



NOVEMBER 12, 2024

MEMORANDUM FOR: CHRISTOPHER J. WILLIAMSON  
Assistant Secretary  
for Mine Safety and Health

A handwritten signature in cursive script that reads "Carolyn R. Hantz".

FROM: CAROLYN R. HANTZ  
Assistant Inspector General  
for Audit

SUBJECT: **Alert Memorandum:** Urgent Concerns for Miner Safety and Health in At Least Three U.S. Territories: MSHA Has Never Conducted Mandatory Inspections and Conducted Inappropriate Oversight of Mines in the Pacific Territories,  
Report Number: 05-25-002-06-001

This memorandum is to alert you to urgent concerns for miner safety and health that the Office of Inspector General (OIG) has determined need immediate attention. Specifically, the Mine Safety and Health Administration (MSHA): (1) has failed to sufficiently identify its own jurisdiction; (2) has never conducted mandatory mine inspections in at least three U.S. territories where mining has occurred; and (3) engaged in inappropriate and misleading actions, such as changing mine statuses rather than transparently reporting any issues that have led to the lack of mandatory inspections performed. These three issues have resulted in miners in American Samoa, Guam, and the Commonwealth of the Mariana Islands (Northern Mariana Islands) (collectively, the Pacific Territories),<sup>1</sup> and potentially also in other locations,<sup>2</sup> being unnecessarily exposed to unsafe and unhealthy conditions.

While the OIG has been concerned since at least 2011 about MSHA completing all mandatory mine inspections, our concern was further heightened upon receipt

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<sup>1</sup> MSHA's documentation uses the term "Pacific Territories" to refer to American Samoa, Guam, and the Northern Mariana Islands; for clarity purposes, this alert memorandum does the same.

<sup>2</sup> The Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau – additionally, the U.S. Minor Outlying Islands if mining occurs there

of a recent referral from the Office of Special Counsel.<sup>3</sup> The referral alleged MSHA had failed to conduct required inspections of mines in the Pacific Territories and MSHA officials had falsely designated mines in the Pacific Territories as “abandoned” despite evidence of ongoing and active operations. Due to the allegations and the OIG having long identified a risk with MSHA not completing mandatory inspections,<sup>4</sup> we also undertook a brief analysis to determine if—and, if so, why—MSHA was not adequately protecting miners in the Pacific Territories and other locations listed in the Federal Mine Safety and Health Act of 1977 (Mine Act).

As alleged, we found MSHA did not conduct mandatory inspections at mines where it knew miners were working in at least the three Pacific Territories. In addition, MSHA erroneously placed operational mines in mine statuses such as “new” and “abandoned” where they would not receive mandatory inspections. Failure to inspect operational mines leaves miners exposed to increased safety and health risks. Also, the OIG has determined MSHA inaccurately reported a 100 percent completion rate of mandatory mine inspections. Various stakeholders depend on MSHA reporting, including the U.S. Secretary of Labor, Congress, and the public. Additionally, MSHA has been aware since at least 2014 that miners in the Pacific Territories mines were exposed to hazards and has not enforced the Mine Act or its regulations to protect them.

MSHA’s actions, or lack thereof, put the safety and health of miners under MSHA jurisdiction at risk and are inconsistent with MSHA’s mission to prevent death, illness, and injury from mining and promote safe and healthful workplaces for all miners. According to the Mine Act,<sup>5</sup> Congress declared “the first priority and concern of all in the coal or other mining industry must be the health and safety of its most precious resource—the miner.”

### **For More than 40 Years, MSHA Has Failed to Sufficiently Identify Its Own Jurisdiction**

For decades spanning numerous administrations, MSHA has failed to sufficiently identify its own jurisdiction related to mines outside the continental United States. For example, MSHA stated it was brought to its attention in 2014 that it should be enforcing the Mine Act in the Pacific Territories, more than 30 years after the Mine Act passed. According to MSHA, not knowing this jurisdiction contributed to its failure to perform any oversight of mines in the Pacific Territories until 2014. Even with this knowledge, 10 years later, MSHA still has neither sufficiently identified its jurisdiction nor, as described in later sections, completed sufficient

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<sup>3</sup> The U.S. Office of Special Counsel is an independent federal investigative and prosecutorial agency whose primary mission is to safeguard the merit system by protecting federal employees and applicants from prohibited personnel practices, especially reprisal for whistleblowing.

<sup>4</sup> We issued our most recent report expressing concerns with MSHA’s mine inspections in October 2023, available at: <https://www.oig.dol.gov/public/reports/oa/2024/19-24-001-06-001.pdf>.

<sup>5</sup> 30 U.S.C. §801 et.seq.

oversight to protect miners. MSHA personnel still appear to lack a clear understanding of which U.S. territories (see Attachment I for a list) are under MSHA's jurisdiction. Specifically, when we asked, MSHA personnel were unable to clearly answer whether MSHA's jurisdiction still includes three areas that were formerly part of the Trust Territory of the Pacific Islands: the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau. MSHA personnel stated MSHA needed to request a legal opinion from the U.S. Department of Labor (DOL) Office of the Solicitor (Solicitor's Office). While the OIG has communicated with the Solicitor's Office, MSHA has yet to provide the OIG with a Solicitor's legal opinion answering our jurisdictional questions.

The OIG's analysis identified several points over the last four decades (approximately 1978 upon creation, 1979, 2003, and 2014-present) when MSHA should have already clarified its jurisdiction to protect the miners.

### **MSHA Missed Opportunities to Identify Its Jurisdiction, 1978-present**

MSHA was created in 1978, when the Mine Act transferred the federal mine safety program from the Department of the Interior to the Department of Labor. The Mine Act's definitions section defines "state" as including "a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands."<sup>6</sup> Significant geopolitical changes have occurred since the Mine Act passed, including termination of the trust territory. The Northern Mariana Islands, once part of the trust territory, is now 1 of 14 current U.S. territories and remained under MSHA's jurisdiction after the trust termination.

However, the trust termination raises a question of MSHA jurisdiction for the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau. From the passage of the Mine Act in 1977 until trust termination dates (between 1986 and 1994),<sup>7</sup> MSHA would have been required to inspect mines in these three areas. We contacted<sup>8</sup> the Solicitor's Office to obtain DOL's perspective on the impact of the trust termination on MSHA's jurisdiction. A senior official within the Solicitor's Office stated, "[i]n the absence of further legislation altering MSHA's safety and health responsibilities

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<sup>6</sup> Id. at §802(c) The Trust Territories of the Pacific Islands, a United Nations trusteeship, were comprised of: the Federated States of Micronesia, the Republic of the Marshall Islands, the Northern Mariana Islands, and the Republic of Palau. The trusteeship was administered by the United States Navy from 1947 to 1951 and the U.S. Department of the Interior from 1951 to 1986 (and to 1994 for the Republic of Palau). The trusteeship is no longer in effect, but we found no legal authority suggesting the Mine Act's jurisdiction over the individual countries that comprised the Trust Territories has changed.

<sup>7</sup> Those termination dates were: (1) October 21, 1986, for the Republic of the Marshall Islands; (2) November 3, 1986, for the Federated States of Micronesia and the Northern Mariana Islands; and (3) October 1, 1994, for the Republic of Palau.

<sup>8</sup> We also contacted the U.S. Department of the Interior's Office of Insular Affairs for assistance, were directed to the Department of Interior's legal office, and are awaiting response.

in the former trust territory, administration of the Mine Act in those areas continues to be vested in DOL/MSHA as originally provided for.” Therefore, according to DOL, MSHA still appears to have jurisdiction over these three areas and should have been inspecting mines there from 1977 to the present. We found evidence suggesting mines exist in at least two of these three areas, but we found no mines in MSHA’s system<sup>9</sup> for these three areas.

According to MSHA officials, as early as 1979, the agency started identifying mines in one U.S. territory, Puerto Rico. We found evidence that MSHA has been inspecting mines in Puerto Rico as far back as 1982. However, our analysis of MSHA data showed MSHA has identified mines and conducted mandatory inspections in only 2 of 14 territories: Puerto Rico and the U.S. Virgin Islands. Specifically, MSHA data listed 387 mines in these two territories.<sup>10</sup>

Issued in 2003, MSHA’s current Program Policy Manual (PPM) Volume I, which provides MSHA’s interpretation and guidelines on enforcement of the Mine Act, includes a section discussing MSHA’s inspection responsibilities for territories when defining the term “mine” (see Attachment II, Figure). It states (emphasis added):

All types of mining, including placer, dredge, and hydraulic operations must be inspected...**All such operations located anywhere in the United States, as well as in any of its territories, protectorates, or commonwealths, must be inspected.**

In 2015, MSHA responded to the OIG regarding a 2014 complaint of an imminent danger and fatal mine accident in American Samoa that MSHA had not investigated. In its response memorandum, MSHA stated it had received two complaints from the same person in July 2014. The response further stated MSHA had no record of mines in the Pacific Territories ever being inspected. The agency’s memorandum stated it “was collecting info on mining activity in the region and assessing application of the Mine Act in these territories”; it had requested an opinion from the Solicitor’s Office; and it was working on a plan to implement the Mine Act in the territories, including collaboration with other federal agencies.

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<sup>9</sup> Unless otherwise noted, MSHA system data is as of May 2024.

<sup>10</sup> The mine statuses from MSHA system data for these mines were as follows: for the 378 mines listed for Puerto Rico, 45 operating, 332 “abandoned,” and 1 listed in “new mine” status since September 12, 2023; and, for the 9 mines listed for the U.S. Virgin Islands, 3 listed as operating and 6 listed as “abandoned.”

According to a 2016 news article,<sup>11</sup> MSHA was not aware of its responsibility for the territories until 2014. The article relayed that, when asked why MSHA was just beginning to enforce the Mine Act in the Pacific Islands, a former MSHA Assistant Secretary could not explain the delay, but indicated the territories came to the agency's attention in July 2014. The former administrator also stated MSHA was "anticipating an extension of its reach to Micronesia, Palau, Marshall Islands and [U.S.] minor outlying islands" since these areas appear in MSHA's system although no mines are listed. The former administrator's answer for MSHA's self-described "slow walk" of enforcement was that it was due to "the primitive environment that exists in that region that was never regulated" and "thus the necessity for an extensive amount of hand-holding in the form of educational outreach and training assistance."

MSHA's 2015 response to the OIG concluded MSHA would address communications with stakeholders and compliance assistance visits (CAV) as a prelude to any enforcement activities. However, MSHA has continued to neglect its responsibilities in the Pacific Territories—including 51 mines it has identified but for which it has conducted no mandatory inspections—despite further evidence of hazards from at least 2016 to 2024.

In addition, we found MSHA data did not identify any mines or mine inspections completed in the remaining nine U.S. territories (collectively known as the U.S. Minor Outlying Islands) that the former MSHA official referenced in the news article. However, we also found no evidence that mining was currently occurring on those islands. When we asked, a senior official within the Solicitor's Office replied, "to my knowledge, SOL has not opined about mining on any island or atoll included in what is now known (since 1986) as the U.S. Minor Outlying Islands and is not aware of any mining." If mining should occur on any of these islands in the future, the question arises as to who has jurisdiction over those territories to help ensure the miners are protected because the Mine Act does not address them. Because the Mine Act does not explicitly discuss the U.S. Minor Outlying Islands, legislative action to the Mine Act is likely needed to clarify this question.

Overall, more than 40 years later, MSHA still does not appear cognizant of its jurisdiction over mines outside the continental United States. MSHA personnel must know what mines are included in MSHA's jurisdiction to ensure MSHA completes its mission in accordance with the Mine Act. When we asked MSHA in 2024 if a specific territory was under MSHA jurisdiction, MSHA was often not sure and responded it would have to seek an opinion from the Solicitor's Office.

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<sup>11</sup> Saipan Tribune, "Better Late than Never," three-part series (2016), available at: (Part 1) [https://www.saipantribune.com/opinion/better-late-than-never/article\\_6b65b956-e89f-5ba8-8231-5022aa45de6d.html](https://www.saipantribune.com/opinion/better-late-than-never/article_6b65b956-e89f-5ba8-8231-5022aa45de6d.html), (Part 2) [https://www.saipantribune.com/opinion/better-late-than-never/article\\_1de94dfb-b781-5616-83bd-7be675fb5654.html](https://www.saipantribune.com/opinion/better-late-than-never/article_1de94dfb-b781-5616-83bd-7be675fb5654.html), and (Part 3) [https://www.saipantribune.com/opinion/better-late-than-never/article\\_9d2ba4c6-a7bc-56b1-b626-b34928f54a19.html](https://www.saipantribune.com/opinion/better-late-than-never/article_9d2ba4c6-a7bc-56b1-b626-b34928f54a19.html)

No one was able to confirm whether a legal opinion answering our jurisdictional questions had been requested or provided. We find this answer insufficient, given the Mine Act passed in 1977 and MSHA was also prompted, as discussed, to research its jurisdiction after being informed of a potential imminent danger and fatal accident via a complaint more than a decade ago.

### **MSHA Has Not Conducted Any Mandatory Mine Inspections in American Samoa, Guam, and the Northern Mariana Islands**

The Mine Act requires authorized representatives of the U.S. Secretary of Labor inspect each underground mine in its entirety at least four times a year and each surface mine in its entirety at least two times a year. These mandatory inspections allow MSHA inspectors to identify hazards and ensure needed corrective action; verify work hours and accident, injury, and illness data (through verification that Part 50 data matches mine records); and to provide outreach and education to miners. If MSHA fails to perform mandatory inspections, miners could be at increased safety and health risk.

Specifically, we found MSHA data included the recording of 51 mines—but no mandatory mine inspections—in the three Pacific Territories:

- 17 mines listed for American Samoa, for which the system showed mine identification numbers created between January 2016 and February 2017;
- 21 mines listed for Guam, for which the system showed mine identification numbers created between October 2015 and January 2017; and
- 13 mines listed for the Northern Mariana Islands, for which the system showed mine identification numbers created between November 2015 and September 2021 (with 10 of the 13 created in 2015 and 2016).

Of concern, MSHA did not start identifying mines in American Samoa, Guam, and the Northern Mariana Islands until 2015, more than 30 years after the Mine Act passed. Furthermore, MSHA's data did not clearly indicate how many mines would have required an inspection had MSHA been enforcing the Mine Act in the Pacific Territories since 1977, and we do not know how many, if any, additional mines exist in these territories.

According to MSHA's Fiscal Year (FY) 2017 Operating Plan, MSHA's implementation plan involved outreach, education, training, and CAVs to prepare the mining industry for full implementation of the Mine Act in FY 2017. While we found MSHA did conduct activities in the plan during 2016, MSHA failed to fully implement the Mine Act in FY 2017 or since.

We did find evidence of MSHA activity—though not mandatory inspection activity—at some mines in American Samoa, Guam, and the Northern Mariana

Islands, which increased our concern that MSHA knew the mines were operational but did not conduct mandatory mine inspections. In 2016, MSHA visited 33 mines in American Samoa, Guam, and the Northern Mariana Islands, evidenced by MSHA data showing it completed 63 CAVs.<sup>12</sup> MSHA also conducted training for mine personnel in 2016 and “train the trainer” courses to educate locals under MSHA’s State Grants program.

Given MSHA was not conducting mandatory inspections, we expected to but did not see MSHA have an increased focus in ensuring the grants were successful in promoting miner safety in the Pacific Territories to help compensate for the lack of inspections. While we did not perform an in-depth analysis<sup>13</sup> of MSHA’s grant program, we found MSHA issued grants to: American Samoa between 2016–2018, Guam 2016–2024, and the Northern Mariana Islands 2016–2023. We found challenges occurring for grantees from the three Pacific Territories:

- For the American Samoa grant recipient, we found one of two grants had no funds expended, indicating no miner training under the grant had occurred. Also, MSHA did not issue grants to American Samoa after 2018;
- For the Guam grant recipient, records showed Guam had terminated the 2019 grant due to not having a trainer. The 2020 grant appeared to be terminated for a similar issue in addition to challenges created by the pandemic. Then, the 2022 grant was used to train a new grantee person to be the trainer and the grantee’s performance documentation showed no miner training occurred during the grant period; and
- For the Northern Mariana Islands grant recipient, records showed it also experienced challenges, such as the pandemic restricting the grant recipient’s ability to travel to the other islands within the Northern Mariana Islands to conduct site visits.

During our interviews, none of MSHA’s current executive or enforcement leaders were aware of how the grant recipients had performed.

This overall lack of MSHA oversight for mines in the Pacific Territories is concerning given MSHA’s data showed no other enforcement events since 2016—such as inspections or investigations—for any of these 51 mines. Further, our review of accident and illness data and numerous hazards identified safety concerns. Together with the uncertainty of whether MSHA has identified all active mines in the Pacific Territories, our level of concern is greatly heightened.

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<sup>12</sup> According to MSHA, it uses CAVs to visit new mines or prior to a mine re-opening or having new facilities or new equipment.

<sup>13</sup> The OIG plans to start an audit of MSHA’s grant programs in FY 2025.

## No MSHA Action Despite Knowledge of Hazards since 2016

Evidence of hazards at mines in the Pacific Territories has been available to MSHA, including through MSHA's public "Accident Injuries" dataset, CAV notices, and MSHA escalation reports (Escalation Reports) described as follows.

Our analysis of MSHA's public "Accident Injuries" dataset identified two mines in the Pacific Territories that had reported a total of three incidents, two of which were severe. One of the injuries was severe enough that it resulted in the miner losing 3 workdays and being on restricted work duties for 14 days. A second injury was also severe, resulting in the miner being taken to the emergency room, where medical staff sutured the distal tips of the right middle and ring fingers back into place. MSHA's data stated, "a hand specialist determined that the right middle and ring fingers distal needs to be amputated."

An MSHA CAV<sup>14</sup> differs from a mandatory inspection in that, while both identify hazards, a CAV results in CAV notices being issued that do not require inspectors to verify the operator corrected the hazard identified and do not result in a penalty.<sup>15</sup> A CAV identifies the hazard only. For example, the condition section of one CAV from a mine in the Pacific Territories lists, "fall protection is not being worn when working next to the edge of the quarry wall." MSHA reported to us an overall count of about 1,050 CAV notices issued from the 63 CAVs it conducted in 2016.

In some of the CAVs, inspectors grouped multiple hazards together on a single CAV notice, indicating the true count of hazards were understated. The summary provided to us showed 1 mine received up to 107 CAV notices while others received between 1 and 79 notices. Another CAV summary we reviewed—completed by a MSHA safety division employee and sent to MSHA leadership in October 2016—related to 14 CAVs conducted at 13 mines,<sup>16</sup> covering around 425 CAV notices issued. This summary noted the true count would be higher because some of the inspectors grouped multiple items on a single notice, "sometimes as many as 6 or 8 different pieces of equipment under one standard. For instance, numerous belt conveyors were listed on one notice as not having tail pulley guards."

The safety division employee's summary also provided some overall observations from the CAVs about the type of hazards identified, including:

- "Numerous electrical, guarding, safe access, work platform, hand rail, toeboard and ladder standards" and

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<sup>14</sup> MSHA Form 4000-51

<sup>15</sup> An inspection involves the issuance of a violation, penalty, verification and documentation of hazard correction, and violation termination upon corrective action.

<sup>16</sup> One mine had multiple events listed.



- “inadequate or missing programs or systems: Legal ID Reports, training, HazCom, grounding system, workplace exam, independent contractor list, first aid, mine offices and/or signs and bulletin boards, etc.”

Also, the summary noted:

Violative conditions on some equipment were grouped under one standard, when actually two standards applied. For instance, numerous ladders were listed as being damaged...the same ladder was listed as not having suitable bases...with no attempt to indicate that the bases issue was covered by a different standard. Persons unfamiliar with the standards as a whole may not realize there are two standards, and the training effect of receiving a CAV will be diminished, except perhaps to the one person who accompanied the inspector on the inspection.

During our interviews, a former MSHA supervisor who oversaw some of these CAVs and personally visited some of the mines told us the conditions these miners were being subjected to was the worst he had seen in his 19 years with MSHA. The former supervisor said the miners needed MSHA’s help and had asked the MSHA inspectors for help to get a safer and healthier work environment, but, he said, “we abandoned [th]em.”

The Escalation Reports also showed evidence of hazards. An Escalation Report works as follows: if anyone would like to report an accident or a hazardous condition at a mine, MSHA has a toll-free hotline on its website. Such calls are answered by a representative from DOL’s National Contact Center. The representative talks with the caller then submits an Escalation Report to MSHA along with a phone call to the assigned individual at the MSHA district that oversees the applicable mine. Each Escalation Report is concurrently emailed to at least two distribution lists.<sup>17</sup>

We were able to obtain and review<sup>18</sup> seven Escalation Reports related to mines in the Pacific Territories, of which three were as follows. The first, dated July 2016, involved a Northern Mariana Island mine reporting an injury involving a deep laceration to the miner’s forearm. The summary for the second, dated July 2017, reported “three almost deadly experiences” with three different employees due to lack of radio communication, resulting in heavy equipment operators pushing rock material off the top of a cliff while people worked down

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<sup>17</sup> The first list includes the MSHA district responsible for the mine involved. The second list currently includes around 85 people, such as MSHA’s Assistant Secretary, its two Deputy Assistant Secretaries (Operations & Policy), its enforcement leadership (Administrator and Deputy Administrator), and many others in MSHA’s headquarters.

<sup>18</sup> We cannot state we reviewed all available Escalation Reports for the territories.

below. It further stated, “[m]anagers are not physically present on-site, but employees are sometimes being instructed to work up top at the same time other employees have already been instructed to work down below.”

The third Escalation Report, dated March 11, 2024, reported MSHA is not inspecting mines in the Pacific Territories, at which “numerous hazards exist and miners are suffering injuries and possibly fatalities.” The report stated, “MSHA Western District and Headquarters personnel have visited many of these mines and are aware of the hazards but apparently have stopped traveling to these locations.” Further, it reported operational mines seem to be in “abandoned” status and asked:

How can this be? These are mostly sand and gravel operations which clearly meet the definition of a mine under the Mine Act. MSHA’s failure to conduct mandated inspections at these mines is condoning and possibly contributing to the unsafe conditions which miners are being exposed to on a daily basis. The mines are located in American Samoa, Guam, Sai Pan, Tinian, and Rota.<sup>19</sup>

Because MSHA has not shown a presence at these mines since 2016, the reliability of whether the mines within these three Pacific Territories have been fully reporting their accidents and injuries is unknown. Also, MSHA has not enforced its regulations for these mines, such as issuing violations when the mines did not adhere to regulations on submitting commencement and closure notices. When MSHA does not enforce its regulations, it can reduce the likelihood that mine operators and workers will follow them. The fact that miners’ injuries have occurred confirms the need for urgent oversight.

### **MSHA Personnel Engaged in Inappropriate Actions Unnecessarily Exposing Miners to Unsafe and Unhealthy Conditions**

We found MSHA has unnecessarily exposed miners in the Pacific Territories to unsafe and unhealthy conditions since at least 2015. Specifically, MSHA:

1. placed mines in “new mine” status even though they were operational;
2. kept those mines in “new mine” status for years despite evidence that they were operational and evidence of hazards;
3. placed operational mines in “abandoned” status in December 2023; and

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<sup>19</sup> Saipan, Tinian, and Rota are islands in the Northern Mariana Islands.

4. inaccurately reported a 100 percent completion percentage for mandatory inspections even though mines in American Samoa, Guam, and the Northern Mariana Islands were not being inspected.

Various stakeholders including Congress, the mining industry, news agencies, and members of the general public<sup>20</sup> depend on MSHA to provide complete and accurate public reporting.<sup>21</sup> Importantly, MSHA using incorrect mine statuses for mines or changing them inappropriately is more than an administrative matter because:

- such actions also enable MSHA to inaccurately report a 100 percent completion rate for its mandatory mine inspections as it did in FY 2023, and,
- since MSHA has linked mine statuses to the number of required inspections, it can authorize statuses or status changes that result in an operational mine receiving no mandatory inspections, thereby ignoring the miners' safety and health.

The Mine Act does not specify any mines that would not require inspections. However, MSHA determines how many, if any, mandatory inspections to conduct by applying one of seven status codes it assigns to mines in accordance with MSHA policy (see Table).<sup>22</sup> MSHA has three mine statuses indicating a mine is operating and requires mandatory inspections. Conversely, MSHA has four mine statuses—including “new mine” and “abandoned”—that do not require mandatory inspections. Therefore, if MSHA personnel inappropriately place an operational mine into one of the four non-operational statuses, the mine receives no mandatory inspections, thereby placing those miners at increased risk.

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<sup>20</sup> For example, Congress may use MSHA public data when making significant budgetary decisions with taxpayer funds such as Congressional appropriations to MSHA; news agencies can use MSHA's data in their media reporting to the public, including the families of miners; and the general public and mining industry personnel can download MSHA public datasets and perform analyses on specific mines or areas of interest—such as respirable crystalline silica—to recommend operational improvements for miners' safety and health.

<sup>21</sup> The investigation also identified MSHA's public “inspections” dataset does not include data for any CAVs (E14) conducted at mines, such as those in American Samoa, Guam, and the Northern Mariana Islands. However, MSHA has not disclosed this data limitation on its website.

<sup>22</sup> For detailed information on mine statuses and inspection requirements, see our October 2023 audit report, available at: <https://www.oig.dol.gov/public/reports/oa/2024/19-24-001-06-001.pdf>.

**Table: Number of Inspections Required Per Year, by Mine Status**

Mine Status	Number of Underground Mine Inspections Required	Number of Surface/Facility Mine Inspections Required
New Mine <sup>23</sup>	0	0
Temporarily Idle	0	0
Abandoned	0	0
Abandoned-Sealed	0	0
Active	4	2
Non-Producing	4	2
Intermittent	0	1

Source: MSHA’s PPM Volume I

First, we found MSHA, starting in 2015, inappropriately put operating mines in the Pacific Territories in “new mine” status<sup>24</sup> when assigning them mine identification numbers—despite knowing the mines were operational—rather than a status requiring mandatory inspections.<sup>25</sup> MSHA defines a new mine as one that has been assigned a mine identification number but no work has yet begun.<sup>26</sup> Once work begins, the mine requires a status change indicating it is operating (such as “active” status) and therefore requires mandatory inspections. During the OIG’s investigation, a senior MSHA official stated MSHA placed the mines in “new mine” status so the mine operators could submit quarterly employment reports to MSHA.

Second, we found MSHA personnel have inappropriately kept the mines in “new mine” status through 2024 despite evidence that some mines were operational. When we analyzed Part 50 data for the 51 mines, we found 13 had reported a code indicating the mines were operational. Also, during the OIG’s investigation, four inspectors and a field office supervisor who participated in the 2016 CAVs confirmed the mines visited were operating. By inappropriately keeping them in “new mine” status, MSHA effectively prevented the mines from receiving mandatory inspections, unnecessarily exposing miners to safety and health risks.

In 2024, a senior MSHA official stated MSHA determined in 2016 those mines would remain in “new mine” status until budget resources became available to

<sup>23</sup> “New mine” status is for mines that have not reported any employment hours yet to MSHA, which means they have not started operating and thus require no inspections. This status typically does not change unless the mine operator reports employment hours to MSHA or MSHA otherwise determines the status to be incorrect during an inspection. As such, without further guidance, a mine can remain in “new mine” status for years.

<sup>24</sup> For example, starting in October 2015, MSHA put 49 of the 51 mines in “new mine” status, placing the remaining two mines directly into “abandoned” status.

<sup>25</sup> Assigning a mine identification number is for tracking purposes. MSHA may assign a new mine identification number to a mine that is already operational (e.g., rogue mine) and would normally put that mine directly into a status requiring mandatory inspections (e.g., “active” status).

<sup>26</sup> Mine Information Form (MSHA Form 2000-209)

conduct mandatory inspections. When asked during the OIG's investigation interview whether there was a planned date of when to correct the mines' statuses, a senior MSHA official confirmed there was no planned date and MSHA would correct each mine's status once it started conducting mandatory inspections. We saw similar evidence at the MSHA district level as district personnel said they never changed the mines from "new mine" status because MSHA headquarters had pulled back<sup>27</sup> from inspecting mines within the territories.

MSHA also lacks guidance explaining how to address mines remaining in "new mine" status for long periods of time because they never started operations (e.g., never finished paperwork required by MSHA or mine operator changed their decision to operate after being issued a mine identification number).

Third, we found MSHA officials inappropriately designated mines as "abandoned" in MSHA's system despite evidence of active operations in some of the mines. Between December 19, 2023, and December 21, 2023, MSHA personnel changed 46 of the 51 mines from "new mine" to "abandoned" status, which implies no future operations and is another status not requiring mandatory inspections so that action did not help the issue.

MSHA personnel took this action without any mine visits or analyzing Part 50 data to support the decision. Instead, upon approval from an MSHA supervisor, an MSHA official directed administrative assistants to change the statuses of the mines from "new mine" to "abandoned" status by completing Mine Information Forms using a supervisor's credentials.

In early January 2024, a district employee expressed concerns to MSHA management about these actions. The employee said it would create a problem because some of these mines had been reporting hours. The reporting website has an internal control that does not allow mines to report any quarterly hours when in "abandoned" status for the quarter, so they would have issues trying to report their Part 50 hours by January 15, 2024. MSHA management did not take corrective action based on the employee's concerns.

In April 2024, a mine did have issues as predicted by the MSHA employee where a mine worker was unable to submit their Part 50 hours via the reporting website. The mine contacted MSHA's help desk for assistance and later an employee from the Vacaville District Office that had visited during the 2016 CAVs.<sup>28</sup>

In April 2024, the OIG opened its investigation following receipt of the referral from the Office of Special Counsel. During the OIG's investigation, in May 2024, MSHA leaders had the mine statuses reversed for the 46 mines from

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<sup>27</sup> We saw no explanation for the "pull back" in the evidence, except a possible lack of funding.

<sup>28</sup> The mine put its concerns in writing in a letter dated April 9, 2024. The employee in the Vacaville District Office forwarded the letter to an Acting District Manager.

“abandoned” back to “new mine” status, neither of which require a mandatory inspection. We also found MSHA reverted 4 additional mines, which it had put in “abandoned” status prior to December 2023, back to “new mine” status for a total of 50 mines reverted. It is unknown whether other mines in American Samoa, Guam, or the Northern Mariana Islands were unable to report their Part 50 data and gave up when they received a similar error, given MSHA has not been enforcing its regulations in these territories.

Fourth, we found MSHA inaccurately reported its completion percentage as 100 percent for its mandatory inspections program while knowing mines in American Samoa, Guam, and the Northern Mariana Islands were not being inspected. When reviewing Part 50 data history in May 2024, we found 6 mines reporting employment hours during FY 2023 and therefore likely requiring an inspection, meaning MSHA inappropriately reported a 100 percent completion for FY 2023. MSHA did this despite some MSHA headquarters and district personnel knowing they were keeping the mines in the Pacific Territories in an incorrect mine status to eliminate their mandatory inspection requirements.

MSHA’s inaccurate reporting of its FY 2023 completion rate occurred after we issued our October 2023 report that noted a similar issue: MSHA had inappropriately reported 100 percent completion when its data showed that was not accurate due to how it handled attempted inspections. We had recommended<sup>29</sup> MSHA report transparently each year on the number of idle mine visits and attempted inspections used to eliminate mandatory inspections each fiscal year.

During the OIG’s interviews, we asked MSHA’s senior executives if they felt it was unethical for MSHA to report a 100 percent completion rate for FY 2023, given MSHA senior leaders knew they were not inspecting operating mines in the Pacific Territories. MSHA leaders declined to say it was unethical. One MSHA leader cited financial constraints as the reason for this answer. We find these responses indicate issues with MSHA’s senior leadership oversight. Proper oversight should have resulted in MSHA personnel putting the mines in their correct mine status (e.g., “active”) despite how it would have affected MSHA’s ability to meet 100 percent of its mandatory inspections.

Also, had MSHA reported the true percentage (e.g., less than 100 percent), it would have then been able to use the shortfall to support a budget request that would enable the agency to conduct mandatory inspections and therefore protect these miners. If MSHA lacked funding to protect miners under its jurisdiction, the

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<sup>29</sup> In response, MSHA included a footnote in its FY 2025 Congressional Budget Justification regarding its FY 2023 reporting of 100 percent for the regular mandated surface inspections. The footnote acknowledged the data excluded E27s (Attempted Inspection - Denial of Entry) and E28s (idle mine visits), both situations where, according to MSHA, it had attempted but not completed an inspection. After it included the footnote, we closed the recommendation with the expectation MSHA would provide specific counts of E27s and E28s relied upon each FY to meet the Mine Act’s inspection requirements in future budget requests.

agency could have alerted stakeholders—highlighting urgent safety and health risks for miners—and asked for more money.

### **MSHA Ignored Warnings and Missed Opportunities to Correct Issues with Mines in Pacific Territories**

For over a decade, MSHA has missed multiple opportunities to improve its mandatory mine inspections program in the Pacific Territories. By not choosing to transparently report the problem, MSHA acted against its own interest as well as that of the miners. During OIG interviews, MSHA personnel cited a lack of funding that prevented MSHA from conducting mandatory inspections at mines in American Samoa, Guam, and the Northern Mariana Islands. While we did not analyze MSHA's historical expenditures to identify whether it made sufficient use of funds or has inspectors strategically located, the question arises as to whether MSHA showed integrity when deceiving the public regarding the number of mandatory inspections performed and thereby justifying its disregard for the funding needed to address mandatory inspections of territory mines. We found MSHA did not take sufficient actions to address its funding needs for the Pacific Territories in its budget requests.

Our brief review of MSHA's related financial documents<sup>30</sup> found MSHA made limited references to the need for funding to address mines located in the Pacific Territories. We reviewed Congressional Budget Justifications from FY 2014 through FY 2025 and only found two relevant mentions. In FY 2017, MSHA requested additional funding to inspect mines in the three Pacific territories and, in FY 2019, additional funding and two full-time equivalents to inspect mines in these three Pacific Territories. When we asked why MSHA did not address its funding concerns for the three Pacific Territories in the other budget requests, MSHA's personnel could not explain.

The Mine Act requires MSHA to inspect all mines in its jurisdiction. MSHA told us its FY 2026 budget request "will include a request for additional funds to implement mandatory inspection activities in the Pacific Territories," but this will not address FY 2025 nor any needed funding to protect miners in the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

Our analysis of 2 Presidential Briefs and 11 MSHA Agency Management Plans, also formerly known as Operating Plans, also found MSHA similarly made few references to three Pacific Territories. MSHA personnel discussed inspection requirements and funding for the Pacific Territories in one brief (2016), with a plan to implement the Mine Act in American Samoa, Guam, and the Northern

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<sup>30</sup> (1) FY14 – FY25 Congressional Budget Justifications; (2) FY14 – FY24 Agency Management Plans (formerly called Operating Plans); and (3) November 2016 and November 2020 MSHA Presidential Transition Brief documents

Mariana Islands. MSHA had issues executing that plan. There was no mention of anything related in the 2020 brief. In the plans, the territories were only mentioned in FY 2016 and FY 2017. We found no relevant references in the FY 2014 or FY 2015 plans, nor any relevant information in the following years (through the FY 2024 plan).

The OIG has been concerned with MSHA completing required mandatory inspections since the OIG first reported issues with MSHA's mandatory inspections program in 2011. Additionally, in our October 2023 audit report,<sup>31</sup> which found MSHA did not complete mandatory inspections before and during the COVID-19 pandemic, we identified issues with incorrect mine statuses:

MSHA's data also reflected other types of questionable deviations from the mine status criteria...Based on our analysis, MSHA likely missed changing the mines' status (e.g., to "active") at some point during the life of these mines, which would mean MSHA potentially missed performing mandatory inspections at the mines.

We had made 11 recommendations to improve the policies, processes, and system data for the mandatory inspections program, with which MSHA generally agreed. However, MSHA has so far only successfully identified or implemented corrective action for 2 of the 11 recommendations. For example, we recommended the Assistant Secretary for Mine Safety and Health collect MSHA workforce concerns to verify or improve the integrity of the program. MSHA has not yet identified a suitable corrective action for this recommendation.

Instead of identifying ways to improve the internal control system for its mandatory inspections program, MSHA personnel have not taken timely corrective actions to improve it. Prior to issuing our October 2023 report, the OIG briefed MSHA senior leaders in May 2023 about its testing results. During that meeting, MSHA personnel requested the OIG's support for the 10 mines in "new mine" status that had reported 1.7 million hours during FYs 2018 through 2021. In response to MSHA's request, the OIG provided MSHA with the 10 mine identification numbers, which happened to be in American Samoa, Guam, and the Northern Mariana Islands. However, MSHA personnel did not use the information to correct the statuses of these mines. MSHA ignored another opportunity to address the issue in August 2023, when the OIG held an exit conference with MSHA senior leaders to discuss the draft report contents.

Finally, MSHA also has not yet developed guidance on when it is appropriate to deactivate a mine identification number, which could help ensure MSHA has

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<sup>31</sup> COVID-19: MSHA Did Not Complete or Accurately Report Mandatory Inspections, Report No. 19-24-001-06-001 (October 17, 2023), <https://www.oig.dol.gov/public/reports/oa/2024/19-24-001-06-001.pdf>



sufficient oversight over existing mines.<sup>32</sup> While deactivating mine identification numbers could be reasonable in certain situations, there is a potential for an incorrect deactivation to result in a mine erroneously no longer being under MSHA's oversight, an internal control weakness. When management from MSHA's Western District asked district personnel to change the mine statuses to "abandoned" for 46 mines, an MSHA employee asked whether to just deactivate all the mines' MSHA identification numbers because the employee had called some of the contact numbers and they were disconnected. In this situation, management told the employee to "stick with abandoned" status because that was the directive from higher management. However, this employee's request highlights an internal control weakness (i.e., no guidance for when it is appropriate to deactivate mine identification numbers) that could erroneously remove a mine from MSHA's oversight.

### **MSHA's Failures Exposed Miners to Safety and Health Risks**

Our urgent concerns described in this alert memorandum stem from significant weaknesses in MSHA's culture over an extended period of time. The Government Accountability Office published the Standards for Internal Control in the Federal Government (Standards) to set standards for an effective internal control system for federal agencies. According to the Standards, the agency's control environment is the foundation of an effective internal control system, providing the discipline and structure to help an entity achieve its objectives. We identified weaknesses in MSHA's control environment related to senior leadership oversight and enforcement of accountability. The issues described in this alert memorandum suggest MSHA, as seen through its described actions, has not demonstrated a commitment to values, such as enforcement of accountability for actions necessary to ensure the proper execution of MSHA's mandatory inspections program.

One of the Standards' principles for an agency's control environment says the oversight body and management should demonstrate a commitment to integrity and ethical values. This demonstration of integrity includes tone at the top, where management demonstrates the importance of integrity and ethical values through its directives, attitudes, and behavior. Also, the Standards' principles for an agency's control environment says management should evaluate performance and hold individuals accountable for their internal control responsibilities. The Standards specifically note: "accountability is driven by the tone at the top and supported by the commitment to integrity and ethical values, organizational structure, and expectations of competence, which influence the control culture of

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<sup>32</sup> We are not aware of any such guidance other than the system's business rules used by the system's tool for deactivating a mine identification number. While these controls help prevent improper deactivation of a mine identification number, there are other situations MSHA personnel can encounter where the controls do not work.

the entity. Accountability for performance of internal control responsibility supports day-to-day decision making, attitudes, and behaviors.”

To comply with the Mine Act, MSHA needs to improve its control environment. In addition to our prior 11 recommendations, it is critical that MSHA develop and implement a culture transformation plan for its enforcement personnel that: (1) holds MSHA senior leaders and subordinate personnel accountable for unethical actions and (2) improves the attitudes and behavior at the top to reflect the integrity and ethical values expected throughout MSHA.

## **Conclusion**

As was alleged, we found MSHA did not conduct mandatory mine inspections in at least three U.S. territories in which it knew miners were working: American Samoa, Guam, and the Northern Mariana Islands. In addition, MSHA erroneously placed operational mines in mine statuses where they would not receive mandatory inspections. This is inconsistent with MSHA’s mission to prevent death, illness, and injury from mining and promote safe and healthful workplaces for all miners and to the Mine Act’s clear directive to put the miner first.

## **Recommendations**

We recommend the Assistant Secretary for Mine Safety and Health:

1. Clearly identify and publicly publish MSHA’s jurisdiction, including obtaining any needed legal opinion from the U.S. Department of Labor Office of the Solicitor on the U.S. territories and the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau, requesting any needed legislative changes.
2. Revise MSHA’s implementation plan for when it will begin inspecting mines within American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands and begin implementing the plan. The revised plan should address: (1) when enforcement of the Mine Act and MSHA regulations will begin; (2) how inspections will occur in future years (e.g., travel from a specific MSHA district or setting up a field office nearby); (3) whether additional training will occur and how (e.g., in-person, virtual, hybrid, via grants, et cetera); and (4) how funding will be obtained to conduct required MSHA activities in FY 2025.
3. Develop and implement a plan to enforce the Mine Act in the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau, having first obtained legal authority verifying they are still under MSHA’s jurisdiction. If the legal authority opines MSHA has jurisdiction over them, MSHA’s plan should address: (1) whether future legislative changes to the Mine Act are needed and requests to Congress;

- (2) when enforcement of the Mine Act and MSHA regulations will begin; (3) how inspections will occur in future years (e.g., travel from a specific MSHA district or setting up a field office nearby); (4) whether additional training will occur and how (e.g., in-person, virtual, hybrid, via grants, et cetera); and (5) how funding will be obtained to conduct MSHA activities in FY 2025 and beyond.
4. Verify mines within American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands have properly submitted their Part 50 data to MSHA.
  5. Update the status history for all mines within American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands, including to reflect the periods for which they were operational. This should include adjustments needed after verifying the mines properly submitted their Part 50 data.
  6. Update the mine status criteria to address the types of support (e.g., mine visit observation, closure notice submitted by operator, MSHA analysis of Part 50 data, et cetera) needed to put a mine in “abandoned” status and require support be documented in the related mine file.
  7. Develop guidance for what to do with mines that have been issued a mine identification number and remained in “new mine” status for long periods of time because they never started operations.
  8. Correct mine statuses for any mines that do not adhere to guidance and criteria updates made in response to this alert memorandum, which includes updating the mine status criteria requirements and developing guidance for mines remaining in “new mine” status for long periods of time.
  9. Develop guidance on when mine identification numbers can be deactivated and reactivate any mine identification numbers in MSHA’s system that do not adhere to that guidance.
  10. Remove the exclusion of CAVs limitation from the public “inspections” dataset or transparently state any existing limitation(s) on the download description section of MSHA’s website.
  11. Develop and implement a culture transformation plan to ensure the integrity and ethical values expected are enforced throughout MSHA.

### **Analysis of Agency's Comments**

In response to a draft of this alert memorandum, MSHA generally agreed with the concerns raised and stated it is committed to working with the OIG to address them. MSHA also stated it will implement comprehensive changes to ensure proper inspection of mines under its jurisdiction. While MSHA did not identify specific corrective actions it intends to take for all recommendations, we look forward to working with MSHA personnel to ensure the intent of the 11 recommendations is addressed.

The agency's response to the draft memorandum is included in its entirety in Attachment III.

### **List of U.S. Territories**

Of the 14 U.S. territories, the federal government categorizes 5 of them as permanently inhabited. The remaining nine territories are either uninhabited or have a limited population and are collectively called the “U.S. Minor Outlying Islands” by the International Organization for Standardization.

1. American Samoa
2. Baker Island (Uninhabited)
3. Guam
4. Howland Island (Uninhabited)
5. Jarvis Island (Uninhabited)
6. Johnston Atoll (Uninhabited)
7. Kingman Reef (Uninhabited)
8. Midway Islands (Midway Island and Eastern Island) (limited population)
9. Navassa Island (Uninhabited)
10. Commonwealth of the Northern Mariana Islands (Northern Mariana Islands)
11. Palmyra Atoll (Uninhabited)
12. Puerto Rico
13. U.S. Virgin Islands
14. Wake Island (limited population)

## PPM Volume I Referring to Territories with 2003 Date

See Figure for a page dated February 2003 from MSHA's PPM Volume I referring to inspecting operations located in the "territories, protectorates, or commonwealths."

**Figure: Page Extracted from MSHA's PPM Volume I**

MSHA	PROGRAM POLICY MANUAL <u>INTERPRETATION AND GUIDELINES</u> <u>ON ENFORCEMENT OF 1977 ACT</u>	VOLUME I
 <b><u>Section 3</u></b> <b><u>Definitions</u></b>		
<u>I.3-1</u> <u>Definitions of "Operator" and "Mine"</u>		
Section 3(d) of the Act expands the definition of "operator" to include independent contractors. Regulations governing independent contractors are found in Part 45 of Title 30 CFR. MSHA policy regarding independent contractors is set forth in this Manual in Volume III, Parts 45 and 50.		
Section 3(h) (1) of the Act defines the term "mine" and includes related milling operations within that definition. Mine development, rehabilitation activities, and exploration work at an established mine are within the Act's scope. All types of mining, including placer, dredge, and hydraulic operations must be inspected. Government owned or operated mines and mills, whether federal, state, county, or other, are included within the jurisdiction of the Act. All such operations located anywhere in the United States, as well as in any of its territories, protectorates, or commonwealths, must be inspected.		
<u>I.3-2</u> <u>Jurisdiction Over Mine Roads</u>		
Section 3(h) (1) (B) of the Act defines MSHA's authority to assume jurisdiction of mine roads which pass through federal land administered by agencies that do not have responsibility for health and safety on those roads. The criteria or factors listed below will be used for determining jurisdiction. The presence of any of these factors should each weigh in favor of inclusion of the road under MSHA jurisdiction.		
<ol style="list-style-type: none"> <li>1. The road is owned by the mine operator;</li> <li>2. The road is maintained by the operator;</li> <li>3. The operator has the legal right to bring the road into compliance with MSHA regulations;</li> <li>4. The road is used exclusively to provide access to the mine, or to other mines of the operator;</li> <li>5. The road provides an exclusive or a major means of access for mine vehicles; or</li> <li>6. The road was built by or for (by contractor) the mine operator.</li> </ol>		
February 2003 (Release I-13)      1		

Source: MSHA's PPM Volume I

**Agency Response**

The agency's response to our draft alert memorandum follows.



NOVEMBER 5, 2024

MEMORANDUM FOR CAROLYN R. HANTZ  
Assistant Inspector General  
for Audit

FROM: CHRISTOPHER J. WILLIAMSON  
Assistant Secretary of Labor for  
Mine Safety and Health

SUBJECT: MSHA Response to OIG Alert Memorandum

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The Mine Safety and Health Administration formally acknowledges receipt of the Office of Inspector General's alert memorandum and commits to working with the OIG to address the issues and concerns raised therein. MSHA takes these findings and the OIG's recommendations seriously and is fully committed to implementing comprehensive changes to ensure proper inspection of all mines under the agency's jurisdiction.

Regarding MSHA's jurisdiction and to clear up any confusion or misunderstanding, the agency acknowledges in this response and will include publicly on its website that MSHA's enforcement and other responsibilities under the Mine Act includes American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands (CNMI). 30 U.S.C. 802(c). Additionally, I have requested an opinion from the Associate Solicitor for Mine Safety and Health to provide MSHA with additional guidance regarding any other territories or areas that may fall under MSHA's jurisdiction—including the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau. If it



is determined that additional territories or areas fall under MSHA's jurisdiction, MSHA will update its website to include them as well.<sup>1</sup>

As the OIG's memorandum identifies and the articles cited in footnote 11 explain in more detail, during the Obama Administration, MSHA took concrete actions by providing compliance assistance and training and developed a plan to inspect mines identified in American Samoa, Guam, and CNMI. Additionally, MSHA requested resources to accomplish this goal in the President's FY2017 budget request.

As I shared with OIG investigators, to the best of my recollection, I first learned that MSHA had ceased activities in the Pacific Territories when the Office of the Special Counsel complaint was referred to the OIG for investigation earlier this year. Accordingly, I immediately consulted with the Administrator of Enforcement to inquire about the status of activities in the Pacific Territories, communicated my desire for Enforcement to start developing a plan to restart activities, and directed MSHA Enforcement to include a funding request for necessary resources in the agency's FY2026 budget request.

With the support of Department of Labor leadership, MSHA has requested additional resources and FTEs to be included in the President's FY2026 budget to implement inspections for mines located in American Samoa, Guam, and CNMI and perform silica sampling and outreach on the silica exposure hazards as part of the agency's implementation of its new silica standard. The requested resources will help MSHA meet its requirements under the Mine Act and support the Acting Secretary of Labor's goal of improving safety and health outcomes in underserved communities and advancing equity for all miners.

Additionally, MSHA included in its FY2025 Agency Management Plan that it will assess and develop potential implementation strategies for the comprehensive enforcement of the Mine Act in American Samoa, Guam, and CNMI. MSHA has also committed to protecting the most vulnerable, marginalized, and underserved workers by including its commitment to developing a plan for conducting mine inspections in American Samoa, Guam, and CNMI in discussions with the Office of the Secretary of Labor.

As the OIG is aware, MSHA's resources are largely devoted to fulfilling the Agency's statutory requirements, including conducting inspections at all active underground mines four times per year and all surface mines twice per year. Even though years of flat budgets and increased costs continue to take its toll on MSHA's ability to complete its inspections, MSHA will use existing FY2025

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<sup>1</sup> Please note that MSHA does not inspect areas if it is unaware of mines in those locations; MSHA often is unaware of mines in the Continental United States until they are brought to MSHA's attention.

resources to begin planning and preparation for resuming activities in American Samoa, Guam, and CNMI with the goal of ultimately conducting regular inspections at mines located within those territories. In doing so, MSHA may experience considerable impacts to existing activities and mandatory Mine Act responsibilities.

At the end of the day, we all share the goal of protecting the safety and health of miners who work under the jurisdiction of the Mine Act and to raise labor standards and protections for miners in the Pacific Territories. To be successful, MSHA must work together with miners, mine operators, local governments, and other stakeholders and use all its tools<sup>2</sup>, not just enforcement and regular inspections. Moreover, as the agency has committed, it must develop a strategic plan and restart efforts that had previously been abandoned as far back as 2017. MSHA cannot begin conducting inspections in American Samoa, Guam, and CNMI immediately, but that must be the ultimate goal because history has demonstrated MSHA and the Mine Act's success and the impact that regular inspections and enforcement of standards can have on workers' safety, health, and well-being.

MSHA looks forward to working collaboratively to address the issues identified by the OIG—the agency has completed or already begun work on some of them—and to resolve and close out recommendations that will lead to greater protections for miners in American Samoa, Guam, and CNMI.

Sincerely,



Christopher J. Williamson  
Assistant Secretary of Labor for  
Mine Safety and Health

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<sup>2</sup> MSHA will continue providing grants to state, tribal, and territorial governments—including American Samoa, Guam, and CNMI—to support the development and enforcement of mining laws and regulations. These grants aim to enhance state workers' compensation and mining occupational disease programs, as well as improve safety and health conditions in mines across the country through federal-state collaboration.