

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

BRIEFLY...

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

WHY READ THE REPORT

The Assistant Secretary for Mine Safety and Health is responsible for ensuring that the office of Metal and Nonmetal Safety and Health conducts appropriate safety and health inspections of metal and nonmetal (MNM) mines.

On April 7, 2011, Senator John Thune of South Dakota requested that the Office of Inspector General (OIG) determine if Mine Safety and Health Administration (MSHA) regulations were effectively and consistently applied throughout the mining industry, and particularly in South Dakota. Senator Thune's office had received complaints from a group of South Dakota MNM mine operators alleging that MSHA was unfairly issuing them violations and penalties.

WHY OIG CONDUCTED THE AUDIT

As part of our audit oversight responsibility and in response to the congressional request, we developed two metrics, violations per inspection hour and proposed penalties per violation, and performed work to answer the following questions:

1. How did violations per inspection hour and proposed penalties per violation at the complainant mines compare to those at similar mines in South Dakota?
2. How did violations per inspection hour and proposed penalties per violation at MNM mines in South Dakota compare to those in other states?
3. How did violations per inspection hour and proposed penalties per violation at MNM mines in its Rocky Mountain District compare to those in other Districts?

Our audit work covered all MNM mines and 121,047 completed inspection events from October 1, 2005, through September 30, 2011 (FY 2006 to FY 2011).

READ THE FULL REPORT

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

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

January 2013

ANALYSIS OF MSHA'S MNM INSPECTION ACTIVITY DOES NOT SHOW EXCESSIVE ENFORCEMENT IN SOUTH DAKOTA

WHAT OIG FOUND

Overall, our analysis did not find any significant differences between the complainant mines, South Dakota, and similar mines around the country.

We found that both of our metrics increased for all Metal and Nonmetal mines in FY 2009. This increase, however, was directly attributable to the passage and implementation of the Mine Improvement and New Emergency Response Act of 2006, which mandated much higher inspection levels. In addition, Congress provided funding for MSHA to hire 170 new inspectors that same year.

We also found that both metrics were higher for the complainant mines when we compared them to other similar mines and for the state of South Dakota when we compared it to the national average. We determined that the majority of the increases in both metrics could be traced to two of the complainant mine operators. When we excluded the data for these two operators, the results for both the complainants and South Dakota generally fell into line with their respective comparison groups.

Both mine operators appealed their penalties and both were resolved. One operator's penalties were upheld on appeal and the other operator received some reductions in its penalties.

Finally, we did not find any meaningful variances in either metric when we compared the Rocky Mountain District (of which South Dakota is a part) to other Metal and Nonmetal districts.

WHAT OIG RECOMMENDED

We made no recommendation to the Assistant Secretary for Mine Safety and Health. MSHA did not provide a written response to the draft report.