

MSHA Response to Draft Report

U.S. Department of Labor

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



SEP 04 2014

MEMORANDUM FOR ELLIOT P. LEWIS

Assistant Inspector General for Audit

A handwritten signature in black ink, appearing to read "Joseph A. Main", is written over the typed name and title.

FROM:

JOSEPH A. MAIN

Assistant Secretary of Labor for
Mine Safety and Health

SUBJECT:

Response to OIG Draft Audit Report: "MSHA Laboratories Have
Improved Timeliness. But the Overall Process Could Improve"
(05-14-002-06-001)

Thank you for the opportunity to review your Draft Audit Report referenced above. The Mine Safety and Health Administration (MSHA) will use the audit results to continue to improve upon our laboratory programs. MSHA is continuously evaluating its processes and procedures.

We appreciate the OIG's recognition of the improvements MSHA has already made in the timeliness of processing mine air and dust samples. The upgrades in equipment and increased staffing at the National Air and Dust Laboratory (NADL) in Mt. Hope, WV are providing enforcement with the support they need to protect our Nation's miners. Recently, MSHA was notified that the NADL has been accredited by the American Association for Laboratory Accreditation (A2LA); we anticipate final action will be completed by September 30, 2014.

For the most part, MSHA sample analyses from the Pittsburgh Safety and Health Technology Center (PSHTC) and NADL are generally considered validation samples that verify enforcement data already gathered by MSHA inspectors in the field. Inspectors carry well-maintained and calibrated hand-held detectors that give instantaneous read-outs to provide a determination of whether an immediate hazard that presents a risk to miners exists. As such, PSHTC and NADL analyses provide secondary results that are generally used to support enforcement actions and litigation on contested violations. The timeliness of the sampling collection has not adversely affected litigation.

As further outlined below, there will be additional costs associated with implementing some of the OIG recommendations; MSHA has not yet received its funding level for FY2015 and will likely need additional resources that fall outside its current budgetary projections.

OIG Recommendation No. 1: *Re-evaluate the appropriateness of the TATs for mine air/gas and MNM total dust samples.*

As MSHA continues to assess areas for improvement throughout the agency, it concurs with this recommendation. The turnaround times (TATs) for mine dust and air samples processed in the NADL were tracked for months after MSHA set goals for the lab. We have evaluated the data and have determined that we can further reduce the TAT for mine dust from nine days to five days, and air samples from seven days to five days. We expect these TATs to be met 90 percent of the time.

The TAT for Metal and Nonmetal total dust samples was also re-evaluated. This goal has been increased from two days to five days, which is more appropriate for nuisance dusts.

OIG Recommendation No. 2: *Establish and implement collection and mailing time standards for MNM total dust and MNM respirable dust samples.*

MSHA's assessment concurs with this recommendation. MSHA planned improvements include revising procedures to reflect full life cycle goals for Metal and Nonmetal dust samples.

OIG Recommendation No. 3: *Establish agency performance standards and supporting policies based on full life cycle sampling, from sample collection through lab processing, and implement a system for tracking life cycle samples exceeding the goals for all sample types.*

MSHA agrees with the spirit of this recommendation. MSHA's planned improvements include revising procedures to reflect goals for full life cycle sampling, from sample collection through lab processing, and to implement a system for monitoring life cycle samples. This revision cannot be completed without modifications to both IPAL and MSIS. MSHA estimates that it would cost \$400,000 for these modifications. MSHA will assess timing of this with other competing budgetary priorities and in consideration of the current budgetary constraints.

OIG Recommendation No.4: *Consider pursuing accreditation for the Denver and mobile labs if practical and economically feasible.*

MSHA assessed the OIG recommendation to accredit mobile labs that support mine emergency operations. However, based on technical and resource issues, it is not practical or feasible to pursue accreditation for these mobile labs. Accreditation requires both a Technical Director and a Quality Assurance Manager to be on site at least 50% of the time and does not permit both positions to be held by the same person, pushing the total costs for accreditation beyond \$700,000. MSHA does not believe that accreditation is necessary. We believe the quality control measures and standard

operating procedures already in place are adequate and have been effective for the past 30 years of mine emergency operations.

OIG Recommendation No. 5: *Take steps needed to ensure IPAL uploads occur within specific timeframes by defining timeliness goals for all sample types and addressing any technical issues that may prevent timely and successful IPAL uploads.*

MSHA's assessment of agency improvements concurs with this recommendation. As we have noted, MSHA has already begun the process of making system upgrades to automate the Inspector's Portable Application for Laptops (IPAL) uploading process, which has improved the inspector reporting process. In September 2012, our Program Evaluation and Information Resources (PEIR) Directorate released an enhancement, which allowed MSHA inspectors to directly upload sample data from IPAL into MSHA's Standardized Information System (MSIS) and allowed both Enforcement and Lab personnel to compare the information each has input in MSIS.

In August 2014, PEIR developed and implemented a modification to the IPAL computer application, which notifies inspectors when data upload errors occur. This application has improved the timeliness of uploads, further reducing the possibility of delays in reporting sample analyses to enforcement.

We appreciate the information provided as a result of this audit. We also ask that the OIG be mindful of the costs associated with the implementation of its recommendations. As the OIG is aware, Federal agencies are operating with very tight budget constraints, and implementing recommendations that require additional spending, place agencies in the difficult position of reducing funding to other priorities so that recommendations can be implemented.