



MEMORANDUM FOR PATRICIA W. SILVEY
Deputy Assistant Secretary for Operations
Mine Safety and Health Administration

THROUGH: PETER J. MONTALI (b) (6)
Acting Director of Accountability
Mine Safety and Health Administration

FROM: ARLIE A. WEBB (b) (6)
Accountability Specialist

SUBJECT: MSHA Office of Accountability Audit, Coal District 4,
Mount Carbon, WV Field Office, and (b) (6)
(b) (6)

Introduction

This memorandum summarizes the Office of Accountability audit of the district office, field office, and mine. The audit included MSHA field activities, level of enforcement, conditions and practices at the mine, Field Activity Reviews (FARs), Accompanied Activities (AAs), and MSHA supervisory and managerial oversight. The audit was conducted by Accountability Specialist Arlie A. Webb. Positive findings as well as issues requiring attention are included in this audit report.

Overview

The audit was conducted from (b) (6) and included a review of administrative, inspection, and technical areas. The (b) (6) accompanied the accountability specialist during the audit.

The audit team traveled with the inspection party to the mine on a 103(i) spot (E02) inspection. Areas and activities examined included a rail-mounted personnel carrier (mantrip), the track (from the air shaft to the section), air lock doors, and the 9 Head Gate working section (010/011 mmu's). Observations on the working section included an examination of the faces for imminent dangers and observation of a portion of the mining cycle. Equipment examined included a Joy 14CM remote-control continuous mining machine and cable, 2 Joy 10SC shuttle cars and cables, a Fletcher DDO-13 dual head roof bolting machine and cable, the section power center, Cogar feeder/breaker, and 1 DBT 1300 ton Mobile Roof Support.

Outby areas included the 9 Head Gate section belt conveyor, belt drive and tailpiece, 9 Head Gate belt drive fire suppression system, portions of the main line belt conveyor, atmospheric monitoring system and sensors, waterlines, fire valves, fire hoses and nozzles, the mine communication and tracking system, primary and alternate escapeways, lifelines, signage, refuge alternatives, and intake and return stoppings.

Surface areas examined during the audit included the mine tracking system computer, atmospheric monitoring system computer, mine record books, mine map, bulletin boards, check-in/check-out system, surface work areas and the "Dawes" mine fan installation.

S&S Rate Comparison

During FY 2010 and FY 2011, the S&S rate for the Mount Carbon field office was below the average for District 4 and the national average.

S&S Rate Comparison

Fiscal Year	Mount Carbon, WV Field Office	Coal District 4	National Average
2010	27%	34%	33%
*2011	31%	40%	35%

* Data as of September 23, 2011

Time and Activity Comparison

A comparison of FY 2010 and FY 2011 time distribution for regular (E01) inspections at surface facilities inspected by the Mount Carbon field office shows time in the other category has increased and on-site time has decreased.

Time Distribution (%) – E01 Inspections at Surface Facilities

FY	Area/Office	Travel	**Other	*Total On Site	Citations Issued On-Site	Citations Issued Off-Site	Total Percent*
2010	Mount Carbon	14%	19%	66%	5%	<1%	100%
	Nat'l Avg	18%	15%	66%	5%	1%	100%
2011	Mount Carbon	15%	21%	63%	4%	<1%	100%
	Nat'l Avg	17%	16%	67%	6%	1%	100%

* Includes calibration of gas detection equipment, respirable dust pumps, and preparation and mailing of gas and rock dust samples

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

A comparison of FY 2010 and FY 2011 time distribution for regular (E01) inspections at surface mines inspected by the Mount Carbon field office shows time in the other category has increased and on-site time has decreased.

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Time Distribution (%) – E01 Inspections at Surface Mines							
FY	Area/Office	Travel	**Other	*Total On Site	Citations Issued On-Site	Citations Issued Off-Site	Total Percent*
2010	Mount Carbon	18%	15%	67%	4%	<1%	100%
	Nat'l Avg	19%	13%	68%	5%	1%	100%
2011	Mount Carbon	16%	19%	64%	4%	<1%	100%
	Nat'l Avg	19%	13%	68%	5%	1%	100%

* Includes calibration of gas detection equipment, respirable dust pumps, and preparation and mailing of gas and rock dust samples

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

A comparison of FY 2010 and FY 2011 time distribution for regular (E01) inspections at underground mines inspected by the Mount Carbon field office shows time in the other category and on-site category have remained the same.

Time Distribution (%) – E01 Inspections at Underground Mines							
FY	Area/Office	Travel	**Other	*Total On Site	Citations Issued On-Site	Citations Issued Off-Site	Total Percent*
2010	Mount Carbon	16%	19%	65%	6%	<1%	100%
	Nat'l Avg	16%	15%	68%	6%	1%	100%
2011	Mount Carbon	16%	19%	65%	5%	<1%	100%
	Nat'l Avg	16%	14%	69%	6%	1%	100%

* Includes calibration of gas detection equipment, respirable dust pumps, and preparation and mailing of gas and rock dust samples

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

Audit Results

This audit revealed positive findings in several areas, including the following:

1. Appropriate use of enforcement tools were observed during the mine site visit.
2. During FY 2010 and FY 2011, Mount Carbon field office personnel conducted all 103(i) spot inspections within the required time frames for each mine. 103(i) spot inspections were not combined with any other type of inspection.
3. Staff and safety meetings at the Mount Carbon field office were well documented and show a review of information regarding MSHA policies and initiatives.
4. Inspectors at the Mount Carbon field office were courteous and professional in their interactions with miners and mine operator.
5. During FY 2011, all active underground mines in the district were visited by District 4 management or field office supervisors.

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- Supervisors in the Mount Carbon field office conducted all their required Field Activity Reviews and Accompanied Activities during FY 2011. Additional FARs and AAs were conducted in those instances where improvements were needed.

This audit also revealed issues that require corrective actions, including the following:
(Supporting data for each issue can be found in the OA checklist and attachments)

- Although the tracking system for supervisory mine visits shows that each active underground mine in District 4 was visited by a manager or supervisor during FY 2011, several district management positions did not conduct the minimum number of required visits. (See Checklist Item 32)
- The MSIS database is not being kept up to date with accurate information regarding mine status and methane liberation rates.
 - Mines have been listed in "New Mine", "Nonproducing-Active" or "Temporarily Idle" status for up to 17 years.
 - At least 17 mines listed in the database in New Mine status have no mine-type designation (Facility, Surface Mine, Underground Mine). These mines have been in this status for up to 8 years.
 - Methane liberation data in the MSIS database does not correspond to the results of the most recent air sample results.
- Documentation of citations and orders issued during previous inspections did not always support evaluations for gravity, negligence, level of enforcement, and the number of persons affected. The district had identified this deficiency prior to the audit and is in the process of correcting the issue.

Attachments

- Office of Accountability Checklist
- Citations/Orders issued during this audit
 - (b) (6) 75.370(a)(1)
 - (b) (6) 75.1103-4(a)(1)(iii)
 - (b) (6) 75.370(a)(1)
- Examples of citations issued during previous E01 inspections

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Attachment A – Audit Checklist

1. Determine if complete and thorough inspections are being conducted.

Adequate Inadequate Not Applicable Comments Below

2. 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 Inadequate Not Applicable Comments Below

Evaluations for gravity, negligence, number of persons affected, and the level of enforcement were not always supported by the inspection notes or the narrative of the citation. Examples are included in Attachment C of this report.

3. Evaluate inspector/specialist examination of required record books and postings for compliance with applicable standards.

Adequate Inadequate Not Applicable Comments Below

4. Evaluate inspector/specialist examination of the operator's maps (on-site) for accuracy, escapeway locations, etc.

Adequate Inadequate Not Applicable Comments Below

5. Upon arrival on the working section, accompany and evaluate inspector/specialist examination of all working faces for imminent dangers.

Adequate Inadequate Not Applicable Comments Below

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6. Evaluate the inspector/specialist observation of the work cycle and conditions on the working section during the audit.

Adequate Inadequate Not Applicable Comments Below

A complete work cycle was not observed due to a previously scheduled ventilation change being implemented.

7. Evaluate the inspector/specialist air quantity, quality, and gas checks during the audit.

Adequate Inadequate Not Applicable Comments Below

8. Evaluate inspector/specialist examination of equipment electrical cables during the audit.

Adequate Inadequate Not Applicable Comments Below

The continuous mining machine cable and a shuttle car cable (on the 9 Head Gate section) were examined.

9. Evaluate inspector/specialist examination for permissibility during the audit.

Adequate Inadequate Not Applicable Comments Below

Permissibility examinations were not done during this mine visit due to a previously scheduled ventilation change being implemented.

10. Determine if areas deemed too wet for rock dust surveys during previous inspections were re-visited and sampled.

Adequate Inadequate Not Applicable Comments Below

Documentation shows that areas deemed too wet for sampling were re-visited during the next four inspections and sampled if conditions permitted.

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Determine if previous E01 inspections include examinations of the condition and maintenance of conveyor belts, belt entries, belt drives, fire detection and suppression systems, and separation of belt entries from other air courses.

11. Adequate Inadequate Not Applicable Comments Below

12. During the audit, evaluate the inspection of at least one set of seals, including methods for obtaining samples from sealed area.

Adequate Inadequate Not Applicable Comments Below

Seals were not examined during this mine visit

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

Adequate Inadequate Not Applicable Comments Below

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

Adequate Inadequate Not Applicable Comments Below

PKW Forms were not reviewed during this audit.

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.

15. Adequate Inadequate Not Applicable Comments Below

All E02 inspections conducted by the Mount Carbon field office during FY 2011 were conducted within the required time frames and were not combined with any other type of event.

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

Adequate Inadequate Not Applicable Comments Below

Twelve hazard complaint inspection reports were reviewed during this audit and were found to be in compliance with policy and procedures.

17. 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 Inadequate Not Applicable Comments Below

18. Are required Field Activity Reviews (FARs) and supervisory follow-ups being conducted and documented according to agency policy and procedures?

Adequate Inadequate Not Applicable Comments Below

Supervisors in the Mount Carbon field office conducted and properly documented all their required Field Activity Reviews. Additional reviews were conducted where improvements were needed.

19. Are Accompanied Activities (AAs) and supervisory follow-ups being conducted and documented according to agency policy and procedures?

Adequate Inadequate Not Applicable Comments Below

Supervisors in the Mount Carbon field office conducted and properly documented all their required Accompanied Activities during FY 2011. Additional AAs were conducted where improvements were needed.

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

Adequate Inadequate Not Applicable Comments Below

21. Determine if the Uniform Mine File books are being maintained and reviewed according to current agency policy and procedures.

Adequate Inadequate Not Applicable Comments Below

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22. Are supervisors thoroughly reviewing Uniform Mine Files at least annually?

Adequate Inadequate Not Applicable Comments Below

23. Determine if supervisors are visiting each active underground mine at least annually.

Adequate Inadequate Not Applicable Comments Below

Mount Carbon field office supervisors visited all active underground mines assigned to that field office during FY 2011.

24. Are all sections where retreat mining is occurring (not to include longwall mining) being inspected at least monthly?

Adequate Inadequate Not Applicable Comments Below

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

Adequate Inadequate Not Applicable Comments Below

26. After an in-mine visit, evaluate approved plans (ventilation, roof control, training, etc.) for compatibility with mining conditions and equipment.

Adequate Inadequate Not Applicable Comments Below

27. Determine if approved plans are being revised and/or updated to reflect changes in conditions and/or equipment.

Adequate Inadequate Not Applicable Comments Below

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28. Determine if plan reviews are in compliance with current agency policy and procedures (performed within required timeframes, tracked from the date of submission, properly documented, and contain input from all affected departments and field offices).

Adequate Inadequate Not Applicable Comments Below

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

(b) (6)

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

Adequate Inadequate Not Applicable Comments Below

32. Determine if District Managers, Assistant District Managers and supervisors are conducting required mine visits and properly completing the required spreadsheet.

Adequate Inadequate Not Applicable Comments Below

The tracking system for supervisory mine visits shows that each active underground mine in District 4 was visited by a manager or supervisor during FY 2011. However, the tracking system also shows that several individual positions in the district office did not conduct the minimum required visits for their positions, including:

- a. (b) (6) (10 of 12 required visits).
- b. (b) (6) (27 of 36 required visits).
- c. (b) (6) (9 of 20 required visits).
- d. (b) (6) (9 of 20 required visits).
- e. (b) (6) (11 of 20 required visits).

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33. Determine if District Manager is using discretion in granting conferences and monitoring the ACR program to ensure that all decisions (including upholding, modifying or vacating citations) are properly documented and justified by the CLRs.

Adequate Inadequate Not Applicable Comments Below

The ACR program was not reviewed during this audit.

34. Determine if District Manager is holding the Supervisory Special Investigator accountable for properly evaluating and initiating or denying potential cases.

Adequate Inadequate Not Applicable Comments Below

The Special Investigations program was not reviewed during this audit.

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

Adequate Inadequate Not Applicable Comments Below

36. 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 Inadequate Not Applicable Comments Below

A district-level Peer Review was conducted at the Mount Carbon field office in August of 2011. The Peer Review was conducted according to agency policy. Corrective actions and follow-up are currently ongoing.

37. 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 Inadequate Not Applicable Comments Below

At the time of this audit, the MSIS database was not being kept up to date regarding mine status. Examples are:

- Surface facility (b) (6) has been in New Mine status for more than 7 years (b) (6). There is no on-site inspection activity recorded for this mine.
- Surface mine (b) (6) has been in New Mine status for more than 13 years

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- (b) (6) . There is no on-site inspection activity recorded for this mine.
- Surface mine (b) (6) has been in New Mine status for more than 10 years (b) (6) . There is no on-site inspection activity recorded for this mine.
 - Underground mine (b) (6) has been in Temporary Idle status for more than 17 years (b) (6) . The last on-site inspection activity for this mine was on (b) (6)

There are at least 17 mines that have no Mine Type designation. Examples are:

- Mine ID (b) (6) is listed as a New Mine for more than 8 years (b) (6) but the mine type is not listed. There is no on-site inspection activity recorded for this mine.
- Mine ID (b) (6) is listed as a New Mine for more than 6 years (b) (6) but the mine type is not listed. There is no on-site inspection activity recorded for this mine.
- Mine ID (b) (6) is listed as a New Mine for more than 4 years (b) (6) but the mine type is not listed. There is no on-site inspection activity recorded for this mine.

Methane liberation rates and 103(i) spot inspection categories found in the MSIS database are not being kept accurate and up to date when compared to the results of air samples analyzed by the Mount Hope Gas and Dust Laboratory. Examples are:

- Air sample results for mine ID (b) (6) show a methane liberation rate of 3,263,633 cubic feet per 24 hours. MSIS data shows a liberation rate of 1,933,619 cubic feet per 24 hours.
- Air sample results for mine ID (b) (6) show a methane liberation rate of 744,286 cubic feet per 24 hours. MSIS data shows a liberation rate of 429,730 cubic feet per 24 hours. In addition, this mine is shown to be in a 5-day spot inspection category, which is incorrect for either liberation rate.
- Air sample results for mine ID (b) (6) show a methane liberation rate of 38,610 cubic feet per 24 hours. MSIS data shows the liberation rate at this mine to be "0."
- Air sample results for mine ID (b) (6) show a methane liberation rate of 116,241 cubic feet per 24 hours. MSIS data shows the liberation rate at this mine to be "0."
- Air sample results for mine ID (b) (6) show a methane liberation rate of 375,039 cubic feet per 24 hours. MSIS data shows a liberation rate of 640,748 cubic feet per 24 hours. In addition, this mine is shown to be in a 10-day spot inspection category, which is correct for the liberation shown in MSIS, but incorrect for the latest air sample results.
- Air sample results for mine ID (b) (6) show a methane liberation rate of 84,150 cubic feet per 24 hours. MSIS data shows the liberation rate at this mine to be "0".

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

Adequate Inadequate Not Applicable Comments Below

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Attachment B – Citations issued during the Audit

Mine Citation/Order		U.S. Department of Labor Mine Safety and Health Administration	
Section I—Violation Data			
1. Date Mo Da Yr (b) (6)	2. Time (24 Hr. Clock) (b) (6)	3. Citation/ Order Number	(b) (6)
4. Served To (b) (6)	5. Operator (b) (6)	7. Mine ID (b) (6) (Contractor)	
6. Mine (b) (6)	8a. Written Notice (103g) <input type="checkbox"/>		
8. Condition or Practice The approved ventilation plan was not being complied with in the track entry on 9 Headgate section (MMU 010 & 011). Testing with chemical smoke several times at the entrance and end of track indicated air direction was toward working section inby. Standard 75.370(a)(1) was cited (b) (6) at mine (b) (6) (32 to the operator, 0 to a contractor).			
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 75.370(a)(1)			
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 checked="" 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: 007			
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 F. Dated Mo Da Yr	
15. Area or Equipment			
16. Termination Due A. Date Mo Da Yr (b) (6)		B. Time (24 Hr. Clock) (b) (6)	
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) E02	20. Event Number (b) (6)	21. Primary or Mill	
22. Signature (b) (6)		23. AR Number (b) (6)	

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 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 Mo Da Yr (b) (6)	2. Time (24 Hr. Clock) (b) (6)	3. Citation/ Order Number (b) (6)
4. Served To (b) (6)	5. Operator (b) (6)	
6. Mine (b) (6)	7. Mine ID (b) (6) (Contractor)	
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

The air velocity in 9C belt entry was less than 50 feet per minute and CO sensor spacing exceeding 350 feet. Chemical smoke testing indicated 26 feet per minute velocity and the only sensors were located at the drive and section tailpiece, about 840 feet interval.

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 75.1103-4(a)(1)(iii)
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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 checked="" 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: 007
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
15. Area or Equipment			

16. Termination Due	A. Date Mo Da Yr (b) (6)	B. Time (24 Hr. Clock) (b) (6)
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Section III--Termination Action

17. Action to Terminate

18. Terminated	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) E02	20. Event Number (b) (6)	21. Primary or Mill
22. Signature (b) (6)		23. AR Number (b) (6)

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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Mine Citation/Order

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Section I--Violation Data

1. Date Mo Da Yr (b) (6)	2. Time (24 Hr. Clock) (b) (6)	3. Citation/ Order Number (b) (6)
4. Served To (b) (6)	5. Operator (b) (6)	
6. Mine (b) (6)	7. Mine ID (b) (6) (Contractor)	
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

The approved ventilation plan for 9 Headgate section (MMUs 010 & 011) was not being complied with in #1 entry. Positive pressure was not maintained to direct air from pillared out areas to the bleeder system as designated on page 18 of the plan.

Standard 75.370(a)(1) was cited (b) (6) at mine (b) (6) (33 to the operator, 0 to a contractor).

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 75.370(a)(1)
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Section II--Inspector's Evaluation

10. Gravily:

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: 007

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) (6)	B. Time (24 Hr. Clock) (b) (6)
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Section III--Termination Action

17. Action to Terminate

18. Terminated	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) E02	20. Event Number (b) (6)	21. Primary or Mill
22. Signature (b) (6)	23. AR Number (b) (6)	

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.

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

District Field Office Mine ID Date

Attachment C – Examples of citations issued during previous E01 inspections

Mine ID	Violation Number	Date Issued	Type Issuance	Standard Cited	S&S	Likely	Injury	Affect	Neg
(b) (6)	(b) (6)	(b) (6)	104(a) Citation	75.503	N	UL	NLD	1	Mod
<p>The #134 shuttle car (S/N PK0152) located on the 16 Head Gate Section (008MMU) was not maintained in a permissible condition. The bolts that secure the cover on the head light had sheared off, causing the cover to come loose, exposing the bulb.</p> <p>Records indicate this mine liberates 3,282,985 cubic feet of methane per 24 hours and is in a 5-day 103(i) inspection category. This information should have been included in the body of the citation. This standard was cited (b) (6) during the previous (b) (6). Was an elevated level of enforcement considered? How was it determined that only one person would be affected? How was it determined that the injury would be no lost days?</p>									

Mine ID	Violation Number	Date Issued	Type Issuance	Standard Cited	S&S	Likely	Injury	Affect	Neg
(b) (6)	(b) (6)	(b) (6)	104(a) Citation	75.400	N	UL	LD	1	High
<p>Coal, coal fines, and float coal dust (black in color) has been allowed to accumulate under the belt, on top of structure, floor, and water lines starting at the 1 South Take up unit and continuing 70' outby the Slope belt tail piece.</p> <p>How deep were the accumulations? What is the distance from the 1 South Take up unit and the Slope belt tail piece? Records indicate this mine liberates 3,282,985 cubic feet of methane per 24 hours and is in a 5-day 103(i) inspection category. This standard was cited (b) (6) during the previous (b) (6). Was an elevated level of enforcement considered? What factors were used to determine an accident was unlikely to occur? How was the determination made that only 1 person would be affected?</p>									

Mine ID	Violation Number	Date Issued	Type Issuance	Standard Cited	S&S	Likely	Injury	Affect	Neg
(b) (6)	(b) (6)	(b) (6)	104(a) Citation	75.1403	N	UL	PD	1	High
<p>A clear travelway at least 24 inches wide on the offside of 2 South belt was not being maintained. Combustible materials consisting of loose coal from spillages and sloughages, have not been cleaned up and permitted to accumulate on the offside creating tripping and stumbling hazards. Numerous locations include: 50 to 77 crosscuts measuring up to 2 feet high x 4 feet wide x 12 feet in length; some of these areas the accumulations were near bottom belt rollers. Standard 75.1403 was cited (b) (6) at mine (b) (6) (74 to the operator, 0 to a contractor).</p> <p>Was a citation also considered for accumulations of combustible materials? What was the total distance being cited? How was the determination made that only 1 person would be affected? An extension was issued to allow more time to correct this violation, which is an indicator of the extensive nature of the conditions.</p>									

Mine ID	Violation Number	Date Issued	Type Issuance	Standard Cited	S&S	Likely	Injury	Affect	Neg
(b) (6)	(b) (6)	(b) (6)	104(a) Citation	75.1106	N	UL	FTL	2	Mod
<p>There was no Fire extinguisher or rock dust immediately available while welding was being performed on the 9 Head Gate Rock Box. This citation was one of the factors that contributed to the issuance of Imminent Danger (b) (6). Therefore, no abatement time was set. This modification is to de-reference this citation from 107(a) order no (b) (6).</p> <p>Records indicate this mine liberates 3,282,985 cubic feet of methane per 24-hours. This information should have been included in the citation. How was a determination made this violation was non S&S? Where is the rock box located? Who was performing the welding? Were gas tests being made? Were any management personnel present? How was this violation determined to be unlikely with only 2 persons affected?</p>									

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Mine ID	Violation Number	Date Issued	Type Issuance	Standard Cited	S&S	Likely	Injury	Affect	Neg
(b) (6)	(b) (6)	(b) (6)	104(a) Citation	75.220(a)(1)	N	UL	LD	1	Mod
<p>The approved roof control plan was not being followed along the 1 West belt line between brks 21-22. There were 4 curly beams installed and no means provide to prevent them from falling should the upright beams become dislodged. (page 7a safety precaution #8)Standard 75.220(a)(1) was cited (b) (6) at mine (b) (6) (22 to the operator, 0 to a contractor).</p> <p>Was consideration given to evaluating this violation as S&S? Was a higher degree of negligence (resulting in an increased level of enforcement) considered based upon the number of times this section of 30 CFR was cited during the previous 24-months? During CY2010, there were 10 roof falls reported at this mine.</p>									

Mine ID	Violation Number	Date Issued	Type Issuance	Standard Cited	S&S	Likely	Injury	Affect	Neg
(b) (6)	(b) (6)	(b) (6)	104(a) Citation	75.202(a)	N	UL	LD	8	High
<p>The roof and ribs of areas where persons work or travel between the airlock doors in #3 entry near spad 13888 in the Longwall section (MMU 009) track entry were not supported or otherwise controlled to protect persons from hazards related to falls of the roof and ribs. Eleven wood cribs installed between the doors had dried out causing shrinkage and were not presently against the mine roof as originally installed. This is an active area where track equipment operates each shift including mantrips and supply motors to the Longwall section (MMU 009). Daily mine examiners travel by these cribs each shift as well as other supervisory personnel. These conditions were obvious and clearly visible to those traveling through this entry. Standard 75.202(a) was cited (b) (6) (b) (6) at mine (b) (6) (76 to the operator, 0 to a contractor).</p> <p>How was the violation determined to be unlikely? Was an elevated level of enforcement considered? During CY2010, there were 10 roof falls reported at this mine.</p>									

Mine ID	Violation Number	Date Issued	Type Issuance	Standard Cited	S&S	Likely	Injury	Affect	Neg
(b) (6)	(b) (6)	(b) (6)	104(a) Citation	75.400	N	UL	LD	25	Mod
<p>Coal dust, including float coal dust deposited on rock-dusted surfaces was not cleaned up and permitted to accumulate in the active 3 South belt entry from the tailpiece to belt drive. The float dust ranged in color from black to gray in the entry, under the belt and in crosscuts.</p> <p>What was the depth of the accumulations? What was the distance from the tailpiece to the belt drive? Records indicate this mine liberates 3,282,985 cubic feet of methane per 24-hours. This information should have been included in the citation. How was the determination made to evaluate this violation as unlikely? This section of 30 CFR was cited (b) (6) at this mine during the previous (b) (6) , and three times on this inspection day.</p>									

Mine ID	Violation Number	Date Issued	Type Issuance	Standard Cited	S&S	Likely	Injury	Affect	Neg
(b) (6)	(b) (6)	(b) (6)	104(a) Citation	75.503	N	UL	LD	1	Mod
<p>The #520 scoop located at new 15 Headgate longwall belt installation was not being maintained in permissible condition. The main circuit breaker panel lid contained an impermissible opening exceeding 0.005 inch on the plane flange joint.</p> <p>Records indicate this mine liberates 3,282,985 cubic feet of methane per 24 hours. This information should have been included in the body of the citation. How was the determination made to evaluate this violation as unlikely? This section of 30 CFR was cited (b) (6) at this mine during the previous (b) (6) .</p>									

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Mine ID	Violation Number	Date Issued	Type Issuance	Standard Cited	S&S	Likely	Injury	Affect	Neg
(b) (6)	(b) (6)	(b) (6)	104(a) Citation	75.400	N	UL	LD	2	Mod
<p>Combustible materials composed of hydraulic oil mixed with coal fines and dust were not cleaned up and permitted to accumulate on #403 roof bolter located on 16 Headgate section (MMU 008). Accumulations in the operator's deck measured 4 inches deep x 3 feet long x 12 inches wide behind the control levers and hydraulic components. The cable reel compartment contained excessive accumulations that both reel flanges were turning in the composite and visual evidence also that the cable had left imprints in the materials.</p> <p>This section of 30 CFR was cited (b) (6) at this mine during the previous (b) (6). How long had this condition existed? How was the violation determined to be unlikely? Section roof bolting machines operate in the face areas. Records indicate this mine liberates 3,282,985 cubic feet of methane per 24 hours. This information should have been included in the citation. Did the machine operator conduct a pre-operational check prior to energizing the machine?</p>									

Mine ID	Violation Number	Date Issued	Type Issuance	Standard Cited	S&S	Likely	Injury	Affect	Neg
(b) (6)	(b) (6)	(b) (6)	104(a) Citation	75.400	N	UL	LD	5	Mod
<p>Coal dust, including coal float dust deposited on rockdusted surfaces has not been cleaned up and permitted to accumulate in 15 HG belt entry from 1 to 27 crosscuts.</p> <p>What was the distance between crosscut 1 and crosscut 27? Based on the minimum entry and crosscut centers specified in the approved roof control plan, this distance would have been at least 1,600 feet. Records indicate this mine liberates 3,282,985 cubic feet of methane per 24 hours. This information should have been included in the citation. This standard was cited (b) (6) at this mine during the previous (b) (6). How were the determination made to evaluate the violation as unlikely and moderate negligence?</p>									

Mine ID	Violation Number	Date Issued	Type Issuance	Standard Cited	S&S	Likely	Injury	Affect	Neg
(b) (6)	(b) (6)	(b) (6)	104(a) Citation	75.342(a)(4)	N	UL	FTL	10	Mod
<p>The methane monitors on the Joy Continuous Miner, company number JM5325 and JM5293, was not being maintained in a permissible and proper operating condition. When tested with a known methane-air mixture, 2.5%, the monitors would not give an accurate reading of the methane concentration being used. These machines were being operated on the 9HG active section.</p> <p>These violations should have been issued as two separate citations because they involve two distinct pieces of mining equipment. What was the concentration of methane indicated by the readout on each machine? Records indicate this mine liberates 3,282,985 cubic feet of methane per 24 hours. This information should have been included in the citation. How was this violation determined to be unlikely?</p>									

Mine ID	Violation Number	Date Issued	Type Issuance	Standard Cited	S&S	Likely	Injury	Affect	Neg
(b) (6)	(b) (6)	(b) (6)	104(a) Citation	75.512	N	UL	LD	1	Mod
<p>The two Joy Continuous Miner's, JM5325 and JM5293, located on the 9HG active section were not being properly maintained in a safe operating condition. The ripper head jacks on JM5325 leaked off when in a raised position and the pan jacks on JM5293 would not function.</p> <p>These violations should have been issued as two separate citations because they involve two distinct pieces of mining equipment. Information regarding each distinct violation should have been specified in each citation.</p>									

INTERNAL REVIEW AUDIT MATRIX SCORING SYSTEM - MOUNT CARBON, WV FIELD OFFICE AUDIT, SEPT 23, 2011										
CAT	Applies to Program Area	Internal Review Findings	Summation or Examples	Category Base Point Value	Base Points Value	RESPONSIBILITY			SUM	Internal Review Category Percentage
						Inspector = 1	Supervisor = 2	District = 3		
1	C/MNM	MSHA failed to identify the deviations in approved plans	All plans, training, escape, roof, ventilation, anything that requires approval	5	0	0	0	0	0	0%
2	C/MNM	Incomplete or inadequate inspections	Not following policy, procedures, failure to cite violations, inspecting all areas/equipment, conducting 103(i) inspections	5	0	0	0	0	0	0%
3	C/MNM	Supervisors did not provide adequate oversight	No review/lax review of inspection reports/ PKW/SAR/FAR/AA	5	5	N/A	0	3	8	80%
4	C/MNM	Improper evaluation of gravity, negligence, type of enforcement action	Self evident/ Inadequate documentation/note taking	5	0	0	0	0	0	0%
5	C/MNM	Peer Reviews were inadequate	Did not include audit reviews, follow up, FARs/AAs	4	0	N/A	0	0	0	0%
6	C/MNM	Weakness in the ACRI Program	Not following ACRI policy/handbook, management oversight of ACRI program, ACRI program consistent with Mine Act, 30 CFR MSHA policy	3	0	N/A	N/A	0	0	0%
7	C/MNM	MSHA Data not used/reviewed	Key Indicators, Mine Profile, Inspection Completion Statistics, Databases not maintained	2	2	0	2	3	7	88%
8	C/MNM	Lack of Unwarrantable Failure Tracking System	Self Explanatory	1	0	N/A	0	0	0	0%
9	C/MNM	Conflict of Interest	Prior employment, supervision of relatives, etc.	1	0		0	0	0	0%
10	C/MNM	Failure to comply with Hazard Complaints procedures	Hazard Complaint handbook, policies, procedures not being followed	1	0	0	0	0	0	0%
11	C	Failure to conduct investigations for multi-phase plans	No on-site investigations	1	0	N/A	N/A	0	0	0%
12	C	Failure to observe retreat mining	Wherever retreat mining is conducted (except longwall mining)	1	0	0	0	0	0	0%
TOTAL SCORE									15	

Minimum Score = 0
Coal Maximum Score = 96
MNM Maximum Score = 85

Summary: A) The audit revealed the Mount Carbon, WV field office had 2 of the 12 most common issues found in the internal review reports as issues identified by the audit team.