



SEP 30 2014

MEMORANDUM FOR PATRICIA W. SILVEY

Deputy Assistant Secretary for Operations
Mine Safety and Health Administration

[REDACTED]

THROUGH:

NEAL H. MERRIFIELD
Administrator for
Metal and Nonmetal Mine Safety and Health Administration

[REDACTED]

JAY P. MATTOS
Director, Office of Assessments, Accountability, Special
Enforcement and Investigations

[REDACTED]

FROM:

ALFRED L. CLAYBORNE
Deputy Director, Office of Accountability and Special
Enforcement and Investigations

SUBJECT:

MSHA Office of Accountability Review, MNM Northeastern
District, Warrendale, Pennsylvania Field Office, and

[REDACTED]

Introduction

This memorandum summarizes the Office of Accountability's review of the Northeastern District, Warrendale, Pennsylvania Field Office, and [REDACTED]. The review included MSHA field activities; level of enforcement; conditions and practices at the mine; Field Accompanied Reviews (FARs); Office Reviews (ORs); and MSHA supervisory and managerial oversight. The review also included evaluations to determine if there were any deficiencies in areas commonly identified during Agency internal reviews of MSHA's actions following past mine disasters.

Positive findings are included in this review report. No issues were identified during this review which require a corrective action.

Overview

This review was conducted by Accountability Specialists Jerry Kissell and Troy Davis from [REDACTED] [REDACTED] accompanied the accountability specialists during the review.

Mine Visit

The review team traveled with the inspection party to the [REDACTED] [REDACTED] to continue an ongoing regular E01 inspection. The team observed inspection activities conducted to include: mobile equipment inspected consisted of a JLG manlift, two CAT frontend loaders, four Ford F-250s and F-350s and a Gradall mechanical scaling machine. Portions of the mining cycle was also observed to include the loading (mucking) cycle, haulage both by rubber tired equipment and conveyor belt systems, explosive loading practices and barricades for loaded faces (headings), mechanical scaling and hand scaling practices in the mining cycle. Safe work practices of a contractor were observed while working from a JLG manlift in the elevated position during the construction of a breakroom. The team traveled portions of both the primary and secondary escapeways observing signage and safe travelways. Barricading practices were observed in area 33 west for hazardous roof conditions identified approximately one month prior to the mine visit. The ventilation system for the mine provided adequate ventilation in all areas traveled during this mine visit. Air quality readings taken by the inspector were observed in all active work areas to be in compliance. Communications between the mine operator and labor union officials were observed during the pre-conference, daily close-out, discussion of work practices with miners and discussion of citations issued while underground. On the surface the mine map, mine bulletin board and postings were reviewed.

Audit Results

The review revealed positive findings in several areas, including the following:

1. Enforcement personnel conducted themselves in a professional and courteous manner at all times during the review and during the inspection.
2. Inspection procedures observed during the review appeared in compliance with MSHA policy and procedures.
3. Enforcement personnel used appropriate enforcement tools during the mine site visit.
4. Inspection reports reviewed were documented in accordance with the current Inspection Procedures Handbook; in several instances the inspector(s) exceeded the minimum requirements pertaining to the detail of documentation of areas and equipment inspected.
5. The Warrendale Field Office is utilizing tracking maps as a part of the documentation of regular E01 inspections to insure that a complete and thorough inspection of the entire mine is conducted.
6. The Warrendale Field Office Supervisor has developed and utilizes an electronic map (Google Earth) containing all mines under his jurisdiction which defines the mine location in relation to the inspectors' duty stations and residence. This has proved efficient to MSHA's response to mine accidents. This map is also downloaded to the inspectors GPS which provides directions to the entrance of the mine property resulting in reduced response times.
7. Field Accompanied Reviews (FARs) and Office Reviews (ORs) for the Warrendale, PA Field Office were adequately documented.
8. [REDACTED] exceeded the minimum required Office Reviews (ORs) for FY 2013.
9. Staff and safety meetings were well documented, listing updates and reviews of MSHA initiatives and policy memoranda.
10. Air quality readings were taken by the inspector in all active work areas during the mine visit.

This review revealed no issues that require a corrective action.

Attachments

A. Internal Review Summary

B. Office of Accountability Checklist

C. Statistics

D. Citations/Orders issued during this review

- | | | |
|----|------------|--------------|
| 1. | ██████████ | § 57.3200 |
| 2. | ██████████ | § 57.9300(b) |
| 3. | ██████████ | § 57.3200 |

E. Examples of Citations Issued During Previous E01 Inspections
(No issues were identified during this review)

F. District Corrective Action Plan
(N/A)

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Attachment A – Internal Review Summary

The table below lists the most common internal review findings following mine disasters. The Warrendale, PA Field Office had no commonly identified issues.

Common Internal Review Findings	Examples of Deficiencies found in this Accountability Review:
Failure to identify deviations in approved plans.	Not identifying operator departures from requirements in any plan that requires approval, such as training plans, roof control plans, ventilation plans, emergency response plans, etc.
Incomplete or inadequate inspections.	Not following policy or procedures for conducting inspections. Failure to cite all violations. Not inspecting all areas and equipment.
Failure to conduct 103(i) spot inspections according to policy.	Not conducting spot inspections, not conducted in a timely manner and at irregular intervals.
Supervisors did not provide adequate oversight.	No review/lax review of inspection reports. Inadequate review of PKW/SAR forms. Failure to conduct required Field Activity Reviews and Accompanied Activities.
Improper evaluations of gravity, negligence and type of enforcement action.	Inadequate documentation to support citation and evaluation. Failure to consider and document aggravating or mitigating circumstances.
Inadequate Peer Reviews	Inadequate district level Peer Reviews. Failure to adopt and follow corrective action plans. Failure to follow up or monitor effectiveness of corrective action plans.
Weakness in the ACR Program	Not following ACR handbook. Inadequate management oversight. Failure to follow the Mine Act, MINER Act, 30 CFR and MSHA policy.
MSHA data not used or reviewed.	Key Indicators, Mine Profile, Inspection completion reports not being used. Failure to keep MSIS data up to date and accurate.
Lack of unwarrantable failure tracking system	No or inadequate unwarrantable failure sequence tracking system.
Conflict of Interest	Inspecting prior employers, employment of relatives
Failure to comply with Hazard Complaint Procedures.	Improper coding of inspections. Inadequate documentation of inspections/investigations.

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Common Internal Review Findings	Examples of Deficiencies found in this Accountability Review
Investigations of multi-phase plans	Failure to conduct on-site evaluations of plans.
Failure to observe retreat mining.	Inadequate periodic evaluations when retreat mining is conducted.
Section 103(a) is violated when an operator gives advance notice of MSHA's presence on mine property	Citation not issued when advance notice of impending MSHA inspection
Tracking tool was needed to monitor personnel resources and those devoted to special investigations	Not monitoring resources devoted to special investigations.
Needed to improve tracking of retraining of supervisors, inspectors, and specialists	Some supervisors, inspectors, and specialists were not being retrained.

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Attachment B –Review Checklist

1. Determine if complete and thorough E01 inspections are being conducted and /or if policy and procedures were properly followed.
Adequate Corrective Action Needed Comments Below

2. Determine if documentation for inspections is complete and thorough.
Adequate Corrective Action Needed Comments Below

3. Determine if citations and orders issued during previous inspections were properly evaluated for gravity, negligence, level of enforcement, number of persons affected, and supported by documentation.
Adequate Corrective Action Needed Comments Below

4. Evaluate inspector(s) examination of required records and postings for compliance with applicable standards.
Adequate Corrective Action Needed Comments Below

Bulletin boards and postings at the mine were observed as adequate. The regular E01 inspection reports indicate examination of records is adequate.

5. Evaluate the inspector(s) physical examination of the active working areas of the mine and inspection of all mining cycles.
Adequate Corrective Action Needed Comments Below

No drilling or roof bolting took place during the mine visit.

6. Evaluate the inspector(s) on-site contaminant assessment and documentation.
Adequate Corrective Action Needed Comments Below

Air quality readings were taken in active mining areas during the mine visit. A review of previous inspection reports verify the last health survey was conducted in November 2013.

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7. Evaluate inspector(s) examination of electrical equipment, transformer stations, and/or electrical circuits.

Adequate Corrective Action Needed Comments Below

8. Determine if adequate close-out conferences are being conducted at the end of each inspection.

Adequate Corrective Action Needed Comments Below

Field notes reviewed show daily and final close-outs are consistently conducted. Inspector conducted a close-out for the day's activities during the mine visit.

9. Determine if Possible Knowing/Willful (PKW) Forms are documented and processed according to agency policy and procedures.

Adequate Corrective Action Needed Comments Below

10. Evaluate 103(i) spot inspection (E02) reports for the office/district being audited for compliance with agency policies and procedures, including compliance with time frames and separating E02 inspections from other events.

Adequate Corrective Action Needed Comments Below

No 103(i) mines at this time of this review.

11. Determine if Hazard Complaint inspections/investigations are being conducted according to policy and procedures.

Adequate Corrective Action Needed Comments Below

12. Determine if supervisors are monitoring inspector time and activity to ensure proper use of time, including off-shift and weekend work, by all inspectors.

Adequate Corrective Action Needed Comments Below

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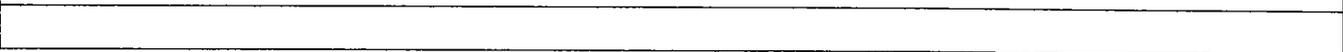
13. Are required Office Reviews (ORs) and supervisory follow-up reviews being conducted and documented according to agency policy and procedures?
(One E-01/Inspector/every six months/FY -minimum)

Adequate Corrective Action Needed Comments Below



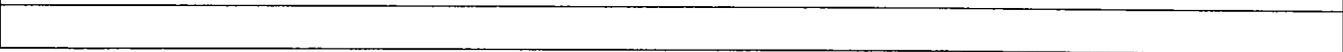
14. Are Field Accompanied Reviews (FARs) and supervisory follow-up reviews being conducted and documented according to agency policy and procedures?
(one/inspector/year - minimum)

Adequate Corrective Action Needed Comments Below



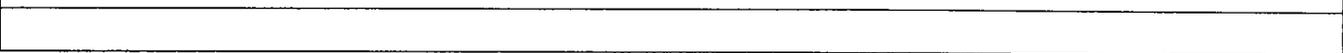
15. Determine if a 104(d) tracking system is in place and being kept current at the office being audited.

Adequate Corrective Action Needed Comments Below



16. Determine if the Mine Files are legible, up to date, and reviewed by supervisors..

Adequate Corrective Action Needed Comments Below



17. Determine if supervisors are visiting active mines.

Adequate Corrective Action Needed Comments Below

During FARs and as resources allow, problematic mines are visited by management.

18. Review documentation of staff meetings/safety meetings to determine their effectiveness and relevance to current issues and the Agency's mission.

Adequate Corrective Action Needed Comments Below



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19. Determine if Assistant District Manager is conducting the required second level reviews and holding supervisors accountable for oversight of Office Reviews and Field Accompanied Activity Reviews.

20. Determine if district management personnel are reviewing work products and reports for accuracy and completeness.

Adequate Corrective Action Needed Comments Below

21. Determine if managers and supervisors are using required standardized reports to review critical data relevant to inspections and investigations.

Adequate Corrective Action Needed Comments Below

22. Determine if Districts are conducting in-depth Peer Reviews in compliance with agency policy and procedures including follow-up to determine the effectiveness of corrective actions.

Adequate Corrective Action Needed Comments Below

The last district peer review was conducted February 25-28, 2013. OA currently conducts a review annually in each MNM District.

23. Is information (mine status, methane liberation, number of employees, etc.) being entered into the MSHA Standardized Information System (MSIS) accurately and in a timely manner?

Adequate Corrective Action Needed Comments Below

24. Determine if inspectors have sufficient equipment and supplies to conduct thorough inspections.

Adequate Corrective Action Needed Comments Below

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25. Evaluate the overall condition of the mine relative to the level of enforcement documented in previously completed inspections.

Adequate Corrective Action Needed Comments Below

Determine if inspectors have an understanding of when a violation of Section 103(a) for Advance Notice occurs and whether appropriate citations are issued for Advance Notice.

26. Advance Notice

Adequate Corrective Action Needed Comments Below

27. Determine if the management resource tracking tool is being used to track resources regarding Special Investigations.

Adequate Corrective Action Needed Comments Below

28. Determine if retraining of supervisors, inspectors, and specialists is being tracked.

Adequate Corrective Action Needed Comments Below

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Attachment C – Statistics

S&S Rate Comparison

During FY 2012, the S&S rates for the Warrendale, Pennsylvania Field Office are lower than the average for the Northeastern District and the national average. During FY 2013, the S&S rates for the Warrendale, Pennsylvania Field Office are lower than the average for the Northeastern District and the national average. Citations issued during the audit were appropriately issued and consistent with policy and procedures. (See attachment D)

Fiscal Year	Warrendale Field Office	North Eastern District	National Average
2012	23%	24%	25%
2013	20%	23%	26%

Time and Activity Comparison

A comparison of FY 2012 and FY 2013 time distribution for the Warrendale Field Office at all mining operations shows that time in the other category has decreased and on-site time slightly decreased.

Time Distribution (%) – E01 Inspections							
FY	Area/Office	Travel	*Other	**On-Site Enf. time	Total Enf. Time	Non Enf. time	Total Percent
2012	FO	19%	19%	43%	81%	19%	100%
	Nat'l Avg	21%	15%	42%	78%	22%	100%
2013	FO	21%	13%	41%	75%	25%	100%
	Nat'l Avg	21%	15%	42%	78%	22%	100%

* Other time includes off site citation/order writing, health equipment calibration, and mailing of samples

** Total On-Site time includes citations written on-site

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District Northeastern Field Office Warrendale, PA Mine ID [REDACTED] Date [REDACTED]

Attachment D- Citations issued during the Audit

Mine Citation/Order U.S. Department of Labor
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Section I--Violation Data			
1. Date <small>Mo Da Yr</small>	2. Time (24 Hr. Clock)	3. Citation/Order Number	[REDACTED]
4. Served To		5. Operator	
[REDACTED]		[REDACTED]	
6. Mine		7. Mine ID (Contractor)	
[REDACTED]		[REDACTED]	
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>	

Loose material was not taken down off the rib of 15 south and 32 west cross cut. The loose was approximately 20 feet above the ground. This area was not barricaded from entry. Persons operate mobile equipment in this area daily, to access the next heading. This is a crushing hazard. Photos taken.

Standard 57.3200 was cited [REDACTED]

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health <input type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR
			57.3200

Section II--Inspector's Evaluation			
10. Gravity:			
A. Injury or illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input checked="" type="checkbox"/> Reasonably Likely <input type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>			
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input checked="" type="checkbox"/> Fatal <input type="checkbox"/>			
C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			D. Number of Persons Affected: 001
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>			
12. Type of Action 104a		13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>	
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>			E. Citation/Order Number
15. Area or Equipment			F. Dated Mo Da Yr

16. Termination Due	A. Date <small>Mo Da Yr</small>	B. Time (24 Hr. Clock)	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]

Section III--Termination Action

17. Action to Terminate The operator scaled the loose material down, terminating the citation. Photo taken.

18. Terminate	A. Date <small>Mo Da Yr</small>	B. Time (24 Hr. Clock)	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]

Section IV--Automated System Data			
19. Type of Inspection (activity code)	20. Event Number	21. Primary or Mill	[REDACTED]
E01	[REDACTED]	P	[REDACTED]
22. AR Name		23. AR Number	
[REDACTED]		[REDACTED]	

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

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District Northeastern Field Office Warrendale, PA Mine ID [REDACTED] Date [REDACTED]

Mine Citation/Order

U.S. Department of Labor
 Mine Safety and Health Administration



Section I—Violation Data

1. Date Mo Da Yr [REDACTED]	2. Time (24 Hr. Clock) [REDACTED]	3. Citation/ Order Number [REDACTED]
4. Served To [REDACTED]		5. Operator [REDACTED]
6. Mine [REDACTED]		7. Mine ID [REDACTED] (Contractor)

8. Condition or Practice

8a. Written Notice (103g)

The berm found in 15 south crosscut was not mid-axle height of the largest self-propelled mobile equipment which usually travels the roadway. The berm varied in height from left to right, 21 inches to 36 inches. The berm was approximately 30 feet long. There was a drop off section past the berm that varied in height, approximately 8 feet to 15 feet. Persons have to scale in this area after blasting. This is a crushing hazard from vehicle roll over. Photo taken.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health <input type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 57.9300b
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Section II—Inspector's Evaluation

10. Gravity:				
A. Injury or illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input checked="" type="checkbox"/> Reasonably Likely <input type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>				
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input checked="" type="checkbox"/> Fatal <input type="checkbox"/>				
C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			D. Number of Persons Affected: 001	
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>				
12. Type of Action 104a		13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>		
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>				E. Citation/ Order Number
15. Area or Equipment				

16. Termination Due	A. Date Mo Da Yr [REDACTED]	B. Time (24 Hr. Clock) [REDACTED]
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Section III—Termination Action

17. Action to Terminate The operator enlarged the berm beyond mid-axle height, terminating the citation.

18. Terminate	A. Date Mo Da Yr [REDACTED]	B. Time (24 Hr. Clock) [REDACTED]
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Section IV—Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number [REDACTED]	21. Primary or Mill P	
22. AR Name [REDACTED]		23. AR Number [REDACTED]	

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District Northeastern Field Office Warrendale, PA Mine ID [REDACTED] Date [REDACTED]

Mine Citation/Order

U.S. Department of Labor
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Section I—Violation Data

1. Date	Mo Da Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number
4. Served To		5. Operator	
6. Mine		7. Mine ID	
8. Condition of Practice		8a. Written Notice (103g)	

Loose material was not taken down off the rib of 19 south and 33 west cross cut. The loose was approximately 20 feet above the ground. There was blasters loading holes in this crosscut. The loose varied in size approximately 14 inches by 16 inches and smaller. This is a crushing hazard. Photo taken.

Standard 57.3200 was cited [REDACTED]

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health <input type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR <p align="center">57.3200</p>
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Section II—Inspector's Evaluation

10. Gravity:			
A. Injury or illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input checked="" type="checkbox"/> Reasonably Likely <input type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>			
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input checked="" type="checkbox"/>			
C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			D. Number of Persons Affected: 001
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>			
12. Type of Action 104a		13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>	
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>			E. Citation/Order Number
15. Area or Equipment			

16. Termination Due	A. Date Mo Da Yr	B. Time (24 Hr. Clock)
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Section III—Termination Action

17. Action to Terminate The operator scaled the loose off of the rib, terminating the citation. Photo taken.

18. Terminate	A. Date Mo Da Yr	B. Time (24 Hr. Clock)
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Section IV—Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number	21. Primary or Mill P	23. AR Number
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MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

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Attachment E – Examples of Citations Issued During Previous E01 Inspections
(N/A)

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Attachment F – (N/A)