

OCT - 5 2012

MEMORANDUM FOR PATRICIA W. SILVEY

Deputy Assistant Secretary for Operations
Mine Safety and Health Administration

THROUGH:

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

FROM:

JAY MATTOS (b) (6)
Director of Office of Assessments, Accountability, Special
Enforcement and Investigations

SUBJECT:

MSHA Office of Accountability Audit, MNM Southeastern District
Macon, Georgia Field Office, and (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

This audit was conducted by Accountability Specialist Jerry J. Kissell from (b) (6)
(b) (6) The (b) (6) accompanied the accountability specialist during this
audit.

(b) (6)

The audit team traveled with the inspection party to the mine on a regular (E-01) inspection. Areas and activities examined included the number four screen tower, number three screen tower and number two screen tower, M-10 conveyor belt, number 29 conveyor belt, number 23 conveyor belt, number 19 conveyor belt, number 20

conveyor belt, number 22 conveyor belt, number 16 conveyor belt, number 14 conveyor belt, number 17 conveyor belt, number 18 conveyor belt, number 9 conveyor belt, the BAR MAC crusher platform, the blendy tunnel and blendy tunnel conveyor belt, the sand screw, the wet screen, number 4 tower Motor Control Center (MCC) room, number 3 tower (MCC) room, load out MCC room, the plant operators control booth, shop area (two levels), tool room, parts room, employee break room and bulletin board, MSDS records, fuel building and storage tanks, oil storage tanks, 100 horse-power load out pump, 58 horse-power Flight pump, life jackets storage box, roadways and berms, the quarry and highwalls. Mobile equipment inspected included a Caterpillar 773B water truck, Ford F-600 maintenance/service truck, Caterpillar 980G front end loader, caterpillar 140G road grader, Caterpillar 769D haul truck. Other observations at the mine included loading and dumping practices with the Caterpillar 988G front end loader and Caterpillar 775F haul trucks, first aid supplies, stretcher and blankets, travel ways and housekeeping practices.

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. Inspection procedures observed during the audit were in compliance with MSHA policy and procedures.
3. Field Accompanied Reviews (FARs) and Office Reviews (ORs) for the Macon field office were adequately documented.
4. Enforcement personnel used appropriate enforcement tools during the mine site visit.
5. The field office supervisor exceeded the minimum required Office Reviews (ORs) and Field Accompanied Reviews (FARs) for FY 2011.
6. Staff and safety meetings were well documented and showed updates and reviews of MSHA initiatives and policy memoranda.

This audit revealed one issue that requires a corrective action:
(Supporting data for this issue can be found in the OA checklist and attachments.)

Hazard complaint inspections were not always coded as required by agency policy. 103(g) complaints were being coded as "other" complaints. A notice of negative findings appeared to be required but it could not be determined if it was provided to the operator for unsubstantiated allegations.

Attachments

- A. Internal Review Summary
- B. Office of Accountability Checklist
- C. Statistics
- D. Citations/Orders issued during this audit
 - 1. (b) (6) ----- 56.12004
 - 2. (b) (6) ----- 56.20003(a)
 - 3. (b) (6) ----- 56.20003(a)
 - 4. (b) (6) ----- 56.16001
- E. Examples of Citations with potential issues from Previous E01 Inspections

(No issues were identified during this audit)
- F. District Corrective Action Plan

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District Southeastern Field Office Macon, GA 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 Macon, Georgia 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.

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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

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
No drilling or blasting took place during the mine visit.

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 verify the last health survey was conducted in January 2011 with no violations.

6. Evaluate inspector(s) examination of electrical equipment, transformer stations, and/or electrical circuits.
Adequate Corrective Action Needed Comments Below

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

Adequate Corrective Action Needed Comments Below

Field notes reviewed show daily and final close-outs are consistently conducted.

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

Adequate Corrective Action Needed Comments Below

NO PKW's were reviewed during the audit.

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

Adequate Corrective Action Needed Comments Below

There are no 103(i) mines 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

Ten investigation reports resulting from complaints of hazardous conditions were reviewed during this audit. Of those, one was coded as an E-03 (103(g) complaint) and nine were coded as E-04 ("other" complaints). A review of the escalation reports and documentation show that three complaints were incorrectly coded.

- Event (b) (6) documentation reviewed shows that this was a 103(g) complaint, but was coded as an E-04 event.
- Event (b) (6) documentation reviewed shows that this is a 103(g) complaint, but it was coded as an E-04 event.
- Event (b) (6) was coded as an E-03, documentation reviewed shows that this was not a 103(G) complaint and should have been coded as an E-04.

Chapter E of the Hazard Complaints Procedures Handbook (PH02-I-8) describes the criteria for 103(g) hazard complaints (section 1) and other complaints (section 2).

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Corrective Action Submitted by District:

To correct the deficiencies noted, the district will provide a copy of the Macon field office audit to all field office supervisors and district staff. A flow chart for complaint handling as well as the November 2002 guidance on determining complaint coding will also be included.

The district will ensure proper coding through the following:

1. Complaints received at the district level will be 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 supervisor and inspectorate.
2. For complaints that are received by field office personnel via other means; telephone, walk-in, etc, the field office supervisor will follow the coding criteria from the November 2002 document.
3. Per items 1 and 2 above, the district will develop a flow chart for handling of complaints. This will be bundled with the November 2002 Guidance document and delivered to each FOS. Following receipt of that package, verbal instructions on this implementation will be delivered via conference call. The receipt of those documents and the instructions given will be documented by the ADM through memorandum. The FOS will reinstruct their inspectorate in staff meetings on this procedure and document this through a memorandum to the ADM on completion.
4. Field office supervisors will assure that a notice of negative findings is provided to the operator for unsubstantiated allegations. This will be re-emphasized by the Assistant District Manager with the FOS's during the subject conference call and will also be documented in a memorandum to the District Manager.
5. Inspectors will be reinstructed during a staff meeting to provide operators a copy of negative findings upon closing the inspection. This reinstruction will be detailed in a memorandum from each supervisor to the ADM.

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. See Attachment E to view the associated flow chart.

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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-up reviews being conducted and documented according to agency policy and procedures?
(One E-01/Inspector/every six months/FY -minimum)

Adequate Corrective Action Needed Comments Below

The field office supervisor exceeded the minimum required FAR's for FY 2011

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

Adequate Corrective Action Needed Comments Below

(b) (6)

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

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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

Excellent documentation of staff meetings.

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)

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

Adequate Corrective Action Needed Comments Below

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 CLRs.

Adequate Corrective Action Needed Comments Below

The audit did not include a review of the ACR Program.

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

(b) (6)

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

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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 MSHA 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

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Attachment C – Statistics

S&S Rate Comparison

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

Fiscal Year	Macon Field Office	South East District	National Average
2010	33%	37%	35%
2011	23%	30%	30%

Time and Activity Comparison

A comparison of FY 2010 and FY 2011 time distribution for the Macon 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	Macon FO	20%	10%	68%	6%	2%	100%
	Nat'l Avg	20%	10%	62%	4%	8%	100%
2011	Macon FO	20%	14%	64%	4%	3%	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 Macon field office at surface mines shows that time in the other category has increased and on-site time has remained about the same.

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	Macon FO	25%	13%	60%	4%	2%	100%
	Nat'l Avg	25%	12%	56%	4%	7%	100%
2011	Macon FO	23%	16%	59%	3%	2%	100%
	Nat'l Avg	26%	12%	55%	3%	7%	100%

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** 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 Macon field office at underground mines shows that time in the other category has increased and on-site time has decreased.

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	Macon FO	21%	10%	66%	2%	3%	100%
	Nat'l Avg	23%	11%	60%	2%	6%	100%
2011	Macon FO	22%	15%	62%	2%	1%	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

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District Southeastern Field Office Macon, GA Mine ID (b) (6) Date (b) (6)

Attachment D- Citations issued during the Audit

Mine Citation/Order U.S. Department of Labor
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Section I--Violation Data			
1. Date	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) <input type="checkbox"/>

A conduit to a junction box located in the rear ground level area of tower #1, had been damaged exposing the energized conductors to mechanical damage and possible short circuit. The energized conductor was resting against the conduit. If this condition is not corrected the conductor would become damaged and create an electrical fault condition which would expose persons working or traveling in the area to electrical hazards.

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
			56.12004

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	
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)	(b) (6)

Section III--Termination Action

17. Action to Terminate The conduit was repaired.

18. Terminated	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	21. Primary or Mill
		(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.

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District Southeastern Field Office Macon, GA Mine ID (b) (6) Date (b) (6)

Mine Citation/Order

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Section I--Violation Data

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

The document storage area located in the maintenance building was not being maintained in a clean and orderly condition. There was ceiling tiles, soda cans and boxes in the walkway. This condition exposed miners that would have to enter the area to a tripping, sprain hazard.

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 <u>56.20003a</u>
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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: <u>001</u>
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 <u>104a</u>		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 <u>(b) (6)</u> B. Time (24 Hr. Clock) <u>(b) (6)</u>			

Section III--Termination Action

17. Action to Terminate <u>The area was cleaned up.</u>	
18. Terminated A. Date Mo Da Yr <u>(b) (6)</u>	B. Time (24 Hr. Clock) <u>(b) (6)</u>

Section IV--Automated System Data

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

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

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District Southeastern Field Office Macon, GA Mine ID (b) (6) Date (b) (6)

Mine Citation/Order

U.S. Department of Labor
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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	5. Operator (b) (6)		(Contractor)
6. Mine (b) (6)	7. Mine ID (b) (6)		

8. Condition or Practice

8a. Written Notice (103g)

The two refrigerators located in the maintenance shop near the miners' breakroom was not being maintained in a clean and orderly condition. The units had dirt, rotten fruit, mold growing along with spilled food. This condition exposed miners using the units to a food borne illness.

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 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 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) E01	20. Event Number (b) (6)	21. Primary or Mill P	22. Signature (b) (6)	23. AR Number (b) (6)
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MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

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 Office of Accountability

District Southeastern Field Office Macon, GA 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 <u>(b) (6)</u>	2. Time (24 Hr. Clock) <u>(b) (6)</u>	3. Citation/ Order Number <u>(b) (6)</u>
4. Served To <u>(b) (6)</u>	5. Operator <u>(b) (6)</u>	
6. Mine <u>(b) (6)</u>	7. Mine ID <u>(b) (6)</u> (Contractor)	
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

Material was stacked over the height of the toe board located at the on the upper walkway level of the wash screen tower, which created a falling material hazard to person working or traveling in the area. The materials that had been stacked up were a tool bag of wrenches and nuts/ bolts and various sizes of screens.

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 <u>56.16001</u>
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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: <u>001</u>
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 <u>104a</u>		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 <u>(b) (6)</u>	B. Time (24 Hr. Clock) <u>(b) (6)</u>
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Section III-Termination Action

17. Action to Terminate The material was removed.

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

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

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

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District Southeastern Field Office Macon, GA 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) <input type="checkbox"/>	

Material was stacked over the height of the toe board located at the on the upper walkway level of the wash screen tower, which created a falling material hazard to person working or traveling in the area. The materials that had been stacked up were a tool bag of wrenches and nuts/ bolts and various sizes of screens.

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
			56.16001

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
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 The material was removed.

18. Terminated	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)	E01	20. Event Number	21. Primary or Mill
		(b) (6)	P
22. Signature			23. AR Number
(b) (6)			(b) (6)

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Attachment E – Examples of Citations with Issues from Previous E01 Inspections

A review of six citations issued during three previous inspections found no issues

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Attachment F – Southeastern District Corrective Action Plan

Review Issues Requiring Attention

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

Hazard complaint inspections were not always coded as required by agency policy. 103(g) complaints were being coded as “other” complaints. A notice of negative findings was not always provided to the operator for unsubstantiated allegations.

Issue Analysis

Ten investigation reports resulting from complaints of hazardous conditions were reviewed during this audit. Of those, one (1) was coded as an E-03 (103(g) complaint) and 9 were coded as E-04 (“other” complaints). A review of the escalation reports and documentation show that 3 complaints were incorrectly coded.

- Event (b) (6) documentation reviewed shows that this was a 103(g) complaint, but was coded as an E-04 event.
- Event (b) (6) documentation reviewed shows that this is a 103(g) complaint, but it was coded as an E-04 event.
- Event (b) (6) was coded as an E-03, documentation reviewed shows that this was not a 103(G) complaint and should have been coded as an E-04.
- Notice of negative findings was not always provided to the operator for allegations not found.

The Southeastern District was following the instructions for coding hazard complaints as detailed in the November 2002 guidance document. That guidance is clear in its instructions regarding the coding of miner complaints as E-03. In this instance, district staff that handled the original complaints properly identified the two 103(g) complaints as E-03 events. However, after forwarding the complaints to the field office, the inspector assigned to investigate the complaints opened the events as E-04’s (‘other’ complaints) on arrival at the mine site. It is noted that neither the district office nor its FOS gave instructions to the inspector on what code to use; rather relied on the inspector to enter the correct code based on the forwarded complaint. To correct this, we find that additional instructions to the field are warranted.

The second type of error involved coding an “other” complaint (E-04) as an E-03. Often, the language of the complaint received is vague and non descriptive (typical for anonymous

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calls).and fails to provide suitable detail that allows for correctly identifying the complainant as a miner, miner representative or "other". This requires the person entering the complaint to make a judgment call concerning the coded activity. In this example, the complaint read, "Wasting fuel in the quarry and pumping it out into the stream and woods. Owner of (b) (6) (b) (6) know about it". I believe there is a tendency for MSHA personnel to avoid miscoding a miner complaint so when in doubt, code as an E-03. I believe additional guidance should be provided that eliminates second guessing the code designation.

Corrective Action

To correct the deficiencies noted, the district will provide a copy of the Macon field office audit to all field office supervisors and district staff. The deficiencies and this address will also be provided. A flow chart for complaint handling as well as the November 2002 guidance on determining complaint coding will also be included.

The district will ensure proper coding through the following:

1. Complaints received at the district level will be 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 supervisor and inspectorate.
2. For complaints that are received by field office personnel via other means; telephone, walk-in, etc, the field office supervisor will follow the coding criteria from the November 2002 document.
3. Per items 1 and 2 above, the district will develop a flow chart for handling of complaints. This will be bundled with the November 2002 Guidance document and delivered to each FOS. Following receipt of that package, verbal instructions on this implementation will be delivered via conference call. The receipt of those documents and the instructions given will be documented by the ADM through memorandum. The FOS will reinstruct their inspectorate in staff meetings on this procedure and memorandum the ADM on completion.
4. Field office supervisors will assure that a notice of negative findings is provided to the operator for allegations not found. This will be re-emphasized by the Assistant District Manager with the FOS's during the subject conference call and will also be documented in the memorandum to the District Manager.
5. Inspectors will be reinstructed during a staff meeting to provide operators a copy of negative findings upon closing the inspection. This reinstruction will be detailed in a memorandum from each supervisor to the ADM.