of the enforcement activities for a selected mine operation(s). These reviews identify strengths and weaknesses in the District's operations and examine the steps taken to correct significant issues identified during previous HQRs and DPRs. MSHA conducts a review of each District Office biannually.

The Administrators for CMS&H and MNMS&H each assign a National Coordinator to oversee and coordinate HQRs within their organization. The National Coordinator develops review schedules and designates review team members. Review team members consist of Headquarters and field personnel from outside the District under review with a working knowledge of enforcement activities and Peer Review processes.

Before the on-site review, team members review both quantitative and qualitative data (e.g., accident and fatality incidence rates, citations, results of prior peer reviews, Management Information Systems reports, etc.), in support of the District for at least the prior year. During a 3-5 day on-site visit, the review team may interview District and field office employees, review inspection and investigation files, reports, logs, and records. The team reviews inspection activities, mine plans, special investigations, Safety and Health Hazardous Conditions Complaints, Alternative Case Resolution Initiatives (ACRI) and may visit a mine site for observation.

The team conducts a close-out conference with District management at the completion of the review to discuss findings. Within 10 working days of this conference, the team summarizes its findings in a draft report. The District Manager reviews the draft report and provides comments to the National Coordinator. After issuance of the final report, the District Manager is responsible for (1) disseminating the findings to all District personnel and developing a corrective action plan to address all findings within 15 working days, and (2) monitoring the effectiveness of the corrective action plan on an ongoing basis.

### District Peer Review Processes

DPRs are intended to provide field managers and supervisors with feedback on the quality and conduct of their enforcement programs, and to facilitate the implementation of timely and effective actions to eliminate the root causes of deficiencies. HQ personnel use the results of the DPRs to assess enforcement consistency nationwide, identify systemic weaknesses and trends, and detect potential best practices within MSHA's inspection programs. Each District must conduct DPRs on a selection of its field offices annually.

Each District Manager appoints a District Peer Review Coordinator (DPRC) who schedules, documents, and maintains records of the reviews. The DPRC also serves as a liaison with Headquarters for preparing for and facilitating HQRs. The review team consists of the DPRC and at least two supervisors. For the mine operation(s) selected

for review, the team examines the mine file, mine map(s), inspection notes, citation/orders issued, and time and activity data for all inspections to assure that a complete inspection was performed. The review also determines compliance with Agency policies and procedures.

During the Peer Review, the team may conduct a mine visit(s) to check mine records and observe general conditions of the mine relevant to compliance with the Mine Act, applicable regulations, and approved plans. A site visit will also compare the actual conditions and practices at the operation to the results documented during the previous inspection activities under review.

After the review, the team provides documentation of the review through a summary report and discusses its findings with the District Manger and Assistant District Manager. The District Manager is responsible for (1) developing and implementing a plan of corrective actions to address the findings of the Peer Review, and (2) arranging for effective follow up to prevent recurrence of deficiencies. Evaluation on the effectiveness of the action plan is required during future peer reviews and monitored by the District Manager on an ongoing basis. On a semi-annual basis, the District Manager submits a summary report to the National Coordinator. The report will identify the offices reviewed and will summarize the serious and recurring deficiencies found during the 6-month period.

#### Nationwide Reporting

The National Coordinator will submit a summary report of HQRs and DPRs to the respective Administrator by January 31 and July 31 of each year. The report will (1) summarize serious and recurring deficiencies found and (2) identify patterns or trends which may have nationwide implications and potential corrective actions proposed.

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## **APPENDIX B**

### **Objectives, Scope, Methodology, and Criteria**

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#### **Objectives**

We performed audit work to accomplish three specific objectives. We answered the following questions:

1. Was MSHA's Accountability Program designed to provide adequate assurance that CMS&H's oversight responsibilities were effectively and consistently performed?
2. Was the Accountability Program adequately and consistently implemented throughout CMS&H?
3. Was CMS&H effectively using the results of its accountability reviews to report, monitor and improve its operations?

#### **Scope and Methodology**

To accomplish our objectives, we reviewed the current Accountability Program Handbook and applicable Federal laws and regulations. We interviewed CMS&H officials at Headquarters and a total of seven selected district offices (5 site visits and 2 phone interviews). For all HQRs and DPRs conducted between January 1, 2005 and December 30, 2006, we reviewed (a) the final report, (b) all supporting documentation examined by the review teams in preparing those reports, and (c) corrective action plans and other documents that resulted from the reviews conducted. In addition, we observed a CMS&H team conduct a HQR.

We tested only those controls necessary to address our objectives. We conducted fieldwork from July 2006 through December 2006, and 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.

#### **Accountability Program Handbook**

We assessed the contents of the Accountability Program Handbook to (a) understand the structure and design of the program, (b) determine whether essential elements of a peer review program were present, and (c) assess whether controls existed to assure proper and consistent implementation of the program throughout CMS&H.

Site Visits

We made site visits to CMS&H Headquarters in Arlington, Virginia; CMS&H District 5 in Norton, Virginia; District 6 in Pikeville, Kentucky; District 10 in Madisonville, Kentucky; and District 11 in Birmingham, Alabama. We also visited District 9 in Denver, Colorado to observe a HQR of that district. We judgmentally selected these locations from among CMS&H's 11 districts as summarized in the following table.

**Table # 3  
Site Visits**

District	CY 2005		CY 2006 (thru 6/30/06)		Total	Selection Criteria
	Fatalities	Injuries	Fatalities	Injuries		
1	1	49	0	25	75	No HQR completed under the current process
2	3	475	0	188	666	No HQR completed under the current process
3	2	526	14	254	196	Ongoing MSHA Accident/Internal review
4	2	1245	6	646	1899	Ongoing MSHA Accident/Internal review
<b>5</b>	<b>0</b>	<b>290</b>	<b>0</b>	<b>118</b>	<b>408</b>	<b>"Best Practice" model per MSHA</b>
<b>6</b>	<b>3</b>	<b>451</b>	<b>3</b>	<b>273</b>	<b>730</b>	<b>High Fatality and Injury rate</b>
7	5	485	8	288	786	Ongoing MSHA Accident/Internal review
8	0	502	0	238	740	
<b>9</b>	<b>2</b>	<b>540</b>	<b>1</b>	<b>325</b>	<b>1276</b>	<b>HQR conducted during audit fieldwork</b>
<b>10</b>	<b>0</b>	<b>279</b>	<b>0</b>	<b>153</b>	<b>432</b>	<b>Low Fatality and Injury rate</b>
<b>11</b>	<b>4</b>	<b>340</b>	<b>1</b>	<b>150</b>	<b>495</b>	<b>Medium Fatality and Injury rate</b>

Source: OIG analysis of fatalities and injuries data provided by CMS&H headquarters

Note: Locations selected for site visits are shown in **bold italics**.

To avoid interfering in any ongoing MSHA accident investigations, we did not select Districts 3, 4, or 7 for site visits. We did not select Districts 1 and 2 because CMS&H had not yet conducted a HQR under the current Accountability Program process at those locations. We chose Districts 6, 10, and 11 to cover districts with a range of accident/fatality rates. We included District 5 because CMS&H officials stated that it used several "best practices". Finally, we visited District 9 to observe a CMS&H team conduct a HQR. Although we did not visit Districts 1 and 4, we did interview staff in those districts, as recommended by MSHA, to discuss their use of internal, personnel-based performance measures in selecting activities to review.

During site visits to Districts 5, 6, 10, and 11, we obtained a walkthrough of each district's DPR process and interviewed key personnel using a standard set of questions related to our audit objectives. We also reviewed enforcement and other documents related to DPRs and HQRs that CMS&H conducted at those locations during our audit period. We conducted these steps to assess compliance with the Accountability Handbook. At District 9, we observed the Headquarters team conducting a HQR and noted the procedures used to conduct the review.

#### Reviewing Headquarter and District Accountability Reports

We reviewed Headquarters and District Accountability reports indicating deficiencies, best practices and corrective actions, etc., for January 2005 through September 2006. We reviewed this documentation to identify control points and recurring deficiencies,

assess the distribution of best practices throughout the districts, and identify corrective actions related to deficiencies.

## **Criteria**

We used the following criteria to perform this audit:

### 1. Selection Process:

- Association of Independent Certified Public Accountants (AICPA) Codification of Statement on Auditing Standards (SAS) AU 350 (Audit Sampling)
- AICPA Securities and Exchange Commission Practice Section (SECPS) Section 2000 (Standards for Performing and Reporting on Peer Reviews)
- AICPA - All Business News Letter (The Effectiveness of Increasing Sample Size to Mitigate the Influence of Population Characteristics in Haphazard Sampling)
- AICPA Peer Review Manual (PRM) Section 18200 (Guide for Performing Inspections)

### 2. Independence:

- GAO-03-673G (3.03) (Standard related to independence)
- AICPA PRM Section 18200

### 3. Site Visits:

- AICPA (Standard for Performing and Reporting on Peer Reviews) Section 57

### 4. Interviews:

- AICPA Section 57
- AICPA Section 2000
- SAS AU 350
- GAO-03-673G (3.54a) (Peer Review requirements)



5. Documentation:

- GAO-03-673G (4.22) (Standard related to audit documentation)

6. Reporting:

- AICPA (Standard for Performing and Reporting on Peer Reviews) Section 113(d)
- Government Auditing Standards (GAS) 8.07 (revised 2003)
- GAO-03-673G (3.54d) (Peer Review requirements)
- GAO-03-673G (5.15) (Reporting deficiencies)
- AICPA - All Business News Letter
- AICPA PRM Section 18200
- President's Council on Integrity and Efficiency (PCIE)

7. Computerized Systems:

- GAO-03-673G (4.24c) (Audit documentation)

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**APPENDIX C**

**Acronyms and Abbreviations**

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Alternative Case Resolution Initiative	ACRI
Association of Independent Certified Public Accountants	AICPA
Coal Mine Safety and Health	CMS&H
Department of Labor	DOL
District Peer Reviews	DPRs
District Peer Review Coordinators	DPRCs
Government Accountability Office	GAO
Government Auditing Standards	GAS
Headquarters Reviews	HQRs
Mine Improvement and New Miner Response Act of 2006	MINER Act
Mine Safety and Health Act of 1977	Mine Act
Mine Safety and Health Administration	MSHA
Metal and Nonmetal Mine Safety and Health	MNMS&H
Office of the Inspector General	OIG
Peer Review Manual	PRM
President's Council on Integrity Efficiency	PCIE
Statements of Accounting Standard	SAS

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**APPENDIX D**

**Management Letter and MSHA Responses**

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**U.S. Department of Labor**

Office of Inspector General  
Washington, DC. 20210



September 29, 2006

MEMORANDUM FOR:

DAVID G. DYE  
Acting Assistant Secretary  
for Mine Safety and Health

FROM:

*Elliot P. Lewis*  
ELLIOT P. LEWIS  
Assistant Inspector General  
for Audit

SUBJECT:

MSHA Accountability Program  
Coal Mine Safety and Health  
Management Letter No. 05-06-007-06-001

This memorandum discusses the initial results of our performance audit of the Mine Safety and Health Administration (MSHA), Coal Mine Safety and Health (CMS&H) Accountability Program. Normally, a Management Letter is provided to be read in conjunction with an accompanying audit report. However, with CMS&H preparing to initiate Headquarters (HQ) Reviews of Districts in five districts during the coming months, we are issuing this Management Letter as an interim reporting mechanism to aid in those reviews. These results are based on our work to date and were discussed at a meeting with CMS&H officials on September 7, 2006. Fieldwork is continuing and we will report further in a separate report when our work is completed.

We have identified five potential issues. Improvement in these areas will increase the validity and management oversight benefits of this process. As currently defined, the Accountability Program does not require:

- 1) a standard process for selecting mines to be reviewed during District Peer Reviews and HQ Reviews of Districts;
- 2) that a review team member visit those mines selected for review during District Peer Reviews and HQ Reviews of Districts;
- 3) that a review team member interview appropriate district and/or field office personnel during District Peer Reviews and HQ Reviews of Districts;
- 4) a standard format for District Peer Review reports and corrective action plans;  
and
- 5) a centralized system for HQ to record and track the deficiencies and corrective actions identified during District Peer Reviews and HQ Reviews of Districts.

Based on our ongoing assessment of MSHA's safety and health programs and responsibilities, we initiated an audit of MSHA's Accountability Program within CMS&H. The Accountability Program was established to evaluate the quality of MSHA enforcement activities by conducting peer reviews of District activities, and to provide reasonable assurance that policies and procedures are being complied with consistently throughout Coal Mine Safety and Health, and Metal/Nonmetal Mine Safety and Health. We focused on the Accountability Program within CMS&H in part, because of the increase in coal mining accidents during FY 2006. As of July 30, 2006, there were 37 fatalities in the coal mining sector, as opposed to 28 and 22 coal mining fatalities reported for 2004 and 2005, respectively.

The Accountability Program is implemented through the policy and guidelines established by the Accountability Program Handbook (AH04-III-10). Prior to March 2004, the Accountability Program was an administrative evaluation that identified problems but had no clear mechanism to correct the root cause of those problems. It also lacked follow-up measures. The program was revised as a result of recommendations from MSHA's Internal Review of the Jim Walters Resources Company, Mine No. 5. The new program is intended to streamline the process so that corrective actions, prompted by reviews, will be made quickly and efficiently. The new program focuses on high risk areas, such as enforcement activities, instead of low risk administrative issues.

The Accountability Program has two levels of review, HQ Reviews of Districts and District Peer Reviews of field offices. The HQ Reviews of Districts are comprehensive and include in-depth reviews of the enforcement activities for a selected operation(s). HQ conducts a review of each District Office once every 2 years. These reviews ensure that significant issues that were identified during previous District Peer Reviews and/or HQ Reviews of Districts have been corrected. District Peer Reviews focus on MSHA's enforcement systems to identify deficiencies in the level and consistency of

enforcement, concentrating on those activities that most directly affect the safety and health of miners. Each District conducts Peer Reviews of selected field offices annually. Results of the District Peer Reviews are used by HQ personnel to ensure enforcement consistency nationwide. District Peer Reviews are also used to identify systemic weaknesses and trends, as well as potential best practices within MSHA's inspection programs.

We have identified the following issues from our audit work to date that we believe will enhance CMS&H officials' ability to derive the most benefit from their District Peer Reviews and HQ Reviews of Districts.

1. The Accountability Program Handbook does not define or require a standard process for selecting a mine(s) to be reviewed during the District Peer Reviews and HQ Reviews of Districts. As a result, in both District Peer Reviews and HQ Reviews of Districts, only underground coal mines are considered for review, excluding surface mines and facilities from possible selection. This limits the value of the reviews by preventing procedural deficiencies or improprieties related to the oversight of surface mines and facilities from being detected and corrected. In addition, in District Peer Reviews, each District Manager uses varying criteria (e.g., size, accident rates, enforcement history, etc.) to select a mine(s) for review. This creates a risk that an individual could manipulate the selection to reduce the effort required to complete the review or to avoid detection of deficiencies or improprieties. While there may be acceptable reasons to weight the probability of selection based on various factors, the validity of the accountability process would be improved by assuring that all entities (underground, surface, and facility) have a possibility of selection and that the selection is not within the control of any individual (i.e., random).

**Recommendation: MSHA should develop and require a standard process for the selection of a mine(s) to be reviewed during both District Peer Reviews and HQ Reviews of Districts. The process should assure that (a) any entity could be selected and (b) the selection is not within the control of any individual. In addition to the mine(s) selected through this process, MSHA could, if desired, select an additional mine(s) for review based on criteria of its choosing (e.g., fatalities, accidents, enforcement history, size, etc.).**

2. The Accountability Program Handbook does not require review team members to visit the mine(s) selected for review. District Peer Reviews and HQ Reviews of Districts should not be based solely on an examination of various records. A review solely based on records increases the risk that errors (unintentional) or misrepresentations (intentional) in the documentation would not be detected. A physical tour of selected portions of the mine would provide a basis of comparison against events and conditions depicted in the mine's plans and inspection records.

**Recommendation: MSHA should require that one or more review team members observe selected portions of the mine(s) chosen for review. The scope of these observations should be sufficient to form an overall perspective of the mine's condition and operation in comparison to that reflected by the related mine plans and records (e.g., inspector notes, citations, etc.).**

3. The Accountability Program Handbook does not require review team members to conduct any interviews in completing District Peer Reviews and HQ Reviews of Districts. Omitting interviews of individuals involved in or knowledgeable of district or field office activities (e.g., MSHA personnel, mine operators, union officials) limits the scope of information used to assess those offices' operations. This increases the risk that operational deficiencies will not be detected. Interviews of appropriate individuals during District Peer Reviews and HQ Reviews of Districts would provide an opportunity to corroborate and expand on information about operational issues identified through other review sources (i.e., document review and mine visits).

**Recommendation: MSHA should require that review team members interview appropriate individuals during District Peer Reviews and HQ Reviews of Districts. The scope of these interviews should address overall office operations as well as the information contained in any specific records (e.g., inspector notes, citations, etc.) reviewed.**

4. The Accountability Program Handbook does not require a standard format for District Peer Review reports and corrective action plans. As a result, the Summary Accountability Reports that District Managers submitted to CMS&H officials during the period January 1, 2005 – June 30, 2006, presented peer review information in a variety of formats and levels of detail. This makes it more difficult for CMS&H HQ officials to determine that all appropriate (a) review work was performed, (b) results were reported, and (c) corrective actions were identified. It also makes it more difficult to analyze comparable information across districts to identify trends and systemic issues. A standard format for District Peer Review reports would facilitate the ability of CMS&H officials to carry out their oversight review and analysis.

**Recommendation: MSHA should require the use of a standard report format, in both presentation and content, for District Peer Review Reports and corrective action plans. This would help MSHA to assess the consistent application of policies and procedures nationwide as well as facilitate the identification of systemic weaknesses and the implementation of potential best practices.**

5. The Accountability Program Handbook does not require that CMS&H maintain a tracking system of deficiencies and corrective actions. Without an effective



method to track the results, there is an increased risk that corrective actions will not be timely completed and that systemic deficiencies will not be identified. A tracking system would facilitate CMS&H officials' ability to assure the timely completion of planned corrective actions and enhance their ability to review and analyze systemic weaknesses and trends.

**Recommendation: MSHA should develop a system to record and track the results of District Peer Reviews and HQ Reviews of Districts, e.g., identified deficiencies, planned corrective actions, potential best practices, etc. This tracking system will facilitate review and analysis of systemic weaknesses and trends, help to ensure that corrective actions are completed in a timely manner, and that potential best practices are shared nationwide.**

#### Agency Response

In response to the draft Management Letter, MSHA stated that CMS&H management has seriously considered our suggestions and concurs that the enhancements will not only create a more uniform and standardized approach to Headquarters and District Peer review processes, but also assist CMS&H in strengthening this very important oversight program. MSHA specifically agreed that the Accountability Handbook does not require a number of processes related to the selection of mines, mine visits, interviews, standardized format for District Peer Review reports and corrective actions, and a centralized tracking system for deficiencies and corrective actions identified during HQ and District Peer Reviews. MSHA's response outlines corrective actions that CMS&H will take to address each recommendation. The Acting Assistant Secretary's response is included in its entirety as an attachment.

#### OIG Conclusion

Based on MSHA's response, we consider recommendations 1, 3, 4 and 5 resolved. These recommendations will be closed upon receipt and review of the results of MSHA's corrective actions. With regard to recommendation 2, MSHA stated that it would include visits to a percentage of mine(s) selected for District Peer Reviews. We recognize that visiting all mines selected for District Peer Reviews presents a resource issue; therefore, we will take into consideration MSHA's proposed action as we continue our ongoing audit of the Accountability Program.

This final Management Letter is submitted for appropriate action. We request a response within 60 days describing actions taken in response to the recommendations. If you have any questions regarding this Management Letter, please contact Charles Allberry, Regional Inspector General for Audit in Chicago, at 312-353-2416.

Attachment

cc: John Langton  
Acting Administrator for CMS&H

Melinda Pon  
Special Assistant to the Administrator for CMS&H

Kenneth Bullock  
Director, Office of Program Policy Evaluation

Brent Carpenter  
MSHA Audit Liaison

**U.S. Department of Labor**

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



**SEP 28 2008**

MEMORANDUM FOR ELLIOT P. LEWIS  
Assistant Inspector General for Audit

FROM: DAVID G. DYE   
Acting Assistant Secretary for  
Mine Safety and Health

SUBJECT: Full Response to Draft OIG "MSHA Accountability Program  
Coal Mine Safety and Health Management Letter No. 05-06-007-  
06-001"

We appreciate the opportunity to comment on the Department of Labor's Office of the Inspector General (OIG) Management Letter on MSHA's Accountability Program Coal Mine Safety and Health [No. 05-06-007-06-001]. The OIG provided Coal Mine Safety and Health (CMS&H) with a list of improvements that "will increase the validity and management oversight benefits of this (Accountability) process." As you will note in our responses to each of the OIG's 5 recommendations below, CMS&H management has seriously considered your suggestions and concur that the enhancements will not only create a more uniform and standardized approach to Headquarters and District Peer Review processes, but also assist CMS&H in strengthening this very important oversight program.

During Phase 1 of the OIG's Accountability Audit, the Accountability Audit team correctly noted that MSHA's Accountability Handbook does not require a number of processes related to the selection of mines, mine visits, interviews, standardized format for District Peer Reviews reports and corrective actions, and a centralized tracking system for deficiencies and corrective actions identified during Headquarters (HQ) and District Peer Reviews. Even before the OIG audit, CMS&H Headquarters and some districts went above and beyond the Handbook requirements and implemented some of these processes in their reviews. Since receipt of the draft management letter, CMS&H management initiated discussions with our District Managers and District Peer Review Coordinators on each of the 5 recommendations and is currently addressing the OIG's concerns.

The following are MSHA's specific responses to the OIG recommendations.

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

**Recommendation No. 1: MSHA should develop and require a standard process for the selection of a mine(s) to be reviewed during both District Peer Reviews and HQ Reviews of Districts. The process should assure that (a) any entity could be selected and (b) the selection is not within the control of any individual. In addition to the mine(s) selected through this process, MSHA, could, if desired, select an additional mine(s) for review based on criteria of its choosing (e.g., fatalities, accidents, enforcement history, size, etc.)**

MSHA Response:

On pages 2 and 3 of the draft Management Letter, the OIG noted that "The Accountability Program Handbook does not define or require a standard process for selecting a mine(s) to be reviewed during the District Peer Reviews and HQ reviews of Districts. As a result, in both District Peer Reviews and HQ Reviews of Districts, only underground coal mines are considered for review, excluding surface mines and facilities from possible selection. This limits the value of the reviews by preventing procedural deficiencies or improprieties related to oversight of surface mines and facilities from being detected and corrected."

To date, all Headquarters Reviews have focused on problematic, high-risk underground mines because of the inherent risks and exposures to the health and safety of miners. Some, but not all, districts have included surface operations and facilities in their district peer reviews in addition to underground mines. Knowledgeable CMS&H personnel did in fact consider all possible mines, and based on expert knowledge of empirical and historical performance experience in the districts, selected those mines that presented the highest risk.

Since the implementation of the Accountability Program Handbook, Headquarters and the Districts have attempted to standardize the mine selection process and a team of individuals work on the mine selection process; this has been an iterative process. CMS&H evaluates a number of screening criteria for the mine(s) selected for review. These include mine profiles for small, medium and large mines, enforcement and accident histories, as well as any specific conditions and/or management-labor relations issues at the mine.

To address the OIG's recommendation, CMS&H is working with MSHA's statisticians to derive a method or random (or random selection based on weighting criteria) process to "assure that all entities (underground, surface and facility) have a possibility of selection and that the selection is not within the control of any individual (i.e. random)." Once we are confident with the process, we will attempt to pilot this approach during the remainder of CY 2006 and evaluate its utility prior to the start of the CY 2007 Accountability Reviews. As an interim measure, we will be adding a surface mine or

surface facility to one of the upcoming HQ Accountability Reviews in addition to a high-risk underground mine.

**Recommendation No. 2: MSHA should require that one or more review team members observe selected portions of the mine(s) chosen for review. The scope of these observations should be sufficient to form an overall perspective of the mine's condition and operation in comparison to that reflected by the related mine plans and records (e.g., inspector notes, citations, etc.)**

MSHA Response:

On page 3 of the draft Management letter, the OIG states that "The Accountability Program Handbook does not require review team members to visit the mine(s) selected for review... A review solely based on records increases the risk that errors (unintentional) or misrepresentations (intentional) in the documentation would not be detected..."

This is an accurate statement; however, CMS&H HQ and some District Peer Reviews go above and beyond the requirements of the Accountability Program Handbook. HQ and some districts have included mine visits as part of the review process. Some other districts have not included mine visits; however, review team members are made up of members who have visited the mines being reviewed in the previous six months in their capacity as supervisors.

To address the OIG's concerns, CMS&H is drafting a policy memo to require that mine visits are included in all HQ Reviews and that District Peer Reviews include visits to a percentage of mine(s) selected for review. Limiting mine visit(s) to a percentage (to be determined) at the District Peer Review level will enable the districts to continue with the depth and breadth of the mines reviewed and will not create an undue burden on district resources.

**Recommendation No. 3: MSHA should require that review team members interview appropriate individuals during District Peer Reviews and HQ Reviews of Districts. The scope of these interviews should address overall office operations as well as the information contained in any specific records (e.g., inspector notes, citations, etc.) reviewed.**

MSHA Response:

On page 4 of the draft Management Letter, the OIG states: "The Accountability Program Handbook does not require review team members to conduct any interviews in completing District Peer Reviews and HQ reviews of Districts... Omitting interviews of individuals involved in or knowledgeable of district or field office activities (e.g.,

MSHA personnel, mine operators, union officials) limits the scope of information used to assess those offices' operations. This increases the risk that operational deficiencies will not be detected."

This is an accurate statement; however, CMS&H HQ and districts go above and beyond the requirements of the Handbook. As a part of the HQ and District Peer Review processes, interviews of district management personnel are in fact conducted. This practice is consistent with the OIG's belief that these interviews "would provide an opportunity to corroborate and expand on information about operational issues identified through other review sources (i.e. document review and mine visits)."

To address the OIG's concerns, CMS&H is drafting a policy memo to require that interviews of district management personnel be included in all HQ and District Peer Reviews.

**Recommendation 4: MSHA should require the use of a standard report format, in both presentation and content, for District Peer Review Reports and corrective actions plans. This would help MSHA to assess the consistent application of policies and procedures nationwide as well as facilitate the identification of systemic weaknesses and the implementation of potential best practices.**

On page 4 of the draft Management Letter, the OIG states "The Accountability Program Handbook does not require a standard format for District Peer Review reports and corrective action plans...Summary Accountability Reports that District Managers submitted to CMS&H ...presented peer review information in a variety of formats and levels of detail. This makes it more difficult for CMS&H HQ officials to determine all appropriate (a) review work was performed, (b) results were reported, and (c) corrective actions were identified. It also makes it more difficult to analyze comparable information across districts to identify trends and systemic issues."

CMS&H concurs with this recommendation and will require mandatory use of the standardized report template for District Peer Review reports and corrective actions. To date, the use of this template has been optional. This requirement will also be incorporated in CMS&H's policy memo that will address OIG's Recommendations 2 and 3. Guidance will also be provided to the districts on the level of detail required to facilitate HQ oversight review and analyses.

**Recommendation 5: MSHA should develop a system to record and track the results of District Peer Reviews and HQ Reviews of Districts, e.g., identified deficiencies, planned corrective actions, potential best practices, etc. This tracking system will facilitate review and analysis of systemic weaknesses and trends, help to ensure that corrective actions are completed in a timely manner, and that potential best practices are shared nationwide.**

MSHA Response:

CMS&H concurs with this recommendation and work is currently underway to develop and implement this centralized system to record and track the deficiencies identified during District Peer Reviews and HQ Reviews of Districts and to ensure that the corrective actions are implemented and completed in a timely manner.

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**MSHA's Office of Coal Mine Safety and Health  
Needs to Strengthen its Accountability Program**

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**U.S. Department of Labor**

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



NOV 29 2005

MEMORANDUM FOR ELLIOT P. LEWIS  
Assistant Inspector General  
for Audit

FROM: RICHARD E. STICKLER  
Assistant Secretary for  
Mine Safety and Health

A handwritten signature in cursive script that reads "Richard E. Stickler".

SUBJECT: Management Letter 05-06-007-06-001

Thank you for the opportunity to respond to your management letter. The attached document describes MSHA's actions to address your recommendations.

If you have any questions, please contact Brent Carpenter (202-693-9782) or Melinda Pon (202-693-9516).

Attachment

cc: Kevin Stricklin  
John Langton  
Melinda Pon  
Ken Bullock

### **Attachment**

**Recommendation No. 1: MSHA should develop and require a standard process for the selection of a mine(s) to be reviewed during both District Peer Reviews and HQ Reviews of Districts. The process should assure that (a) any entity could be selected and (b) the selection is not within the control of any individual. In addition to the mine(s) selected through this process, MSHA, could, if desired, select an additional mine(s) for review based on criteria of its choosing (e.g., fatalities, accidents, enforcement history, size, etc.)**

CMS&H established a random mine selection process to “assure that all entities (underground, surface and facility) have a possibility of selection and that the selection is not within the control of any individual (i.e. random)” and partially implemented the OIG’s recommendation during the pilot phase. However, upon further review, we have determined that selection of mines on a randomized process is an ineffective use of our resources. As we indicated in our response to the OIG on September 28, 2006, all Headquarters and district peer reviews have focused on problematic, high risk mines because of the inherent risks and exposures to the health and safety of miners. Based on expert knowledge of empirical and historical performance experience in the districts and data analyses, MSHA will select mines that present the highest risk and where data indicate there may be deficiencies.

**Recommendation No. 2: MSHA should require that one or more review team members observe selected portions of the mine(s) chosen for review. The scope of these observations should be sufficient to form an overall perspective of the mine’s condition and operation in comparison to that reflected by the related mine plans and records (e.g., inspector notes, citations, etc.)**

CMS&H discussed the OIG’s recommendations during a conference call with District Managers and District Peer Review Coordinators in early October 2006. Oral instructions were provided to District Managers at a recent CMS&H Managers’ meeting on October 26, 2006 that mine visits are to be included in 1) all HQ Reviews in accordance with current practice and 2) that District Peer Reviews include visits to all mine(s) selected for review to determine if conditions reflect the level of enforcement. CMS&H will issue a policy memo addressing this recommendation and Recommendations 3, 4 and 5 no later than March 31, 2007.

**Recommendation No. 3: MSHA should require that review team members interview appropriate individuals during District Peer Reviews and HQ Reviews of Districts. The scope of these interviews should address overall**

office operations as well as the information contained in any specific records (e.g., inspector notes, citations, etc.) reviewed.

CMS&H discussed the OIG's recommendations during a conference call with District Managers and District Peer Review Coordinators in early October 2006. Oral instructions were provided to District Managers at a recent CMS&H Managers' meeting on October 26, 2006 that interviews of district management personnel are to be included in all HQ and District Peer Reviews. CMS&H will issue a policy memo addressing this recommendation and Recommendations 2, 4 and 5 no later than March 31, 2007.

**Recommendation 4: "MSHA should require the use of a standard report format, in both presentation and content, for District Peer Review Reports and corrective actions plans. This would help MSHA to assess the consistent application of policies and procedures nationwide as well as facilitate the identification of systemic weaknesses and the implementation of potential best practices."**

As indicated in MSHA's response to the OIG dated September 28, 2006, CMS&H concurs with this recommendation and will require mandatory use of the standardized report template for District Peer Review reports and corrective actions. In addition to the report template, previously left optional, CMS&H will be requiring that a national recording and tracking system be used in response to Recommendation 5. Guidance will also be provided to the districts on the level of detail required to facilitate HQ oversight review and analyses. This requirement will be incorporated in CMS&H's policy memo that will address this recommendation and Recommendations 2, 3, and 5 no later than March 31, 2007.

**Recommendation 5: MSHA should develop a system to record and track the results of District Peer Reviews and HQ Reviews of Districts, e.g., identified deficiencies, planned corrective actions, potential best practices, etc. This tracking system will facilitate review and analysis of systemic weaknesses and trends, help to ensure that corrective actions are completed in a timely manner, and that potential best practices are shared nationwide.**

CMS&H concurs with this recommendation and a review is currently underway to develop and implement this centralized system to record and track the deficiencies identified during District Peer Reviews and HQ Reviews of Districts. Several districts have tracking systems in place using Excel spreadsheets and Access databases. A committee has been formed to review the various systems and will recommend a proposed course of action to not only record and track deficiencies but also to ensure that corrective actions are implemented and

completed in a timely manner. Before any system is implemented, Headquarters personnel will consult with District Managers and District Peer Review Coordinators as well as IT specialists to ensure that the tracking system is simple to use and effective in facilitating review and analysis of systemic weaknesses and trends. This tracking system will be implemented no later than March 31, 2007.

## **Appendix E**

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### **Agency Response to Draft Report**

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Agency Response to Draft Report

U.S. Department of Labor

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



INFORMATION

JUL 06 2007

MEMORANDUM FOR ELLIOT P. LEWIS

Assistant Inspector General  
for Audit

FROM:

Handwritten signature of Richard E. Stickler in cursive.

RICHARD E. STICKLER  
Assistant Secretary for  
Mine Safety and Health

SUBJECT:

Response to Draft Report  
No. 05-07-002-06-001  
"MSHA's Office of Coal Mine Safety  
and Health Needs to Strengthen its  
Accountability Program"

We have reviewed your Draft Audit Report, *MSHA's Office of Coal Mine Safety and Health Needs to Strengthen its Accountability Program*, and believe it contains sound recommendations and concepts applicable to the Mine Safety and Health Administration's (MSHA) Accountability Program.

On June 28, 2007, MSHA released the internal reviews of the three fatal accidents at Sago, Aracoma and Darby Mines. Concurrent with the release of the results of these internal reviews and a comprehensive corrective action plan containing 153 recommendations, MSHA also announced the establishment of the Office of Accountability. The purpose of the Office of Accountability will be to increase oversight of MSHA's accountability and enforcement programs to ensure that necessary management controls are fully implemented and effective. As noted in the findings of the internal reviews, and supported by the recommendations in your draft report, MSHA must improve oversight of its Accountability Program to correct past deficiencies and prevent potential future lapses in enforcement.

Your recommendations will be considered as part of this new directive at MSHA which will strengthen oversight of our enforcement programs and the accountability of management and enforcement personnel. MSHA's new Office of Accountability will be comprised of a Director and two Compliance Specialists who will work full-time on accountability issues and report directly to me as the Assistant Secretary for Mine Safety and Health.

JUL 11 2007

Coal Mine Safety and Health and Metal/Nonmetal Safety and Health, with the assistance of MSHA's Program Evaluation and Information Resources Directorate (PEIR), will continue to conduct their own accountability reviews. However, as a result of both your audit and MSHA's own examination of accountability issues during our recent internal reviews, MSHA will work to improve accountability practices within the respective enforcement programs. This will be accomplished formally through appropriate revisions to MSHA's Accountability Program Handbook and resultant restructuring of the program. Additionally, enhancements to MSHA's Performance Management System will provide supervisors and managers improved tools to better identify and resolve weak performance in oversight and enforcement efforts.

We look forward to responding more fully after your report is issued in final and MSHA has had sufficient time to consider your recommendations within the framework of our pending Accountability Program and Handbook revisions.

If you have any questions, please contact Ken Bullock 693-9778 or Melinda Pon 693-9516.

Thank you for your consideration.

Attachment



OIG Recommendations (Design and Planning)

1. *Develop a process and criteria for the selection of activities to be examined during accountability reviews that emphasizes measures and indicators of CMS&H performance and provides the possibility that any activity (related to any mine operation) could be selected; and*
2. *Prohibit District Managers, or anyone in their subordinate chain of command, from selecting the activities to be reviewed in DPRs.*

We agree that MSHA's Accountability Program must primarily emphasize MSHA's own performance. Going forward, MSHA will take steps to strengthen the effectiveness of its accountability reviews by focusing on key internal performance indicators and the root causes of deficiencies. As such, we will provide for the possibility that activities related to any mine operation or enforcement activity may be selected for review. That being said, the risk associated with a particularly unsafe mine and MSHA's oversight of that mine are related, and MSHA will continue to examine mine operator characteristics together with indicators of internal performance. As our revised Accountability Program and Handbook are developed, criteria for internal indicators of performance will be established, and we will examine how to incorporate mine visits within each Headquarters Review (HQR) and District Peer Review (DPR) using the new criteria.

We concur with the intent of recommendation two, but suggest that prohibiting District Managers or their subordinates from having any input into DPR activities would be ill advised. These officials have a wealth of experience regarding enforcement issues, and their input is valuable. However, MSHA's Accountability Program can be revised to ensure that Headquarters select enforcement activities for DPR and that input from District management serves to *complement* a standardized process of DPR activity selection independent of District Manager or subordinate approval.

OIG Recommendations (Implementation)

3. *Ensure that accountability review team members cannot independently review work they have performed or supervised;*
4. *Require that DPR teams include at least one appropriate individual from outside the District conducting the review;*

MSHA Response to OIG Draft Report 05-07-002-06-001

MSHA's Accountability Program will be revised and enhanced to ensure that accountability review team members cannot *independently* review work they have performed or supervised. Resources and time permitting, the revised Accountability Program will also require that DPR teams include at least one appropriate individual from outside the District conducting a review.

OIG Recommendations (Implementation)

5. *Provide guidance and instruction that is more detailed on specific procedures and tasks required to complete an effective DPR;*
6. *Establish a minimum scope for DPRs and HQRs that includes at least a review of two non-consecutive quarters of enforcement documentation from the preceding 12 months;*
7. *Require that the timeframe for completion of DPRs and HQRs be planned in a way to ensure an accurate and thorough review; and*
8. *Require that DPRCs regularly communicate to discuss common issues, resolutions and best practices to ensure consistency and compliance nationwide.*

As mentioned previously, MSHA's Accountability Program and Accountability Handbook will be revised. Specific guidance and instruction will be provided on procedures and tasks required to conduct timely, effective, and thorough DPRs and HQRs - with a strong focus on internal performance indicators and root cause analysis. This will include establishing a minimum scope for DPRs and HQRs, and minimum review timeframes. We also agree that there is value in sharing accountability review findings across the Districts, and will require regular dissemination of common issues, resolutions, and best practices.

Page 18 of your report discusses your September 29, 2006, management letter and your continuing recommendation for accountability review team members to interview all appropriate individuals to better gauge the performance of a particular District or field office. We agree that accountability interviews should not arbitrarily exclude relevant MSHA personnel or stakeholders, and will consider this recommendation as we integrate MSHA's new Office of Accountability with our revised Accountability Program.

OIG Recommendations (Reporting and Analysis)

9. *Require HQR teams to be involved in the development of appropriate corrective actions.*

MSHA Response to OIG Draft Report 05-07-002-06-001

HQR accountability teams will have the responsibility of conducting root-cause analysis to identify the deficiencies and subsequently submitting final corrective actions to District management. District management will then have the responsibility for implementing the corrective actions. The development of the corrective actions may, in some cases, be a collaborative effort between the HQR accountability team and District management as they leverage their respective expertise to derive the most timely and effective remedies. MSHA's revised Accountability Program and Handbook will further define and formalize this process.

10. *Require a timeframe be established for the development of all corrective action plans resulting from DPRs.*
11. *Incorporate dates into corrective action plans for the implementation and completion of actions resulting from DPRs and HQRs.*
12. *Require a timely evaluation by District Managers to ensure that completed corrective actions are adequately addressing the deficiencies identified during DPRs and HQRs.*

We strongly concur with these recommendations. Timeframes for the development of corrective action plans are crucial to minimize the impact of practices which may negatively influence MSHA enforcement program (and potentially the safety of miners). Similarly, establishing dates for the implementation and completion of corrective action plans are equally important. Finally, monitoring and evaluating the effectiveness of corrective action plans is vital both at the District and Headquarters level. MSHA's revised Accountability Program and Handbook will define and formalize this process.

13. *Require that District Offices utilize the same tracking system, once it is developed and implemented by HQ, to record and track the results of their DPRs (e.g., identified deficiencies, planned corrective actions, potential best practices, etc.).*

We concur with this recommendation, which is related to your September 29, 2006, management letter's recommendation to use a standard reporting format across the Districts for DPR reports. MSHA will implement both of these corrective actions. Our revised Accountability Program and Handbook will define and formalize this process. HQR accountability reviews can utilize a parallel tracking system / database.

14. *Require that identified issues, deficiencies, corrective actions, and best practices be communicated within a district's field offices and disseminated nationwide, as appropriate, in a timely manner.*

MSHA Response to OIG Draft Report 05-07-002-06-001

MSHA concurs with this recommendation – which is in the same spirit as recommendation eight. Our revised Accountability Program and Handbook will formalize this process.