

**JAN 27 2010**

MEMORANDUM FOR: MICHAEL A. DAVIS  
Deputy Assistant Secretary for  
Mine Safety and Health Administration

THROUGH: PETER J. MONTALI *Peter J. Montali*  
Acting Director of Accountability for  
Mine Safety and Health Administration

FROM: ARLIE A. WEBB *Peter J. Montali for*  
Accountability Specialist

SUBJECT: MSHA Office of Accountability Audit, Harlan, Kentucky,  
Field Office and [REDACTED]  
[REDACTED]

**Introduction**

This memorandum summarizes the Office of Accountability audit of the subject field office and mine. Audit subjects included the Uniform Mine File, MSHA field activities, level of enforcement, Field Activity Reviews (FARs), Accompanied Activities (AAs), supervisory and managerial oversight, mine plans, and the conditions and practices at the mine. The audit was conducted during the weeks of [REDACTED] by Arlie A. Webb. Positive findings and issues requiring attention are included in this audit report.

**Overview**

The accountability specialist traveled to the subject field office and mine to observe and evaluate enforcement activities, supervisory and managerial oversight, and mine conditions and practices. Accompanying the accountability specialist was [REDACTED]

Areas of the mine examined during the audit included all active pits, highwalls, rock drills, haulage trucks, haul roads and berms, front end loaders, bulldozers, fire extinguishers, first aid supplies, communication systems, and record books.

The audit revealed positive findings in several categories, including the following:

1. The [REDACTED] and the District Manager have visited numerous mines during the time period covered by this audit.

2. An interview with [REDACTED] indicated a thorough knowledge of the regulations and the proper evaluation of gravity, negligence, and the number of persons affected.
3. Inspection documentation indicates thorough and complete inspections.
4. The 104(d) tracking system is well maintained and easily understood.
5. The Uniform Mine Files for underground mines have been upgraded and are in compliance with the new UMF handbook.

The audit also revealed several issues that require corrective actions, including the following:

1. Evaluations of gravity, negligence, number of persons affected, and the level of enforcement do not always appear consistent with inspection notes, the narrative portion of the citation, or MSHA policy.
2. Examination of inspection records and reports revealed that 103(i) spot inspections were not always conducted in accordance with MSHA policy, in that some inspections were done on consecutive Mondays, Wednesdays or Thursdays, and other inspections were missed. Item 14 of the checklist details the mines and inspections associated with this issue.
3. There was an excessive amount of inspection time expended in the "other" category and the "travel" category.
4. There appeared to be an insufficient amount of time being spent onsite on Fridays, weekends, and on the midnight shift during FY 2009.
5. The Uniform Mine Files for surface mines still contain outdated materials and retention schedules.

**S&S Rate Comparison**

Although the S&S rate for Coal District 7 was comparable to the national average for both FY 2008 and FY 2009, the Harlan field office rate was slightly less in FY 2008 and considerably less in FY 2009.

<b>S&amp;S Rate Comparison</b>			
<b>Fiscal Year</b>	<b>Harlan, Kentucky Field Office</b>	<b>Coal District 7</b>	<b>National Average</b>
2008	32%	35%	35%
2009	[REDACTED]	33%	34%

**Time and Activity Comparison**

As illustrated in the tables below, an analysis of inspector time distribution for FY 2009 revealed that Harlan Work Groups 01 and 02 expended an excessive amount of time in the "other" category during E01 inspections of surface facilities. All three Work Groups

expended an excessive amount of time in the "other" category during E01 inspections of underground mines.

Travel time for some mines was higher than normal, and appears to be attributed to long distances to a group of 30 to 35 mines in the Cumberland, Kentucky area. This excessive travel time adversely affected the percentage of time spent on-site during FY 2009.

<b>Time Distribution (Percent) - E01 Inspections at Surface Facilities</b>						
	Travel	Other	Total On-Site	Citations Issued On-site	Citations Issued Off-site	Total Percent
WG 01	14.9%		69.0%	5.0%	0.1%	100.0%
WG 02	13.2%		70.2%	6.4%	0.4%	100.0%
WG 03		12.8%	71.1%	4.7%	0%	100.0%

<b>Time Distribution (Percent) - E01 Inspections at Surface Mines</b>						
	Travel	Other	Total On-Site	Citations Issued On-site	Citations Issued Off-site	Total Percent
WG 01		15.0%	68.3%	4.4%	0.1%	100.0%
WG 02		14.4%	67.2%	4.9%	0.2%	100.0%
WG 03		13.1%		4.7%	0%	100.0%

<b>Time Distribution (Percent) - E01 Inspections at Underground Mines</b>								
	Travel	Other	MMU	Outby	Surface	Citations Written On-site	Citations Written Off-site	Total Percent
WG 01	15.8%		22.9%	21.9%	17.0%	5.1%	0.1%	100.0%
WG 02	15.2%		22.8%	20.3%	17.8%	5.1%	0.2%	100.0%
WG 03			19.2%	27.9%	15.0%	5.4%	0%	100.0%

In addition, there appeared to be an insufficient amount of time being spent onsite on Fridays and weekends and on the midnight shift during FY 2009.

<b>FY 2009 Average Percentage of Time Spent on Weekends and Off Shifts (E01)</b>										
	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Shift 1	Shift 2	Shift 3
SM		16.5	26.1	28.6	21.0				86.0	13.7
SF		17.3	29.2	23.2	23.7				90.8	8.7
UG		20.2	27.3	26.1	19.3			7.3	83.0	9.6

## Audit Results

The attached checklist addresses the findings of the audit. Positive issues as well as issues requiring action are covered in detail in the checklist.

## Attachments

- A. Office of Accountability Checklist with comments, recommendations and references
- B. Citations issued during this audit
  - 1. [REDACTED] 72.620
  - 2. 77.1104
  - 3. 77.1104
- C. Enforcement actions with questionable evaluations

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1. Evaluate supervisory review of inspection reports and documentation for completeness.
Adequate <input type="checkbox"/> Inadequate <input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Comments Below
See Attachment C

2. Determine if supervisors address report deficiencies immediately
Adequate <input checked="" type="checkbox"/> Inadequate <input type="checkbox"/> Not Applicable <input type="checkbox"/> Comments Below
Documentation in most FARs indicated that any report deficiencies observed by the supervisor were being identified and addressed.

3. Determine if supervisors are visiting each assigned mine at least annually
Adequate <input checked="" type="checkbox"/> Inadequate <input type="checkbox"/> Not Applicable <input type="checkbox"/> Comments Below

4. Evaluate the quality of Field Activity Review reports (FARs)
Adequate <input checked="" type="checkbox"/> Inadequate <input type="checkbox"/> Not Applicable <input type="checkbox"/> Comments Below
More than 30 FARs were reviewed during this audit. Most were well documented and listed activities where the inspector excelled as well as areas where improvements were needed.

6. Evaluate the quality of Accompanied Inspections
Adequate <input checked="" type="checkbox"/> Inadequate <input type="checkbox"/> Not Applicable <input type="checkbox"/> Comments Below
More than 30 AAs were reviewed during this audit. Most were well documented and listed activities where the inspector excelled as well as areas where improvements were needed.

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7. Determine if supervisors are thoroughly reviewing mine files at least annually  
Adequate  Inadequate  Not Applicable  Comments Below

11. Determine if ADMs and DMs are visiting mines with poor compliance at least monthly

Adequate  Inadequate  Not Applicable  Comments Below

Interviews revealed that [redacted] are using inspection results, accident data, and other data provided by the Program Analyst to identify mines with compliance issues, and are visiting those mines. District management is also identifying and visiting mines where the level of enforcement and evaluation of citations does not appear consistent with the nature of violations being cited.

13. Evaluate the location, workload, and availability of specialists (roof control, ventilation, electrical, etc.) within the district

Adequate  Inadequate  Not Applicable  Comments Below

14. Evaluate supervisory and management review of 103(i) (spot inspection) tracking system for compliance with time frames

Adequate  Inadequate  Not Applicable  Comments Below

Although E02 inspections conducted by Harlan, Kentucky, Field Office personnel appear to be thorough, several discrepancies were noted.

At one mine [redacted] which was on a 15-day spot schedule, 103(i) spot inspections were conducted on three consecutive Mondays (11/17/2008, 12/08/2008, and 12/22/2008).

At another mine [redacted] which was on a 10-day spot schedule, 103(i) spot inspections were conducted on three consecutive Thursdays (07/16/2009, 07/23/2009,

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and 07/30/2009). In addition, there were three occasions when the number of days between E02 inspections at this mine exceeded MSHA policy. (From 11/04/2008 to 12/09/2008 = 34 days, from 03/16/2009 to 04/09/2009 = 24 days, and from 04/14/2009 to 05/06/2009 = 22 days).

At a third mine ( ), which was on a 10-day spot schedule, 103(i) spot inspections were conducted on four consecutive Wednesdays (07/08/2009, 07/15/2009, 07/22/2009, and 08/05/2009). In addition, there were three occasions when the number of days between E02 inspections at this mine exceeded MSHA policy. (From 10/07/2008 to 10/29/2008 = 22 days, from 12/03/2008 to 12/23/2008 = 20 days, and from 12/30/2008 to 01/21/2009 = 22 days).

*Recommendation – 103(i) spot inspections must be conducted in accordance with the Mine Act and MSHA policy. Time frames and the requirement that inspections be conducted at irregular intervals must be met.*

*Reference – Section 103(i) of the Mine Act*

15. Determine if supervisors and managers are ensuring that 103(i) inspections are not combined with any other type of inspection

Adequate  Inadequate  Not Applicable  Comments Below

17. Determine if supervisors are monitoring inspector time and activity documentation to ensure proper use of time by inspector

Adequate  Inadequate  Not Applicable  Comments Below

See Items 14, 31, and 36.

20. Determine if supervisors are adequately evaluating the level of enforcement by visiting each producing mine

Adequate  Inadequate  Not Applicable  Comments Below

There were only 9 citations issued at the subject mine during all of FY 2009 where the inspector's evaluation did not appear to be consistent with the narrative portion of the

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citation or the nature of the violation.

23. Determine if second level reviews and Peer Reviews are used to assess supervisory review of enforcement actions

Adequate  Inadequate  Not Applicable  Comments Below

This audit revealed that the District Manager had incorporated checklists and other information obtained from previous Office of Accountability audits into the district's own Peer Review process.

25. Evaluate inspector/specialist knowledge of documentation required and process for completing PKW Forms.

Adequate  Inadequate  Not Applicable  Comments Below

26. Evaluate the district's process for performing Possible Knowing/Willful (PKW) reviews and initiating or denying special investigations

Adequate  Inadequate  Not Applicable  Comments Below

29. Determine if complete and thorough inspections are being conducted and adequately documented

Adequate  Inadequate  Not Applicable  Comments Below

30. Determine if inspection notes, air samples, rock dust samples, and tracking map/diagram support the inspector's assertion that the mine was inspected in its entirety

Adequate  Inadequate  Not Applicable  Comments Below

Inspector notes and IPAL tracking system were well documented for these surface inspections.

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31. Determine that the inspector spent sufficient time on off-shifts and on weekends

Adequate  Inadequate  Not Applicable  Comments Below

On site time on Fridays, weekends, and the midnight shift during FY 2009 appeared to be low. On average, less than 1 percent of on site inspection time for all types of mines occurred on Sundays. Likewise, less than 1 percent of onsite inspection time at surface mines and surface facilities occurred on the midnight shift (Shift 1).

*Recommendation – All mines do not work 7 days per week, nor do they all work 24 hours per day. Each field office supervisor should ascertain the work schedule of the mines assigned to them and adjust inspection schedules if needed. On site time on off shifts and weekends should be sufficient to evaluate the work being performed at those times.*

34. Determine if all mine record books, postings, and other required materials are examined during the inspection

Adequate  Inadequate  Not Applicable  Comments Below

36. Determine if the amount of time expended on each inspection activity and area of the mine is sufficient to accomplish inspection goals

Adequate  Inadequate  Not Applicable  Comments Below

Time in the "Other" and "Travel" categories for some inspections was higher than normal, and may be attributed to a group of 30 to 35 mines located in the Cumberland, Kentucky area. Although there is an excessive amount of travel and other time that adversely affects the percentage of time spent on-site during FY 2009, the location of mines is not under control of the field office.

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38.	Accompany and evaluate inspector's imminent danger run					
Adequate	<input checked="" type="checkbox"/>	Inadequate	<input type="checkbox"/>	Not Applicable	<input type="checkbox"/>	Comments Below

39.	Check adequacy of preshift/onshift examinations					
Adequate	<input checked="" type="checkbox"/>	Inadequate	<input type="checkbox"/>	Not Applicable	<input type="checkbox"/>	Comments Below

41.	Evaluate operator's workplace examinations					
Adequate	<input checked="" type="checkbox"/>	Inadequate	<input type="checkbox"/>	Not Applicable	<input type="checkbox"/>	Comments Below

42.	Evaluate conditions on working section and observe work cycle					
Adequate	<input checked="" type="checkbox"/>	Inadequate	<input type="checkbox"/>	Not Applicable	<input type="checkbox"/>	Comments Below
A work cycle was observed at all pits and in both plants on this surface mine property. There are no underground workings associated with this surface mine.						

61.	Examine mine map for accuracy of workings and escapeway locations					
Adequate	<input checked="" type="checkbox"/>	Inadequate	<input type="checkbox"/>	Not Applicable	<input type="checkbox"/>	Comments Below
Surface mine. Maps at mine site were accurate and up to date.						

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62. Examine mine bulletin board and evaluate adequacy of all required postings  
Adequate  Inadequate  Not Applicable  Comments Below

63. Interview responsible person(s) and evaluate knowledge of emergency response, evacuation procedures, and fire fighting processes  
Adequate  Inadequate  Not Applicable  Comments Below

Surface Mine. The MET, pit foremen, superintendent, and mine managers were very knowledgeable in emergency response procedures.

66. Determine if districts are conducting sufficient, in-depth Peer Reviews  
Adequate  Inadequate  Not Applicable  Comments Below

This audit revealed that the District Manager had incorporated checklists and other information obtained from previous Office of Accountability audits into the district's own Peer Review process.

68. Determine if Peer Reviews identify root causes of deficiencies, corrective actions, set time lines for corrections, and identify a method for accurately measuring the success or failure of corrective actions.  
Adequate  Inadequate  Not Applicable  Comments Below

71. Determine if Peer Reviews accurately reflect and evaluate MSHA activities at all types of mining (underground/surface/surface facilities) within the district  
Adequate  Inadequate  Not Applicable  Comments Below

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72. Determine if approved plans and the Uniform Mine File books are addressed during each Peer Review

Adequate  Inadequate  Not Applicable  Comments Below

75. Evaluate approved training plan after discussion with miners

Adequate  Inadequate  Not Applicable  Comments Below

Training records were in good order. Interviews with miners indicated that training was effective.

77. Evaluate the two most current completed E01 (regular) inspection reports (two quarters)

Adequate  Inadequate  Not Applicable  Comments Below

Inspection reports, documentation and tracking maps indicate that complete inspections are being conducted.

78. Ten most current completed E02 (103(i) spot) inspection reports

Adequate  Inadequate  Not Applicable  Comments Below

With the exception of issues mentioned in Item 14 above, 103(i) inspections conducted by Harlan field office personnel appear to be in compliance with applicable policies.

79. Citations, orders, and safeguards issued during previous two quarters

Adequate  Inadequate  Not Applicable  Comments Below

Attachment C contains examples of citations where the level of enforcement, S&S determination, likelihood of occurrence, number of persons affected, or negligence

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determinations do not appear consistent with the inspector's notes or the narrative portion of the citation cited.

*Recommendation – Supervisors and managers should ensure that inspection personnel are properly documenting and evaluating the degree of gravity, exposure to the hazard, and the mine operator's negligence.*

*Reference – Citation and Order Writing Handbook for Coal and M-NM Mines (PH08-I-1), Chapter 4 – Citations and Orders*

80. Determine if 104(d) tracking system is in place at the office being audited, and is being kept up to date

Adequate  Inadequate  Not Applicable  Comments Below

81. Determine if all plans and documents in the Uniform Mine File are legible, and up to date

Adequate  Inadequate  Not Applicable  Comments Below

Several UMF books examined during this audit and were found to contain obsolete or expired plans. One surface mine book contained a bath house waiver, even though the mine operator had built a bath house more than a year prior. Interviews revealed some confusion regarding responsibility for inserting/removing materials in the UMF, and purging of obsolete materials.

*Recommendation – Although not required by current regulations or MSHA policy, the Office of Accountability recommends that, when possible, a mine map should be obtained and placed in the surface UMF to enhance the inspector's ability to perform inspections. In cases where plans must be sent to the district for additional review, a copy of such plans should be maintained in the UMF during this time.*

*Reference - Uniform Mine File Procedures Handbook (PH09-V-09), Chapter 1, Sections E, F and G.*

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85.	Determine if miners are adequately trained in the provisions of any new plan prior to its implementation					
Adequate	<input checked="" type="checkbox"/>	Inadequate	<input type="checkbox"/>	Not Applicable	<input type="checkbox"/>	Comments Below
Interviews with miners revealed that new plans and plan revisions are discussed during safety talks prior to those plans being implemented.						

87.	Determine if district management reviewed the final version of all approved plans					
Adequate	<input checked="" type="checkbox"/>	Inadequate	<input type="checkbox"/>	Not Applicable	<input type="checkbox"/>	Comments Below
Information obtained during close out conference with District Manager, ADM, and supervisors.						

92.	Determine if a copy of the most recent plan is provided for inclusion in the Uniform Mine File					
Adequate	<input type="checkbox"/>	Inadequate	<input checked="" type="checkbox"/>	Not Applicable	<input type="checkbox"/>	Comments Below
See Item 81 above.						

94.	Determine if required information is submitted in the plan					
Adequate	<input checked="" type="checkbox"/>	Inadequate	<input type="checkbox"/>	Not Applicable	<input type="checkbox"/>	Comments Below

99.	Determine if the uniform mine file is reviewed for information related to plan adequacy					
Adequate	<input checked="" type="checkbox"/>	Inadequate	<input type="checkbox"/>	Not Applicable	<input type="checkbox"/>	Comments Below

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102. Determine if input is solicited from field office inspectors/supervisors, and recommendations are addressed prior to approval

Adequate  Inadequate  Not Applicable  Comments Below

Interviews with inspectors indicate a high degree of communication between the district and the field offices regarding plan revisions and updates prior to plan approval.

107. Determine if the overall violation history, plan compliance history, accident and injury reports were considered during plan review

Adequate  Inadequate  Not Applicable  Comments Below

112. Determine if the plan describes methods for protecting persons from falling material at highwalls and drift openings

Adequate  Inadequate  Not Applicable  Comments Below

114. Determine if spreadsheets and/or databases provided for tracking of mine visits by supervisors and managers is kept up to date

Adequate  Inadequate  Not Applicable  Comments Below

115. Evaluate the effectiveness of management's support of, and communication with, inspectors and specialists

Adequate  Inadequate  Not Applicable  Comments Below

Interviews with inspectors and front line supervisors indicated the District Manager has an "open door" policy and frequently initiates communication with field office personnel.

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117. Are MSHA Forms 7000-1 accurately reviewed for proper information and potential violations, unsafe practices, or conditions?  
Adequate  Inadequate  Not Applicable  Comments Below

118. Determine if inspectors have sufficient equipment and supplies to conduct thorough inspections.  
Adequate  Inadequate  Not Applicable  Comments Below

Due to the large number of underground mines with extensive belts, it is recommended that additional 50/50 water pressure gauges for testing fire fighting capabilities be provided.

*Additional 50/50 gauges have been requisitioned by the District.*

119. Determine if adequate close-out conferences are being conducted at the end of each inspection.  
Adequate  Inadequate  Not Applicable  Comments Below

120. Determine if E01 inspections at surface mines includes an observation/evaluation of blast hole drilling, loading, and blasting operations.  
Adequate  Inadequate  Not Applicable  Comments Below

121. Determine if manpower at the field office is sufficient to ensure adequate, complete inspections, investigations, and other activities.  
Adequate  Inadequate  Not Applicable  Comments Below

As mentioned in Item 36 above, time in the "Other" and "Travel" categories for some

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inspections was significantly higher than for other inspections. A review of mine locations and travel times indicate this may be the result of a number of operations that are located on the far northeastern portion of the Harlan field office's jurisdiction, in the Cumberland, Kentucky area. The field office has no control over mine location.

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District Coal Dist. 7 Field Office Harlan Mine ID [REDACTED]

Mine Citation/Order U.S. Department of Labor  
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Section I—Violation Data

1. Date <u>[REDACTED]</u>	3. Citation/Order Number <u>[REDACTED]</u>
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(Contractor)   
 8a. Written Notice (103g)

The dust collection system provided for the Ingersoll Rand Highwall Drill, Co #26713, was not operating properly, visible dust was present while drilling, the following conditions contribute to the ineffectiveness to the drill's dust collection system. 1) The dust tubs were too short and had several holes in them. 2) The dust collection systems blowing motor was blowing visible dust. 3) There was loose dirt and dust in the cab area.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health <input checked="" type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR <p align="center">72.620</p>
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Section II—Inspector's Evaluation

10. Gravity:

A. Injury or illness (has) (is): No Likelihood  Unlikely  Reasonably Likely  Highly Likely  Occurred

B. Injury or illness could reasonably be expected to be: No Lost Workdays  Lost Workdays Or Restricted Duty  Permanently Disabling  Fatal

C. Significant and Substantial: Yes  No  D. Number of Persons Affected: 001

11. Negligence (check one) A. None  B. Low  C. Moderate  D. High  E. Reckless Disregard

12. Type of Action 104(a) 13. Type of Issuance (check one) Citation  Order  Safeguard  Written Notice

14. Initial Action A. Citation  B. Order  C. Safeguard  D. Written Notice  E. Citation/Order Number \_\_\_\_\_ F. Dated \_\_\_\_\_ Mo Da Yr

15. Area or Equipment \_\_\_\_\_

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

Section III—Termination Action

17. Action to Terminate \_\_\_\_\_

18. Terminated A. Date \_\_\_\_\_ Mo Da Yr B. Time (24 Hr. Clock) \_\_\_\_\_

Section IV—Automated System Data

19. Type of Inspection (activity) [REDACTED] 20. Event Number [REDACTED] 21. Primary or Mill

22. Signature [REDACTED] 23. AR Number [REDACTED]

MSHA Form 7000-3, Apr 06 (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 20418. 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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Mine Citation/Order

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Section I—Violation Data

1. Date	2. Mine Name	3. Citation/Order Number
[REDACTED]	[REDACTED]	[REDACTED]
4. Condition or Practice		5a. Written Notice (103g)

Combustible material in the form of oil and grease was being allowed to accumulate on the deck area of the Ingersoll Rand Highwall Drill, Co # 26713.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR
	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>		77.1104

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 checked="" type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input 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 104(a)		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
14. Initial Action			F. Dated Mo Da Yr
15. Area or Equipment			

16. Termination Due	A. Date	Yr	B. Time (24 Hr. Clock)
	[REDACTED]	[REDACTED]	[REDACTED]

Section III—Termination Action

17. Action to Terminate

18. Terminated	A. Date	Mo Da Yr	B. Time (24 Hr. Clock)
	[REDACTED]	[REDACTED]	[REDACTED]

Section IV—Automated System Data

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

MSHA Form 70  
 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 20418. 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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Mine Citation/Order

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Section I—Violation Data

1. Date	2. Time (24 Hr. Clock)	3. Citation/Order Number
[REDACTED]	[REDACTED]	[REDACTED]

8. Condition or Practice 8a. Written Notice (103g)

Combustible material in the form of oil was being allowed to accumulate in the floor area of the Caterpillar 988F Loader, Co #2ZR1553, When checked.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health <input type="checkbox"/> Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR
			77.1104

Section II—Inspector's Evaluation

10. Gravity:

A. Injury or illness (has) (is): No Likelihood  Unlikely  Reasonably Likely  Highly Likely  Occurred

B. Injury or illness could reasonably be expected to be: No Lost Workdays  Lost Workdays Or Restricted Duty  Permanently Disabling  Fatal

C. Significant and Substantial: Yes  No  D. Number of Persons Affected: 001

11. Negligence (check one) A. None  B. Low  C. Moderate  D. High  E. Reckless Disregard

12. Type of Action 104(a) 13. Type of issuance (check one) Citation  Order  Safeguard  Written Notice

14. Initial Action A. Citation  B. Order  C. Safeguard  D. Written Notice  E. Citation/Order Number F. Dated Mo Da Yr

15. Area or Equipment

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

Section III—Termination Action

17. Action to Terminate

18. Terminated A. Date Mo Da Yr B. Time (24 Hr. Clock)

Section IV—Automated System Data

19. Type of Inspection (activity code) 20. Event Number 21. Primary or Mill

22. Signature 23. AR Number

MSHA Form 7000 In 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 2123, 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.

United States Department of Labor  
 Mine Safety and Health Administration  
 Office of Accountability

District Coal Dist. 7 Field Office Harlan Mine ID [REDACTED]

(Shaded areas indicate apparent discrepancies between narrative, notes, and evaluation)

Mine ID	Violation	Issued	Type	30 CFR	S&S	Likely	Injury	No. Affected	Neg
			104(a) Citation	77.1605(b)				1	Mod
The park brake provided for the Caterpillar 988F Loader, Co #21906 was not working properly. The loader would creep off when parked on a steep incline.									

Mine ID	Violation	Issued	Type	30 CFR	S&S	Likely	Injury	No. Affected	Neg
			104(a) Citation	72.620				1	Mod
The dust collection system provided for the DML Highwall Drill, Co #26710 was not working properly, dust was visible while drilling. The following conditions contribute to the ineffectiveness of the drills dust collection system. 1) The deck bushing needs replaced. 2) Sniffer was not working properly. 3) Sniffer tubes had holes in them and needs replaced. 4) The cab pressurization system was not working.									

Mine ID	Violation	Issued	Type	30 CFR	S&S	Likely	Injury	No. Affected	Neg
			104(a) Citation	77.404(a)				1	Mod
The following conditions was found on the Red & White International Fuel Truck, Co #61113, 1) The battery box cover was missing, 2) The exhaust pipe was pulled loose underneath the truck, 3) Front windshield wipers was inoperative.									

Mine ID	Violation	Issued	Type	30 CFR	S&S	Likely	Injury	No. Affected	Neg
			104(a) Citation	77.404(a)					Mod
The red 1992 Mack tandem coal truck, c/n 11, is not being maintained in safe operating condition. The following conditions exist: (1) the left rear slack adjuster measures 2 1/4", (2) the left front brake linings measured less than 1/4" in thickness, and (3) there is an audible air leak under the cab.									

Mine ID	Violation	Issued	Type	30 CFR	S&S	Likely	Injury	No. Affected	Neg
			104(a) Citation	77.404(a)				1	Mod
The hoist jack housing where the jack pin inserts was cracked on both sides on the Red Mack Coal Truck, Co #15 when checked.									

Mine ID	Violation	Issued	Type	30 CFR	S&S	Likely	Injury	No. Affected	Neg
			104(g)(1) Order	48.28(a)				1	Mod
Lorne Woodsby, Contract coal truck driver had not received the required MSHA 8 hour annual refresher training. The copy he presented of annual training had expired on 02/23/08. The operator withdrew Mr. Woodsby from the mine site until his training could be received.									

United States Department of Labor  
 Mine Safety and Health Administration  
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District Coal Dist. 7 Field Office Harlan Mine ID [REDACTED]

(Shaded areas indicate apparent discrepancies between narrative, notes, and evaluation)

Mine ID	Violation	Issued	Type	30 CFR	S&S	Likely	Injury	No. Affected	Neg
			104(a) Citation	77.404(a)				1	Mod

Mobile and stationary equipment and machinery shall be maintained in safe operating condition. When checked the skirting provided for the Ingersoll Rand/Atlas Copco DML Highwall Drill, Co.#26713 was split and torn in several places allowing dust to escape into the atmosphere.

Mine ID	Violation	Issued	Type	30 CFR	S&S	Likely	Injury	No. Affected	Neg
			104(a) Citation	77.404(a)					Mod

The VL#9 Maroon Mack is not being properly maintained in that there is an air leak behind the rear tandem axle. The braking system maintains proper pressure when the truck is running.

Mine ID	Violation	Issued	Type	30 CFR	S&S	Likely	Injury	No. Affected	Neg
			104(a) Citation	77.1104					Mod

The right rear axle seal on the white Mack Granite service truck Co# 612 is leaking allowing oil to accumulate into the brake drum. The grease seal at the rear of the truck is leaking allowing an accumulation to build up in the service compartment