

**U.S. Department of Labor**

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



JUL 15 2012

MEMORANDUM FOR PATRICIA W. SILVEY  
Deputy Assistant Secretary for Operations  
Mine Safety and Health Administration  
(b) (6)

THROUGH: NEAL H. MERRIFIELD  
Administrator for  
Metal Nonmetal Mine Safety and Health  
(b) (6)

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

SUBJECT: MSHA Office of Accountability Audit, MNM Northeastern District,  
Albany, New York Field Office, (b) (6)  
(b) (6)

Introduction

This memorandum summarizes the Office of Accountability audit of the subject district office, field office, and mine. The audit 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 audit 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 as well as issues requiring attention are included in this audit report.

## Overview

Accountability Specialists Arlie A. Webb and Jerry J. Kissell conducted the field office audit from (b) (6) (b) (6) accompanied the accountability specialists during this audit.

(b) (6)

The audit team traveled with the inspection party to the (b) (6) (b) (6) mine on (b) (6) on a regular (E-01) inspection. Areas and activities examined included: the active benches in the quarry; the New Scotland; the Sam and the Copper benches; the water fill station; pump; life preservers; electrical panels; the highwalls; roadways and berms; and warning and traffic control signs throughout the mine property.

Mobile equipment inspected included: a Caterpillar 993K front end loader; three Caterpillar 777D haul trucks; a Caterpillar 14H grader; a Caterpillar 8N Dozer; a Caterpillar 777B water truck; a Volvo L70E front end loader; a Genie IC power 4x4 man lift; a Caterpillar 330 C-L excavator; a Caterpillar D-9T dozer; a Kobelco SK350 excavator; a Ford Explorer; a Ford F-150; a Chevrolet service truck; a Chevrolet crew cab service truck; a Ford flatbed work truck; a Ford excursion; a Ford van; and a Ford F-350 service truck.

Stationary equipment inspected included: the primary crusher (surface level); the compressor room; the crusher operator's booth; the crusher bowl floor (level 2); the number 47; 48; and 49 electrical rooms; the crusher feeder floor (level 3); handrails; stairways; guards and housekeeping; the Number 1 Conveyor Belt; the conveyor belt tunnel; lighting; walkways; guards; belt drive; splice shack; the Number 1 Conveyor Belt Main Control Circuits (MCC). The T-Bird number 2 Conveyor Belt; guards; walkways; handrails; storage hut; and hoist equipment. Following the inspection, the inspector conducted a daily closeout conference.

(b) (6)

The audit team traveled with the inspection party to the (b) (6) (b) (6) mine on a regular (E01) inspection on (b) (6) Areas and activities examined included: the pre-inspection conference; the mine office; record books; mine map; an examination for imminent dangers; the active pit; highwalls; benches; haulage and travel roads; berms; fuel storage facilities; fire extinguishers; first aid supplies; and training plans.

Equipment examined during this inspection included: a Caterpillar 950F Front End Loader; Caterpillar D5GXL Bulldozer; Caterpillar 312CL Excavator; and a Chieftain 400 Power screen.

The mine was not producing coal on the day of the field visit. Consequently, observations of work activities at the mine were limited. Activities observed included pre-operational checks and testing of the front-end loader, excavator, bulldozer, and power screen.

## Audit Results

The audit 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 audit and during the inspection.
2. Enforcement personnel used appropriate enforcement tools during the mine site visits.
3. (b) (6) adequately documented Field Accompanied Reviews (FARs) and Office Reviews (ORs) for the Albany field office in the first half of FY 2012.
4. In the first half of FY 2012, all required Office Reviews were completed.
5. Staff and safety meetings were documented and included updates and reviews of MSHA initiatives and memoranda.

This audit also revealed one issue that requires corrective action:

(Supporting data for each issue can be found in the OA checklist and attachments)

1. Hazard Complaints –
  - a. Hazard complaint report did not document allegations in the complaint
  - b. Violations cited during a Hazard Complaint inspection were not linked to the allegations in the complaint.

Attachments

- A. Internal Review Summary
- B. Office of Accountability Checklist
- C. Statistics
- D. Citations/Orders issued during this audit

(b) (6)

1. (b) (6)	56.14100(b)
2. (b) (6)	56.9300(a)
3. (b) (6)	56.12032
4. (b) (6)	56.20003(a)
5. (b) (6)	56.20003(a)
6. (b) (6)	56.17001
7. (b) (6)	56.12004
8. (b) (6)	56.12034
9. (b) (6)	56.20003(a)
10. (b) (6)	56.12004

- E. Examples of citations with potential issues from previous E01 inspections.

(No issues were identified during this audit)

- F. District Corrective Action Plan

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

District Northeastern Field Office Albany, NY Mine ID (b) (6) Date (b) (6)

**Attachment A – Internal review Summary**

The table below lists the most common internal review findings following mine disasters. The Albany, New York field office had one of the most commonly identified issues.

Common Internal Review Findings	Examples of Deficiencies:
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 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
X Failure to comply with Hazard Complaint Procedures.	Improper coding of inspections. Inadequate documentation of inspections/investigations.
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.

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

District  Field Office  Mine ID  Date

Attachment B – Audit Checklist

1. Determine if complete and thorough E01 inspections are being conducted.  
Adequate  Corrective Action Needed  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  Corrective Action Needed  Comments Below

3. Evaluate inspector(s) examination of required records and postings for compliance with applicable standards.  
Adequate  Corrective Action Needed  Comments Below   
Previous reports reviewed indicate proper record reviews are being conducted.

4. 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

5. Evaluate the inspector(s) on-site contaminant assessment and documentation.  
Adequate  Corrective Action Needed  Comments Below   
No health samples were taken during this inspection. A review of previous Inspection reports show the last health surveys were conducted in February 2012.

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

District  Field Office  Mine ID  Date

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

Adequate  Corrective Action Needed  Comments Below

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

Adequate  Corrective Action Needed  Comments Below

Reports reviewed indicate daily and final closeouts are conducted.

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

Adequate  Corrective Action Needed  Comments Below

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

Adequate  Corrective Action Needed  Comments Below

No 103i mines are assigned to this field office

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

Adequate  Corrective Action Needed  Comments Below

Hazard Complaint Event (b) (6) : The hazard complaint investigation report documents the allegations and findings, noting that the inspector cited no violations as a result of the investigation. The inspector's notes indicated the company's records contained an accident report for an incident on (b) (6) . The company's report was completed on (b) (6) , (b) (6) and a date of return to work status for the employee involved was recorded as "unknown." The inspector's notes document the employee was "...off approx. 1 week...", but in the allegation finding he indicates that there was no lost time. The company did not submit a 7000-1 accident, injury report to MSHA for this lost time accident. The inspector did not issue

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

District

Northeastern

Field Office

Albany, NY

Mine ID

(b) (6)

Date

(b) (6)

a citation to the company for the failure to submit the 7000-1 report.

**Hazard Complaint Event** (b) (6) : The report shows the inspector was directed to investigate a hazardous condition complaint. There is no MSHA hazard complaint allegation form or allegation findings form in the inspection report. During the investigation, there were three citations issued. The inspector evaluated one of the citations as injury "occurred." (This was different from the citation/documentation note that was checked as "reasonably likely"). Two additional citations issued on a return visit to the mine later on the same day appear to have no link to the "possible" allegation(s). It cannot be determined what the complaint allegation(s) or finding(s) were. It appears the two citations issued in conjunction with the hazardous condition complaint event appear should have been issued in conjunction with a separate event.

*The Hazard Complaints Procedures Handbook (PH-02-I-8) section I, Investigating Complaints, describes the procedures for completing the complaint inspection. If violations of the Mine Act, imminent dangers, or violations of mandatory safety and health standards are observed during the complaint investigation that are not related to conditions or practices alleged in the complaint, the violations should be cited under a separate inspection event (not the complaint inspection event).*

**Corrective Action – created by the NE District**

To correct the deficiencies noted in Items 1 and 2 above, the district will provide a copy of the Albany field office audit to all field office supervisors (FOSs) and district staff. A copy of Handbook PH02-I-8 will be included in the packet.

The district will ensure proper coding and investigating of future hazard complaints through the following actions:

1. Complaints received at the district level will be entered in MSIS and forwarded to the respective field office with the inspection code to be used by the inspector when opening the event. All district staff involved in this process will be advised of this procedure as well as the field office supervisors and inspectors.
2. For complaints that are received by field office personnel via other means; telephone, walk-in, etc, the field office supervisor will follow the same coding and inspection criteria prescribed in the Handbook PH02-I-8. The supervisor will contact the district upon receipt of the complaint and discuss actions taken.
3. Field office supervisors will ensure that each hazard complaint report documents the allegations and corresponding findings, and that a notice of negative findings is provided to the operator when appropriate. This will be re-emphasized by the Assistant District Manager with the FOS's during the subject conference call and will be documented in the memorandum to the District Manager.

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

District

Northeastern

Field Office

Albany, NY

Mine ID

(b) (6)

Date

(b) (6)

4. Once the investigation is complete and the findings submitted to the district office, persons documenting the complaint in the MSHA hazard complaint database will ensure that the citations issued during the complaint investigation are linked to the appropriate finding.
5. After receipt of the accountability review packet, the district will review the hazard complaint coding, processing, documentation, and investigation procedures with FOSs via conference call. The instructions given will be documented by the ADM through memorandum. The FOS will reinstruct their inspectorate in staff meetings on these topics and document the meetings through memorandum to the ADM upon completion.
6. This corrective action plan is subject to modification as needed to achieve the intended goals of the listed actions above. The District Staff Assistant will review the hazard complaint report monthly to ensure proper procedure is being followed.

11. 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

12. Are required Office Reviews (ORs) and supervisory follow-ups 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

In FY 2010 11 of 14 required Office Reviews were completed, five of seven in the first half of the fiscal year and six of seven in the second half.  
In FY 2011 9 of 20 required Office Reviews were completed for the year. Three of ten required Office Reviews were completed in the first half of FY 2011, and six of ten were completed in the second half of FY 2011. In FY 2012, all required Office Reviews for the first half have been completed. The district appears to have identified and addressed the FY 2010 and FY 2011 deficiencies.

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

District  Field Office  Mine ID  Date

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

Adequate  Corrective Action Needed  Comments Below

In FY 2010, all required Field Accompanied Reviews were completed. In FY 2011, three of ten required Field Accompanied Reviews were completed. In FY 2012, all required Field Accompanied Reviews are on track to be completed. Actions by the district prior to this audit appear to have identified and addressed the deficiencies found in FY 2011.

14. 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

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

Adequate  Corrective Action Needed  Comments Below

16. Determine if supervisors are visiting active mines.

Adequate  Corrective Action Needed  Comments Below

During FAR and AA activities and additional mine visits are conducted to ensure proper enforcement is being applied.

17. 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

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

District  Field Office  Mine ID  Date

18. 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.  
(b) (6)  
(b) (6)

19. Determine if district management personnel are reviewing work products and reports for accuracy and completeness.  
Adequate  Corrective Action Needed  Comments Below   
See item 18 above.

20. 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 CLR's.  
Adequate  Corrective Action Needed  Comments Below   
This audit did not include a review of the ACR Program as part of this audit.

21. Determine if District Manager is holding the Supervisory Special Investigator accountable for properly evaluating and initiating or denying potential cases.  
Adequate  Corrective Action Needed  Comments Below   
The Special Investigations Program was not included in this audit.

22. 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

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

District

Northeastern

Field Office

Albany, NY

Mine ID

(b) (6)

Date

(b) (6)

23. 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

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

Adequate

Corrective Action Needed

Comments Below

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

Adequate

Corrective Action Needed

Comments Below

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

Adequate

Corrective Action Needed

Comments Below

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

District Northeastern Field Office Albany, NY Mine ID (b) (6) Date (b) (6)

Attachment C – Statistics

S&S Rate Comparison

During FY 2011, the S&S rates for the Albany, New York Field Office were lower than the average for the Northeastern District and national average. Citations issued during the audit were appropriately issued and consistent with policy and procedures. (See attachment B)

Fiscal Year	Albany Field Office	Northeastern East District	National Average
2010	37%	36%	35%
2011	21%	26%	30%

Time and Activity Comparison

A comparison of FY 2010 and FY 2011 time distribution for the Albany field office at surface facilities shows that 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	Albany FO	14%	2%	59%	3%	25%	100%
	Nat'l Avg	20%	10%	62%	4%	8%	100%
2011	Albany FO	18%	7%	54%	1%	21%	100%
	Nat'l Avg	21%	11%	61%	3%	6%	100%

\*\* Other time includes calibration of health sampling equipment, and mailing of samples  
 \* Total On-Site time includes citations written on-site

A comparison of FY 2010 and FY 2011 time distribution for the Albany field office at surface mines shows that time in the other category has remained about the same and on-site time has decreased.

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	Albany FO	22%	8%	51%	3%	19%	100%
	Nat'l Avg	25%	12%	56%	4%	7%	100%
2011	Albany FO	24%	9%	48%	4%	19%	100%
	Nat'l Avg	26%	12%	55%	3%	7%	100%

\*\* Other time includes calibration of health sampling equipment, and mailing of samples  
 \* Total On-Site time includes citations written on-site

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

District Northeastern Field Office Albany, NY Mine ID (b) (6) Date (b) (6)

A comparison of FY 2010 and FY 2011 time distribution for the Albany field office at underground mines shows that time in the other category has remained about the same and on-site time has increased.

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	Albany FO	25%	8%	54%	1%	14%	100%
	Nat'l Avg	23%	11%	60%	2%	6%	100%
2011	Albany FO	24%	7%	57%	0%	12%	100%
	Nat'l Avg	25%	11%	58%	2%	6%	100%

\*\* Other time includes calibration of health sampling equipment, and mailing of samples

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

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

District Northeastern Field Office Albany, NY Mine ID (b) (6) Date (b) (6)

**Attachment D- Citations issued during the Audit**

Mine Citation/Order U.S. Department of Labor  
 Mine Safety and Health Administration

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

Along belt #2 on the railing a lead cord was found which had the plug end pulled from the outer jacket. This exposed the inner conductors to mechanical damage. (PHOTO) Bare wires were not present and the inner insulation was intact. This condition if not corrected could allow for mechanical damage to the inner conductors, causing a shock or burn accident to a miner at this location.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR	56.12004
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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: (0)
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 Mo Da Yr	B. Time (24 Hr. Clock)
	(b) (6)	(b) (6)

Section III--Termination Action  
 17. Action to Terminate Lead cord was cut up and taken out of service. (PHOTO)

18. Terminate	A. Date Mo Da Yr	B. Time (24 Hr. Clock)
	(b) (6)	(b) (6)

Section IV--Automated System Data		
19. Type of Inspection (activity code)	20. Event Number	21. Primary or Mill
E01	(b) (6)	P
22. Signature	23. AR Number	
(b) (6)	(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 Northeastern Field Office Albany, NY Mine ID (b) (6) Date (b) (6)

Mine Citation/Order

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



Section I--Violation Data

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

8. Condition or Practice

The brake lights did not function when tested. They were located on the Caterpillar 14H grader in the quarry area. Defects on any equipment, machinery, and tools that affect safety shall be corrected in a timely manner to prevent the creation of a hazard to persons. In the event a miner in a piece of mobile equipment was unwarned of the graders stopping, a possible run into condition may occur. This may result in possible cuts, strains or contusions. This may result in a possible lost time accident. (picture taken)

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR
			56.14100b

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 104a

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)
	(b) (6)	(b) (6)	(b) (6)

Section III--Termination Action

17. Action to Terminate The brake lights have been repaired, and function on re testing

18. Terminate	A. Date	Mo Da Yr	B. Time (24 Hr. Clock)
	(b) (6)	(b) (6)	(b) (6)

Section IV--Automated System Data

19. Type of Inspection (activity code)	E01	20. Event Number	(b) (6)	21. Primary or Mill	P
22. Signature				23. AR Number	
(b) (6)				(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 **Northeastern** Field Office **Albany, NY** Mine ID **(b) (6)** Date **(b) (6)**

Mine Citation/Order

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



Section I--Violation Data

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

8. Condition or Practice

At the **(b) (6)** area of the quarry there was a section of the bench which was not bermed off for 22 feet. This condition allows for a drive off condition from the face and a fall of 150 feet to the next level. Persons going over this open faced area could have a fatal accident. (PHOTO)

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR <b>56.9300a</b>
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Section II--Inspector's Evaluation

10. Gravity:	A. Injury or illness (has) (is) No Likelihood <input type="checkbox"/> Unlikely <input type="checkbox"/> Reasonably Likely <input checked="" 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 checked="" type="checkbox"/> No <input type="checkbox"/>
D. Number of Persons Affected:	<b>001</b>
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	<b>104a</b>
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>(b) (6)</b>	B. Time (24 Hr. Clock) <b>(b) (6)</b>
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Section III--Termination Action

17. Action to Terminate **Berms were put in place terminating the citation.**

18. Terminate	A. Date Mo Da Yr <b>(b) (6)</b>	B. Time (24 Hr. Clock) <b>(b) (6)</b>
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Section IV--Automated System Data

19. Type of Inspection (activity code)	<b>E01</b>	20. Event Number <b>(b) (6)</b>	21. Primary or Mill <b>P</b>
22. Signature <b>(b) (6)</b>	23. AR Number <b>(b) (6)</b>		

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, 408 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 Northeastern Field Office Albany, NY Mine ID (b) (6) Date (b) (6)

Mine Citation/Order

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



Section I--Violation Data

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

8. Condition or Practice

The electrical room on the crusher bowl floor had water entering from above, thru the door way. This electrical room has 480 volts. Water was on the floor. Mats were in place and grounding was also in place. (PHOTO) This could result in shock, burn and or a fatal accident from electrical current.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR
			56.12032

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 104a

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)
	(b) (6)		(b) (6)

Section III--Termination Action

17. Action to Terminate

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

Section IV--Automated System Data

19. Type of Inspection (activity code)	E01	20. Event Number	(b) (6)	21. Primary or Mill	P
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 Northeastern Field Office Albany, NY Mine ID (b) (6) Date (b) (6)

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)		7. Mine ID (b) (6) <span style="float: right;">(Contractor)</span>
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

The stone box level of the crusher had build up of hoses, cable and other debris. This condition is a trip fall hazard which could cause cuts, contusions and bruises. PHOTO)

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 56.20003a
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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: 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	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. 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 (b) (6)	21. Primary or Mill P	23. AR Number (b) (6)
22. Signature (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 Northeastern Field Office Albany, NY Mine ID (b) (6) Date (b) (6)

Mine Citation/Order

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



Section I--Violation Data

1. Date (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) <span style="float: right;">(Contractor)</span>
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

The walkway along the belt near light #2 in the tunnel the passageway was blocked off, with plywood and debries. (PHOTO) This condition could cause a slip trip hazard if a miner tried to walk thr this area. Causing cuts, and bruises.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 56.20003a
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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 104a

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

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 Materials were removed from the tunnel passageway.

18. Terminate	A. Date Mo Da Yr (b) (6)	B. Time (24 Hr. Clock) (b) (6)
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number (b) (6)	21. Primary or Mill P
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 Northeastern Field Office Albany, NY Mine ID (b) (6) Date (b) (6)

Mine Citation/Order U.S. Department of Labor  
 Mine Safety and Health Administration

Section I--Violation Data			
1. Date	Mo Da Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number
	(b) (6)	(b) (6)	(b) (6)
4. Served To		5. Operator	
(b) (6)		(b) (6)	
6. Mine		7. Mine ID	
(b) (6)		(b) (6) (Contractor)	
8. Condition or Practice		8a. Written Notice (103g)	

Lights 9,11,12,and 17 in the tunnel were not working. This condition does not provide proper lighting for miners accessing the tunnel to work. Lack of lighting could result in a trip fall accident, resulting in cuts and bruises.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR
			56.17001

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 104a 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)
		(b) (6)	(b) (6)

Section III--Termination Action

17. Action to Terminate

18. Terminate	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	
E01	(b) (6)	P	
22. Signature			23. AR Number
(b) (6)			(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.

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

District **Northeastern** Field Office **Albany, NY** Mine ID **(b) (6)** Date **(b) (6)**

Mine Citation/Order

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



Section I--Violation Data

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

In the tunnel the electrical wires were pulled from the emergency stop switch, This exposes the inner conductors to mechanical damage, which could result in an electrical accident. (PHOTO)

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 <b>56.12004</b>
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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: <b>001</b>				
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	<b>104a</b>	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	E. Citation/Order Number				F. Dated	Mo Da Yr	
A. Citation <input type="checkbox"/>		B. Order <input type="checkbox"/>		C. Safeguard <input type="checkbox"/>		D. Written Notice <input type="checkbox"/>	
15. Area or Equipment							

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

17. Action to Terminate		
18. Terminate	A. Date Mo Da Yr	B. Time (24 Hr. Clock)

Section IV--Automated System Data

19. Type of Inspection (activity code) <b>E01</b>	20. Event Number <b>(b) (6)</b>	21. Primary or Mill <b>P</b>	23. AR Number <b>(b) (6)</b>
22. Signature <b>(b) (6)</b>			

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

District **Northeastern** Field Office **Albany, NY** Mine ID **(b) (6)** Date **(b) (6)**

Mine Citation/Order U.S. Department of Labor  
 Mine Safety and Health Administration

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

On the belt line outside of the tunnel along the walkway the light on pole number 26, was missing part of the protective cover exposing the light bulb. This condition may result in a shock or burn accident from contact with the unguarded bulb. (PHOTO)

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR <b>56.12034</b>
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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: <b>001</b>	
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 <b>104a</b>			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			E. Citation/Order Number		F. Dated Mo Da Yr	
A. Citation <input type="checkbox"/>		B. Order <input type="checkbox"/>	C. Safeguard <input type="checkbox"/>	D. Written Notice <input type="checkbox"/>		
15. Area or Equipment						

16. Termination Due	A. Date <b>(b) (6)</b>	B. Time (24 Hr. Clock) <b>(b) (6)</b>
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Section III--Termination Action

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

Section IV--Automated System Data		
19. Type of Inspection (activity code) <b>E01</b>	20. Event Number <b>(b) (6)</b>	21. Primary or Mill <b>P</b>
22. Signature <b>(b) (6)</b>		23. AR Number <b>(b) (6)</b>

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 Northeastern Field Office Albany, NY Mine ID (b) (6) Date (b) (6)

Mine Citation/Order

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



Section I--Violation Data

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

Along belt # 1 between the splice shack and pole number 57. A build up of materials was found to be present on the cross bracing. This material was not removed and creates a hazard of materials falling onto miners walking or working under this belt. ( PHOTO) Area was blocked and barricaded by the operator preventing access.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR
			56.20003a

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  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)
		(b) (6)	(b) (6)

Section III--Termination Action

17. Action to Terminate

18. Terminate	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	23. AR Number
E01	(b) (6)	P	(b) (6)
22. Signature			
(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 E – Examples of Citations with issues from previous E01 inspections**

A review of 84 citations from five previous inspections between the two mines visited found no issues.

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

District Northeastern Field Office Albany, NY Mine ID (b) (6) Date (b) (6)

Attachment F – District Corrective Action plan (Created by the district)

October 15, 2012

**MEMORANDUM FOR:** Neal H. Merrifield  
Administrator for  
Metal and Nonmetal Mine Safety and Health

**THROUGH:** Donald J. Foster, Jr.  
District Manager  
Northeastern District

**SUBJECT:** Northeastern District Action Plan  
Office of Accountability Review  
Albany NY Field Office  
(b) (6)

**Review Issues Requiring Attention**

This audit revealed the following issues that require corrective action:  
(Audit and OA checklist attached)

1. Hazard Complaints -
  - a. Hazard complaint report did not document allegations for the complaint.
  - b. Violations issued on a Hazard Complaint inspection were not linked to the allegations within the complaint.

**Issue Analysis**

The team reviewed nine investigation reports resulting from complaints of hazardous conditions during this audit. Each was coded as an EO4 investigation ("other" complaint). A review of the escalation reports and documentation show that two of these investigations had deficiencies that should have been found and corrected prior to this Accountability Review. One contained conflicting documentation and, resulting in a violation not cited for failure to report a lost time accident which occurred at the mine site. Another should have been coded as an E07 (nonfatal) accident investigation and two subsequent non-contributory violations should have been cited under a separate E16 (spot-inspection) event.

- Event No. (b) (6) - The report showed the allegations and findings with no Violation cited. The inspector's notes and the company's records indicate that a contract hauler's truck overturned on mine property on (b) (6). The inspector documented that the contract truck driver received medical treatment and lost approximately "...approx. 1 week..." due to minor injuries incurred. Neither the mine operator nor the independent contractor submitted an MSHA Form 7000-1, Mine Accident, Injury and Illness Report to MSHA as required. Based on the documentation, the inspector should have obtained a Contractor I.D. for the contract hauler and issued

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

District  Field Office  Mine ID  Date

citations for failure to report the lost time accident under 30 CFR 50.20(a) and for failure to report man hours spent at the mine site under 30 CFR 50.30(a).

- Event No. (b) (6) - The report for this event, documented on the MSHA Form 4000-D, Miscellaneous Inspection Information page, indicated the field office supervisor assigned the inspector to investigate a hazard complaint. However, the investigation was conducted when the District received a report of an accident at the mine site (MSHA Escalation Report, SR No. (b) (6) ) and forwarded it to the field office supervisor for follow-up action ( i.e. investigate the report of an accident). Because the district requested a review (and possible investigation) of the reported accident, not a hazard complaint, the District had (correctly) not recorded the reported accident in the MSIS hazard complaint database. The inspector's subsequent report did not, as is required for hazard complaints, contain documentation of any allegations or allegations discussed with the mine operator, and contained no MSHA hazard complaint allegation or allegation findings forms. Based on the supervisor's inaccurate description of the assignment to the inspector as an investigation of a hazard complaint, the inspector incorrectly coded the event as a verbal hazard complaint inspection rather than a non-fatal accident investigation. In addition, there were three citations issued during the event. The first citation was issued for a violation of 30 CFR 56.9101 which directly caused the accident. It was evaluated as S&S (Reasonably likely and fatal), however, the citation/documentation note for gravity did not agree (occurred vs. reasonably likely). The inspector should have documented that, although the accident occurred resulting in a lost time injury, it was reasonably likely that the incident could have been much worse resulting in fatal injuries. Finally, when the inspector returned to the mine to issue the citation, he observed two additional non-contributory violations that should have been cited under a separate (E16) event.

The Northeastern District was following the instructions for coding and investigating hazard complaints as detailed in the MSHA Hazard Complaint Procedures Handbook, PH02-f-8, issued November 2002. Unfortunately, subsequent reviews of this event documentation did not detect the coding and procedural errors listed above. The district has already taken action within the Albany field office to address issues found during this audit, as well as previous in-house investigatory activities. That is, the supervisor has been relieved of his duties and his successor has implemented oversight activities to ensure strict conformance to Agency policy and procedures, including following the prescribed inspection and investigation procedures outlined in applicable Agency directives and handbooks. At the district level, procedures have been implemented to ensure proper dissemination and tracking of MSHA escalation reports and hazard complaints. Increased scrutiny of field office response and investigation reports have resulted in more timely resolution of, and a reduction in, procedural errors. To supplement these efforts, we recommend additional instructions to the field.

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

District  Field Office  Mine ID  Date

### Corrective Action

To correct the deficiencies noted in Item 1 above, the district will provide a copy of the Albany field office audit to all field office supervisors (FOSs) and district staff. A copy of Handbook PH02-I-8 will be included in the packet. The packet will be submitted to the field for review on Monday October 22, 2012.

The district will ensure proper coding and investigation of future hazard complaints through the following actions:

1. Complaints received at the district level will be entered in MSIS and forwarded to the respective field office with the inspection code to be used by the inspector when opening the event. All district staff involved in this process will be advised of this procedure as well as the field office supervisors and inspectors.
2. For complaints that are received by field office personnel via other means; telephone, walk-in, etc, the field office supervisor will follow the same coding and inspection criteria prescribed in the Handbook PH02-I-8. The supervisor will contact the district upon receipt of the complaint and discuss actions taken.
3. Field office supervisors will ensure that each hazard complaint report documents the allegations and corresponding findings, and that a notice of negative findings is provided to the operator when appropriate. This will be re-emphasized by the Assistant District Manager with the FOS's during the subject conference call and will be documented in the memorandum to the District Manager.
4. Once the investigation is complete and the findings have been submitted to the district, persons resolving the complaint in the MSHA hazard complaint database will ensure that the citations issued during the complaint investigation are linked to the appropriate positive finding.
5. After receipt of the accountability review packet, the district will review the hazard complaint coding, processing, documentation, and investigation procedures with FOSs via conference call. The instructions given will be documented by the ADM through memorandum. The FOS will reinstruct their inspectorate in staff meetings on these topics and document the meetings through memorandum to the ADM upon completion.
6. This corrective action plan is subject to modification as needed to achieve the intended goals of the above actions. The District Staff Assistant or the Supervisory Management Program Analyst will review the hazard complaint report monthly to ensure proper procedure is being followed.