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

THROUGH: KEVIN G. STRICKLIN
Administrator for
Coal Mine Safety and Health

FROM: THOMAS W. CHARBONNEAU
Director, Office of Assessments, Accountability,
Special Enforcement and Investigations

SUBJECT: MSHA Office of Accountability Review, Coal District 7
Hazard, Kentucky Field Office, and

Introduction

This memorandum summarizes the Office of Accountability’s review of the subject
district office, field office, and mine. The purpose of the accountability reviews is to
determine whether Agency enforcement policies, procedures, and guidance are being
followed consistently and whether mission critical enforcement activities are
accomplished effectively. This review included MSHA field activities; level of
enforcement; conditions and practices at the mine; and MSHA supervisory and
managerial oversight. The accountability review also included evaluations to determine
if there were any issues in areas commonly identified during Agency internal reviews of
MSHA’s actions following past mine disasters.

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Overview

Office of Accountability Specialists Mark Odum and Troy Davis conducted an accountability review of Coal District 7 and the Hazard, Kentucky Field Office, from This review focused on inspection activities during FY 2015 (October 2014 through September 2015), and specifically on documentation of the regular E01 inspection, Event No. conducted by the Hazard, Kentucky Field Office of the.

The review of District 7's Hazard, KY Field Office was conducted pursuant to the annual accountability review plan schedule, and the was selected because the mine received orders in FY 2015 and orders in FY 2014.

Positive findings are included in this accountability review report; however the team identified two issues during the review which required a corrective action plan.

Mine Visit

The Review Team accompanied the Field Office Supervisor, Assistant District Manager and an inspector to the as part of a Regular Safety and Health Inspection (E01). A second inspector was also at the site during the mine visit.

At the time of this review, the mine employed approximately miners and worked two production shifts and one maintenance shift per day, five days per week. The mine used one active mechanized mining unit (MMU) which produced an average of tons of raw coal daily. The coal was extracted by room and pillar technique with continuous mining machines, loaded onto a continuous haulage unit, and transported to the surface and preparation plant via conveyor belt systems where it was processed and made ready for commerce.

The Review Team traveled to the MMU 010-0, active working section, 2-Left Panel, where the mine operator was in the process of moving the section to main headings. The inspection included checks of the section for imminent dangers, making examinations of all working places for methane and oxygen deficiency and included ventilation, cleanup, rock dusting activities and a check of roof and rib conditions. The team observed the 8A, 8B, 8C, 8D, and 8E active haulage/belt and alternate escapeways, signage, escapeway lifelines and markings, an outby refuge alternative along the travel route, escapeway map, portions of the primary escapeway, and inspection of a rail-mounted personnel carrier. The inspection also included a set of Minova 120 psi seals (seal set #23).
Surface areas of the mine observed during this inspection included: mine maps, examination records, and inspection conferences conducted by the inspector. The inspector properly issued six enforcement actions to the mine operator for conditions of noncompliance.

**Review Results**

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

- The inspectors included bag numbers on the tracking map for rock dust surveys
- Inspectors used a color coding system to help track the inspection on the tracking map
- Inspection notes were clear, organized and properly documented findings

As a part of the review, enforcement levels of the mine and field office were compared with the district and national averages. The [mine] had the following statistics:

- A significant and substantial (S&S) issuance rate of 24 percent during the first three quarters of FY 2015 where the mine received [x] 104(a) citations and [x] 104(d) orders; compared to FY 2014 when the [mine] had a S&S rate of 23 percent where the mine received [x] 104(a) citations and [x] 104(d) orders.

- An elevated enforcement rate of 11.8 percent for FY 2015 compared to 6.5 percent for FY 2014

- A Violations per Inspection Hour (VPIH) rate of 0.20 for FY 2015 compared to 0.14 for FY 2014

The field office had the following issuance rates related to the Coal sector for FY 2014:

- An S&S rate of 21 percent compared to the district's rate of 24 percent and the national average rate of 28 percent

- An elevated enforcement rate of 3.1 percent compared to the district's rate of 3.9 percent and the national average rate of 6.3 percent

- A VPIH rate of 0.17 compared to the district's rate of 0.13 and the national rate of 0.12

For the first three quarters of FY 2015, the enforcement levels for the field office were:

- An S&S rate of 22 percent compared to the district's rate of 22 percent and the national average rate of 25 percent
• An elevated enforcement rate of 3.8 percent compared to the district's rate of 3.3 percent and the national average rate of 5.6 percent

• A VIPH rate of 0.17 compared to the district's rate of 0.13 and the national rate of 0.12

The comparison showed the S&S rate for the mine was approximately the same as that of the district and field office. The elevated enforcement rate for the mine was higher than the average for the field office, the average for the district, and the national average. The VIPH rate for the mine was slightly higher than the district and field office rates.

The event reviewed, Event No.  had  issuances with 21% S&S and  issuances with elevated negligence.  104 (d) actions were issued during the event. Based on observations during the mine visit, enforcement levels were appropriate for the mining conditions and work practices.

This accountability review revealed two issues or material weaknesses¹ that required corrective actions and are discussed below. The Review Team identified some non-material issues² and discussed these with the District personnel. Items discussed included 103(i) spot inspections as related to other categories of inspection; coding of hazard complaint inspections; inspection tracking system and tracking map documentation; gravity determinations for violations of standards that affect emergency escape/evacuation of miners. These non-material issues did not require a corrective action plan. (See Attachment E)

The two issues that required corrective actions are as follows:

1. A complete and thorough E01 inspection was not conducted for the E01 event number (See Attachments A and D for details)

The following three locations in the mine were not inspected:

• An area of return aircourse between Mains and Mains – the area affected was five crosscuts in length.
• An intake aircourse between Mains and Mains – the area affected was 10 crosscuts in length.
• An area of the Mains between Mains and the Mains – the area affected was six crosscuts in length.

¹ The Accountability Program Handbook, AH13-III-1, defines material weaknesses as those that, if left unaddressed, would likely result in continuing deficient operations, and are important enough to warrant a corrective action.

² According to the Accountability Program Handbook, non-material deficiencies are deficiencies identified during the reviews but are not determined to be material weaknesses. These non-material deficiencies should be discussed with management during the accountability review closeout conferences but do not need to be included as deficiencies in the accountability review reports.
2. Proper procedures for conducting, documenting, and reviewing MSHA respirable dust surveys, including completion of form 2000-86, was not being followed. (See Attachments A and D for details)

MSHA forms 2000-86 for respirable dust surveys conducted during the E01 were not properly completed. The form 2000-86 for MMU 001-0 did not include the water spray pressures measured during the second half of the shift and the form 2000-86 for MMU 010-0 did not include "Ventilation" information for Section 17A.

A corrective action plan from the District Manager to address the issues is attached to this report. (See Attachment F)

The district, along with the Review Team, analyzed the findings identified during this review to determine the root cause(s) of the noted issues. Item 1 was a result of the mine being a large and expansive mine that uses mains and parallel mains with several entries cut through at various locations. Some of these cut-through entries did not contain ventilation controls separating the mains and parallel mains. Some confusion existed as to the requirement to inspect these cut-through entries. Item 2 was the result of the inspector not fully completing the form due to inattention to the details of the form and its requirements. The _____ also failed to identify the omission of the information on the form.

Based on review of the materials and interviews conducted, District 7 has implemented corrective actions regarding roof control plan SOPs to comply with the established Program Policy Manual requirements.
Attachments

A. Office of Accountability Checklist

B. Citations/Orders issued during this review

1. Citation [redacted] 75.202(a)
2. Citation [redacted] 75.202(a)
3. Citation [redacted] 75.333(h)
4. Citation [redacted] 75.333(h)
5. Citation [redacted] 75.1106-3(a)(2)
6. Citation [redacted] 75.333(e)(1)(ii)

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

D. Issues identified with corresponding requirements

E. Discussion Items

F. District Corrective Action Plan
<table>
<thead>
<tr>
<th>Attachment A - Office of Accountability Checklist</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Determine if complete and thorough E01 inspections are being conducted and/or if policy and procedures were properly followed.</td>
</tr>
<tr>
<td>Adequate □ Corrective Action Needed [X] Comments Below [X]</td>
</tr>
<tr>
<td>See Attachment D</td>
</tr>
<tr>
<td>2. Determine if documentation for inspections is complete and thorough.</td>
</tr>
<tr>
<td>Adequate [X] Corrective Action Needed □ Comments Below □</td>
</tr>
<tr>
<td>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.</td>
</tr>
<tr>
<td>Adequate [X] Corrective Action Needed □ Comments Below □</td>
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<tr>
<td>4. Evaluate inspector/specialist examination of required record books and postings for compliance with applicable standards.</td>
</tr>
<tr>
<td>Adequate [X] Corrective Action Needed □ Comments Below □</td>
</tr>
<tr>
<td>5. Evaluate inspector/specialist examination of the operator’s maps (on-site) for accuracy, escapeway locations, etc.</td>
</tr>
<tr>
<td>Adequate [X] Corrective Action Needed □ Comments Below □</td>
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<tr>
<td>6. Evaluate, upon arrival on the working section, inspector/specialist examination of all working faces for imminent dangers.</td>
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<tr>
<td>Adequate [X] Corrective Action Needed □ Comments Below □</td>
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<td><strong>District</strong></td>
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<td><strong>12.</strong></td>
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<tr>
<td>District</td>
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<tr>
<td>Field Office</td>
</tr>
</tbody>
</table>

13. Determine if adequate close-out conferences are being conducted at the end of each inspection.
   Adequate X  Corrective Action Needed  Comments Below

14. Determine if Possible Knowing/Willful (PKW) Forms are documented and processed according to agency policy and procedures.
   Adequate  Corrective Action Needed  Comments Below X
   N/A – not reviewed during this review

15. Evaluate 103(i) spot inspection (E02) reports for the office/district being reviewed for compliance with agency policies and procedures, including compliance with time frames and separating E02 inspections from other events.
   Adequate X  Corrective Action Needed  Comments Below

16. Determine if Hazard Complaint inspections/investigations are being conducted according to policy and procedures.
   Adequate X  Corrective Action Needed  Comments Below

17. Determine if supervisors are monitoring inspector time and activity to ensure proper use of time, including off-shift and weekend work, by all inspectors.
   Adequate X  Corrective Action Needed  Comments Below

18. Determine if required Accompanied Activities (AAs); Field Activity Reviews (FARs) and supervisory follow-ups are being conducted and documented according to agency policy and procedures?
   Adequate X  Corrective Action Needed  Comments Below
19. Determine if a 104(d) tracking system is in place and being kept current at the office being reviewed.
   Adequate X Corrective Action Needed □ Comments Below □

20. Determine if the Uniform Mine File (UMF) books are being maintained and reviewed according to current agency policy and procedures.
   Adequate X Corrective Action Needed □ Comments Below X
   The field office is in the process of converting to electronic Uniform Mine Files.

21. Determine if supervisors are thoroughly reviewing Uniform Mine Files at least annually?
   Adequate X Corrective Action Needed □ Comments Below □

22. Determine if supervisors are visiting each active underground mine at least annually.
   Adequate X Corrective Action Needed □ Comments Below □

23. Determine if all sections where retreat mining is occurring (not to include longwall mining) are being inspected at least monthly?
   Adequate X Corrective Action Needed □ Comments Below □

24. Determine if documentation of staff meetings/safety meetings are effective and relevant to current issues and the Agency’s mission.
   Adequate X Corrective Action Needed □ Comments Below □
### Determine, after an in-mine visit, if approved plans (ventilation, roof control, training, Emergency Response Plan (ERP), etc.) are compatible with mining conditions and equipment.

- **Adequate** ✓
- **Corrective Action Needed** □
- **Comments Below** □

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

- **Adequate** ✓
- **Corrective Action Needed** □
- **Comments Below** □

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

- **Adequate** ✓
- **Corrective Action Needed** □
- **Comments Below** □

### Determine if Assistant District Managers are conducting the required second level reviews and holding supervisors accountable for oversight of Field Activity Reviews and Accompanied Activities.

- **Adequate** ✓
- **Corrective Action Needed** □
- **Comments Below** □

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

- **Adequate** ✓
- **Corrective Action Needed** □
- **Comments Below** □
<table>
<thead>
<tr>
<th>District</th>
<th>Field Office</th>
<th>Mine ID</th>
<th>Date</th>
</tr>
</thead>
</table>

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

Adequate **X**  Corrective Action Needed **☐**  Comments Below **☐**

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

Adequate **☐**  Corrective Action Needed **☐**  Comments Below **X**

N/A — not reviewed during this review

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

Adequate **☐**  Corrective Action Needed **☐**  Comments Below **X**

N/A — not reviewed during this review

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

Adequate **X**  Corrective Action Needed **☐**  Comments Below **☐**

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

Adequate **X**  Corrective Action Needed **☐**  Comments Below **☐**
Determine if information (mine status, methane liberation, number of employees, etc.) is being entered into the MSHA Standardized Information System (MSIS) accurately and in a timely manner?

Adequate ✓ Corrective Action Needed □ Comments Below □

Determine if District Managers are using the Report Center to identify overdue responses from operators and take appropriate actions.

Determine if a complete permissibility inspection of each longwall system is being conducted by electrical specialists or inspectors who hold a current MSHA electrical qualification card on at least an annual basis.

Adequate □ Corrective Action Needed □ Comments Below ✓

N/A — No longwalls in District 7

Determine if a proper examination of the Atmospheric Monitoring System (AMS) and/or AMS systems that operate Carbon Monoxide (CO) sensors for the purposes of 75.1101 is being conducted. A complete inspection includes those items in the Coal General Inspection Procedures Handbook (GIPH) AMS checklist.

Adequate X Corrective Action Needed □ Comments Below □

Determine if SSIs are maintaining a memorandum detailing the reasons for not conducting a special investigation when the district manager decides to take no further action, in accordance with the Special Investigations Procedures Handbook.

Adequate □ Corrective Action Needed □ Comments Below X

N/A – not reviewed during this review
<table>
<thead>
<tr>
<th>District</th>
<th>Coal District 7</th>
<th>Field Office</th>
<th>Hazard KY Field Office</th>
<th>Mine ID</th>
<th>Date</th>
</tr>
</thead>
</table>

**Determine if proper procedures for conducting, documenting, and reviewing MSHA respirable dust surveys are being followed.**

Proper documentation to include blue cards, 2000-86’s, etc.

Adequate [ ] Corrective Action Needed [x] Comments Below [x]

See Attachment D

**Determine if District Managers and Assistant District Managers are providing acting field office supervisors with the level of oversight necessary to manage their work groups on a temporary basis including an online distance learning training course with a knowledge check for temporarily promoted supervisors.** The guidance will be included in each District’s Standard Operating Procedure (SOP) for training newly promoted field office supervisors.
## Attachment B – Citations/Orders Issued During This Review

**Mine Citation/Order**

<table>
<thead>
<tr>
<th>Section I – Violation Data</th>
<th>U.S. Department of Labor Mine Safety and Health Administration</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Date</td>
<td>Mo Da Yr</td>
</tr>
<tr>
<td>2. Time (24 Hr. Clock)</td>
<td></td>
</tr>
<tr>
<td>3. Citation/Order Number</td>
<td></td>
</tr>
</tbody>
</table>

**Condition or Practice**

The roof, face and ribs of areas where persons work or travel is not being supported or otherwise controlled to protect persons from hazards related to drawrock at the following locations in the [Redacted] Mains Intake: 1.) In between cross-cut 89-90, in the No. 4 entry, on the right rib, loose drawrock is present, measuring 31" inches wide by 61" inches long, 1"-4" inches thick. 2.) In between cross-cut 29-30, in the No. 4 entry, adjacent to Seal Set 23, on the right rib, loose drawrock is present measuring 4' feet by 4' feet, 1"-4" inches thick. Miners are required to travel through these areas daily. A person hit by falling material would be reasonably likely to receive bruises, broken bones.

**Standard 75.202(a) was cited**

<table>
<thead>
<tr>
<th>6. Violation</th>
<th>A. Health</th>
<th>B. Section of Title 30 CFR</th>
</tr>
</thead>
<tbody>
<tr>
<td>75.202(a)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Gravity**

A. Injury or Illness (has) (a). 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

**Negligence (check one):**

A. None ☐ B. Low ☐ C. Moderate ☑ D. High ☐ E. Reckless Disregard ☐

**Type of Action:**

A. Citation ☑ B. Order ☐ C. Safeguard ☐ D. Written Notice ☐

**Initial Action:**

E. Citation/Order Number

**Action to Terminate:**

The operator pulled the cited drawrock using a slate bar.

**Section II – Termination Action**

<table>
<thead>
<tr>
<th>17. Action to Terminate</th>
</tr>
</thead>
</table>

**Section IV – Automated System Data**

<table>
<thead>
<tr>
<th>18. Type of Inspection (activity code)</th>
<th>20. Event Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>E01</td>
<td></td>
</tr>
</tbody>
</table>

**AR Name**

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

Mine Citation/Order  
United States Department of Labor  
Mine Safety and Health Administration  

Section I-Violation Date  

1. Date: [ ] Mo. Da. Yr.  
2. Time (24 Hr. Clock): [ ]  
3. Citation/Order Number: [ ]  

4. Served To:  

5. Mine ID: [ ]  
6. Mine: [ ]  
7. Mine ID: [ ]  
8. Written Notice (102g): [ ]  

9. Condition or Practice:  

- The roof, face and ribs of areas where persons work or travel is not being supported or otherwise controlled to protect persons from hazards related to drawrock at the following locations in the [ ] Mains Belt/Track (S.E) Entry: 1.) At cross-cut 108, adjacent to No. 21 belt, in the No. 3 entry, loose drawrock is present, measuring 2' feet wide by 3' feet long, 1" inch thick. 2.) At cross-cut 109, in the No. 3 entry, loose drawrock is present measuring 2' feet by 2' feet, 1" inch thick. 3.) An un-supported kettlebottom is present at cross-cut 16, adjacent to 8-E belt/track, measuring 17" inches in diameter. Miners are required to travel through these areas daily. A person hit by falling material would be reasonably likely to receive bruises, broken bones. The drawrock was pulled by the operator using a slate bar at time of issuance.

See Continuation Form (MSHA Form 7000-3v)  

Section II-Inspector's Evaluation  

10. Gravity:  

- A. Injury or Illness (Inj. (s)):  
  - No Likelihood [ ]  
  - Unlikely [ ]  
  - Reasonably Likely [ ]  
  - Highly Likely [ ]  
  - Occurred [ ]  

- B. Injury or Illness could reasonably be expected to be:  
  - No Lost Workdays [ ]  
  - 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:  

- A. Citation [ ]  
- B. Order [ ]  
- C. Safeguard [ ]  
- D. Written Notice [ ]  

13. Type of Issuance (check one):  

- A. Citation [ ]  
- B. Order [ ]  
- C. Safeguard [ ]  
- D. Written Notice [ ]  

14. Initial Action:  

- A. Citation [ ]  
- B. Order [ ]  
- C. Safeguard [ ]  
- D. Written Notice [ ]  
- E. Citation/Order Number: [ ]  
- F. Filed: [ ] Mo. Da. Yr.  

15. Area or Equipment:  

16. Termination Due:  

- A. Date: [ ] Mo. Da. Yr.  
- B. Time (24 Hr. Clock): [ ]  

Section III-Terminal Action  

17. Action to Terminate:  

18. Terminated:  

- A. Date: [ ] Mo. Da. Yr.  
- B. Time (24 Hr. Clock): [ ]  

Section IV-System Data  

19. Type of Inspection:  

- A. Type of Inspection: [ ]  
- B. Activity Code: [ ]  
- C. Event Number: [ ]  
- D. Primary or Mill: [ ]  
- E. Citation/Order Number: [ ]  

20. AR Name: [ ]  

21. AR Number: [ ]  

MSHA Form 7000-3, Apr 08 (revised)  
In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1995, the Small Business Administration has established a National Small Business and Agriculture Regulatory enforcement Ombudsman and 10 Regional Fairness Boards in 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 want to comment on the enforcement actions of MSHA, you may call 1-888-RECFAR (1-888-733-2273), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 500 3rd Street, SW, MC 2120, Washington, DC 20417. 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 an 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  

Mine Citation/Order  
Continuation  

<table>
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<tr>
<th>Section</th>
<th>Information</th>
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<tbody>
<tr>
<td>1. Subsequent Action</td>
<td>3. Citation/Order Number</td>
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<td>2. Dated</td>
<td>Mo Da Yr</td>
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<td>(Original issue)</td>
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<td>4. Served To</td>
<td>5. Operator</td>
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</tbody>
</table>

Section II—Justification for Action

Continuation of 8. Condition or Practice

Standard 75.202(a) was cited

Section III—Subsequent Action Taken

<table>
<thead>
<tr>
<th>9. Extended To</th>
<th>10. Event Number</th>
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<td>A. Date Mo Da Yr</td>
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<td>B. Time (24 Hr. Clock)</td>
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<td>C. Vacated</td>
<td>D. Terminated</td>
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<td>E. Modified</td>
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Section IV—Inspection Data

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<th>11. AR Name</th>
<th>12. Date Mo Da Yr</th>
<th>13. Time (24 Hr. Clock)</th>
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<tr>
<td>AR Number</td>
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</table>

MSHA Form 7300-3a, Mar 05 (revised)
The return side stopping is not being maintained adjacent to No. 21 belt. At cross-cut 120, a 4" inch by 15" inch hole is present.

Standard 75.333(h) was cited.
United States Department of Labor
Mine Safety and Health Administration
Office of Accountability

District: Coal District 7
Field Office: Hazard KY
Mine ID: [Redacted]
Date: [Redacted]

Mine Citation/Order

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

Section I: Violation Data
1. Date
2. Time (24 Hr. Clock)
3. Citation/Order Number

4. Served To
5. Observed
6. Mine
7. Mine ID
8. Written Notice (Yes)

The return side stopping is not being maintained adjacent to No. 23 belt at the following locations:
1) At cross-cut 1, a 8" inch by 8" inch hole is present.
2) At cross-cut 3, a 51" inch wide by 21" inch high hole is present.

Standard 75.333(h) was cited

See Completion Form (MSHA Form 7000-B) [Redacted]

Section II: Inspector's Evaluation
9. Violation
A. Health Safety
B. Section of Act
C. Part/Section of Title 30 CFR

10. Gravity
A. Injury or illness (fatal)
   - 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

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

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

14. Initial Action
A. Citation
B. Order
C. Safeguard
D. Written Notice

15. Area or Equipment

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

Section III: Termination Action
17. Action to Terminate

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

Section IV: Automated System Data
19. Type of Inspection (activity code)
D01
20. Event Number
21. Primary or Mill

22. AR Name

MSHA Form 2020-8: Apr-09: (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1995, the Small Business Administration has established a National Small Business and Agriculture Regulatory Oversight Ombudsman and 10 Regional Ombudsman offices to receive complaints from small businesses about federal agency enforcement actions. The Ombudsman evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement action of MSHA, you may call 1-888-ASK-MSHA (1-888-275-7642) or write to the Ombudsman at Small Business Administration, Office of the National Ombudsman, 420 3rd Street, SW, MC 2120, Washington, DC 20410. Please note, however, that your right to file a complaint with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and claim a hearing before the Federal Mine Safety and Health Review Commission.
United States Department of Labor  
Mine Safety and Health Administration  
Office of Accountability  

Mine Citation/Order  

Two (2) acetylene and one (1) oxygen tank are observed with the protective caps installed and leaning up against the No. 22 bolt tailpiece, not being secured from accidently being tipped over.

Standard 75.1106-3(a)(2) was cited

<table>
<thead>
<tr>
<th>Section I - Violation Data</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Date Mo Da Yr</td>
<td></td>
</tr>
<tr>
<td>2. Time (24-Hr. Clock)</td>
<td></td>
</tr>
<tr>
<td>3. Citation/Order Number</td>
<td></td>
</tr>
<tr>
<td>4. Served To</td>
<td></td>
</tr>
<tr>
<td>5. Operator</td>
<td></td>
</tr>
<tr>
<td>6. Mine</td>
<td></td>
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<tr>
<td>7. Mine ID</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Section II - Inspector's Evaluation</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>9. Violation A. Health Safety</td>
<td></td>
</tr>
<tr>
<td>B. Section of Act</td>
<td></td>
</tr>
<tr>
<td>C. Part/Section of Title 30 OSH</td>
<td></td>
</tr>
<tr>
<td>10. Gravity</td>
<td></td>
</tr>
<tr>
<td>A. Injury or Illness (has) (is): No Likelihood</td>
<td></td>
</tr>
<tr>
<td>Unlikely</td>
<td></td>
</tr>
<tr>
<td>Reasonably Likely</td>
<td></td>
</tr>
<tr>
<td>Highly Likely</td>
<td></td>
</tr>
<tr>
<td>Occurred</td>
<td></td>
</tr>
<tr>
<td>B. Injury or Illness could reasonably be expected to be: No Lost Workdays</td>
<td></td>
</tr>
<tr>
<td>Lost Workdays Or Restricted Duty</td>
<td></td>
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<tr>
<td>Permanently Disabling</td>
<td></td>
</tr>
<tr>
<td>Fatal</td>
<td></td>
</tr>
<tr>
<td>C. Significant and Substantial: Yes</td>
<td></td>
</tr>
<tr>
<td>No</td>
<td></td>
</tr>
<tr>
<td>D. Number of Persons Affected:</td>
<td></td>
</tr>
<tr>
<td>11. Negligence (check one): A. None</td>
<td></td>
</tr>
<tr>
<td>B. Low</td>
<td></td>
</tr>
<tr>
<td>C. Moderate</td>
<td></td>
</tr>
<tr>
<td>D. High</td>
<td></td>
</tr>
<tr>
<td>E. Reckless Disregard</td>
<td></td>
</tr>
<tr>
<td>12. Type of Action</td>
<td></td>
</tr>
<tr>
<td>104(a)</td>
<td></td>
</tr>
<tr>
<td>13. Type of Issuance (check one): Citation</td>
<td></td>
</tr>
<tr>
<td>Order</td>
<td></td>
</tr>
<tr>
<td>Safeguard</td>
<td></td>
</tr>
<tr>
<td>Written Notice</td>
<td></td>
</tr>
<tr>
<td>14. Initial Action A. Citation</td>
<td></td>
</tr>
<tr>
<td>B. Order</td>
<td></td>
</tr>
<tr>
<td>C. Safeguard</td>
<td></td>
</tr>
<tr>
<td>D. Written Notice</td>
<td></td>
</tr>
<tr>
<td>E. Citation/Order Number</td>
<td></td>
</tr>
<tr>
<td>F. Dated Mo Da Yr</td>
<td></td>
</tr>
<tr>
<td>15. Area of Equipment</td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Section III - Termination Action</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>16. Termination Due A. Date Mo Da Yr</td>
<td></td>
</tr>
<tr>
<td>B. Time (24-Hr. Clock)</td>
<td></td>
</tr>
<tr>
<td>17. Action to Terminate</td>
<td></td>
</tr>
<tr>
<td>All three (3) tanks are now hung from the mine roof and secured from being tipped over.</td>
<td></td>
</tr>
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</table>

<table>
<thead>
<tr>
<th>Section IV - Automated System Data</th>
<th></th>
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</thead>
<tbody>
<tr>
<td>19. Type of Inspection (activity code)</td>
<td></td>
</tr>
<tr>
<td>E01</td>
<td></td>
</tr>
<tr>
<td>20. Event Number</td>
<td></td>
</tr>
<tr>
<td>21. Primary or Minor</td>
<td></td>
</tr>
<tr>
<td>22. AR Name</td>
<td></td>
</tr>
<tr>
<td>23. AR Number</td>
<td></td>
</tr>
</tbody>
</table>

MSHA Form 7009-3 (rev.)  
In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1995, the Small Business Administration has established a National  
Smart Business Regulatory Enforcement Officer Program to receive comments from small business about federal agency enforcement actions. The  
Officer 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 1-866-Rdź-FA’ll (1-866-732-6785), or write the Officer at Small Business Administration, Office of the  
National Ombudsmen, 409 3rd Street SW, MC 2120, Washington, DC 20416. Please note, however, that your right to file a complaint with the Ombudsmen 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.
The operator has installed a curtain in between cross-cut 29-30, in the No. 4 entry, on the Main Intake, for the purpose of creating a regulator, adjacent to Seal Set 23. Materials suitable for the construction of regulators include the following: concrete block, brick, cinder block, tile, or steel.

Standard 75.333(e)(1)(ii) was cited

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### Section I - Violation Date

<table>
<thead>
<tr>
<th>1. Date</th>
<th>Mo Da Yr</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. Time (24 Hr. Clock)</td>
<td></td>
</tr>
<tr>
<td>3. Citation/Order Number</td>
<td></td>
</tr>
</tbody>
</table>

### Section II - Inspector’s Evaluation

<table>
<thead>
<tr>
<th>10. Gravity:</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Injury or Illness (has)</td>
</tr>
<tr>
<td>B. Injury or Illness could reasonably be expected to be:</td>
</tr>
<tr>
<td>No Lost Workdays</td>
</tr>
<tr>
<td>C. Significant and Substantial:</td>
</tr>
<tr>
<td>Yes</td>
</tr>
<tr>
<td>D. Number of Persons Affected:</td>
</tr>
<tr>
<td>0 (0)</td>
</tr>
</tbody>
</table>

### Section III - Initial Action

<table>
<thead>
<tr>
<th>12. Type of Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Noise</td>
</tr>
<tr>
<td>E. Reckless Disregard</td>
</tr>
</tbody>
</table>

### Section IV - Action to Terminate

<table>
<thead>
<tr>
<th>17. Action to Terminate:</th>
</tr>
</thead>
<tbody>
<tr>
<td>The curtain was removed by the operator.</td>
</tr>
</tbody>
</table>

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MSHA Form 7009-3; Apr 05 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1995 (SBRA), the Small Business Administration has established a Regular Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Offices to receive complaints 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-FRA-FAQ (1-888-742-3247) or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 445 1st Street, SW, MC 2170, 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.
Attachment C – Examples of Citations Issued During Previous Inspections

No issues during this review.
Attachment D — Issues identified with corresponding requirements

1. **A complete and thorough E01 inspection was not conducted for the E01 event number [redacted]**

The following three locations in the mine were not inspected:

- An area of return aircourse between [redacted] Mains and [redacted] Mains — area affected was five crosscuts in length
- An intake aircourse between [redacted] Mains and [redacted] Mains — area affected was 10 crosscuts in length
- An area of the [redacted] Mains between [redacted] Mains and the [redacted] Mains — area affected was six crosscuts in length

Requirement: Coal Mine Safety and Health General Inspection Procedures Handbook, PH13-V-1, page 3-42 states, in part, “At least one entry in each intake and return aircourse shall be inspected in its entirety for compliance with applicable standards and approved plans.”

2. **Proper procedures for conducting, documenting, and reviewing MSHA respirable dust surveys, including completion of form 2000-86, was not being followed.**

   The MSHA forms 2000-86 for respirable dust surveys conducted during the E01 were not properly completed. The form 2000-86 for MMU 001-0 did not include the water spray pressures measured during the second half of the shift and the form 2000-86 for MMU 010-0 did not include “Ventilation” information for Section 17A.

Requirement: Coal Mine Health Inspection Procedures Handbook, PH89-V-1, page 1-27, states, in part, “It is important that the inspector’s notes and MSHA Form 2000-86 accurately reflect the dust controls being used and the actual quantities measured.” Page 1-35 states, in part, “Each MSHA Form 2000-86 will be reviewed and signed by the inspector’s supervisor indicating that the data is complete and accurate.”
Attachment E – Discussion Items

Items discussed with the district determined to be non-material weaknesses not requiring corrective action plans:

- 103i spot inspections as they relate to other categories of inspection – See GIPH pages 4-4 through 4-7 for reference
- Coding of hazard complaint inspections – See Hazardous Conditions Complaint Handbook, PH15-I-08, page 6 for reference
- Inspection tracking system and tracking map documentation – See GIPH page 3-2 for reference
- Gravity determination for violations of standards that affect emergency escape/evacuation of miners – See Citation and Order Writing Handbook For Coal Mines and Metal and Nonmetal Mines, PH13-I-1, page 11
November 24, 2015

MEMORANDUM FOR  
TED SMITH  
Supervisor, Office of Accountability

FROM:  
JIM W. LANGLEY  
District Manager  
District 7

SUBJECT:  
Proposed Corrective Actions

This is a response to the review conducted by the Office of Accountability from [redacted], at the Hazard field office, District 7, and the [redacted]. The results of your review identified two (2) deficiencies which are required to be addressed by this district.

DEFICIENCY

1. A complete and thorough E01 inspection was not conducted for the E01 event number [redacted]

   • ROOT CAUSE:
   The district along with the review team analyzed the findings identified during this review to determine the root cause(s) of the noted deficiencies. Item 1 deficiency was collectively a result of: the mine is a large expansive mine and uses mains and parallel mains with several entries cut through at various locations. Some of these cut-through entries did not contain ventilation controls separating the mains and parallel mains. Some confusion existed as to the requirement to inspect these cut-through entries.

   • PROPOSED CORRECTIVE ACTIONS:
   Each district underground Coal Mine Inspector (CMI) will be trained in the correct inspection procedures to assure that cut-through entries are inspected and traveled. The training will be conducted at each field office staff meeting and/or in a staff meeting of district technical division personnel. An attendance roster will be kept showing the CMI name and AR number proving that the training was taken. A record of the training will be kept with the corrective actions for this review.
• OFFICE OR POSITION RESPONSIBLE FOR IMPLEMENTING THE CORRECTIVE ACTION(S):
The Technical and Inspection Division Assistant District Managers of District 7 will be responsible for implementing the corrective actions.

• TIMEFRAME FOR COMPLETION OF EACH CORRECTIVE ACTION:
In December, all underground CMIs will be trained in staff meetings conducted in both district divisions. The planned completion is expected to be no later than December 31, 2015.

• METHOD FOR DETERMINING SUCCESS:
Applicable Field Office supervisors will carefully review the tracking map submitted with the EQ1 to assure that areas of cut-through entries are inspected and traveled. Additionally, the Inspection Division Assistant District Manager will conduct spot checks of E01 tracking maps to assure that this requirement has been met.

• A DESCRIPTION OF THE DOCUMENTATION THAT WILL DEMONSTRATE CLOSURE OF THE CORRECTIVE ACTION:
The District Manager will send a memorandum to Alfred L. Clayborne, Deputy Director, Office of Assessments, Accountability, Special Enforcement and Investigations through Ted Smith, Supervisor, Office of Accountability upon completion and evaluation of the corrective actions.

DEFICIENCY
2. Proper procedures for conducting, documenting, and reviewing MSHA respirable dust surveys, including completion of form 2000-86, was not being followed.

• ROOT CAUSE:
Item 2 deficiency was collectively a result of: The inspector did not fully complete the form due to inattention to the details of the form and requirement. The did not identify the omission of the information on the form. Additional training as a reminder to fully complete the forms will correct this oversight.

• PROPOSED CORRECTIVE ACTIONS:
The parameters and requirements listed on MSHA Form 2000-86, will be covered with each District 7 CMI at staff meetings of the field office and/or of the district technical division. An attendance roster will be kept showing the CMI name and AR number proving that the training was taken. A record of the training will be kept with the corrective actions for this review.
OFFICE OR POSITION RESPONSIBLE FOR IMPLEMENTING THE CORRECTIVE ACTION(S):
The Technical and Inspection Division Assistant District Managers of District 7 will be responsible for implementing the corrective actions.

- **TIMEFRAME FOR COMPLETION OF EACH CORRECTIVE ACTION:**
  In December, all CMIs will be trained in staff meetings conducted in both District divisions. The planned completion is expected to be no later than December 31, 2015.

- **METHOD FOR DETERMINING SUCCESS:**
  Applicable Field Office supervisors will diligently review each MSHA Form 2000-86 which requires their signature to assure that all form requirements have been completed. Additionally, the Inspection Division Assistant District Manager will review at least 10% of the completed MSHA Form 2000-86 for compliance.

- **A DESCRIPTION OF THE DOCUMENTATION THAT WILL DEMONSTRATE CLOSURE OF THE CORRECTIVE ACTION:**
  The District Manager will send a memorandum to Alfred L. Clayborne, Deputy Director, Office of Assessments, Accountability, Special Enforcement and Investigations through Ted Smith, Supervisor, Office of Accountability upon completion and evaluation of the corrective actions.