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

THROUGH:  
NEAL H. MERRIFIELD  
Administrator for  
Metal and Nonmetal Mine Safety and Health  

THOMAS W. CHARBONEAL  
Acting Director, Office of Assessments, Accountability, Special Enforcement and Investigations  

FROM:  
ALFRED L. CLAYBORNE  
Deputy Director, Office of Accountability, Special Enforcement and Investigations  

SUBJECT:  
MSHA Office of Accountability Review, Metal and Nonmetal Northeastern District, Staunton, Virginia Field Office, and  

Introduction  
This memorandum summarizes the Office of Accountability's review of the subject district office, field office, and mine. The review 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 accountability review also 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 accountability review report.
Overview

The review of the Northeastern District and Staunton, Virginia Field Office was conducted by Accountability Specialists Jerry Kissell and Mark Odum from [redacted]. The review focused on inspection activities during FY 2014 (October 2013 through September 2014) and the first half of FY 2015 (October 2014 through March 2015), and specifically involved the review of two regular health and safety inspections (E01 event numbers [redacted]) conducted by the Staunton Field Office of the [redacted]. The Staunton Field Office was selected in part because the field office S&S rate is 35 percent compared to the National average of 26 percent, it has an elevated enforcement level of 25.5 percent compared to a National average of 11.6 percent, and the Violations per Inspection Hour (VPIH) was 0.11 compared to the National average of 0.23 for Metal and Nonmetal (MNMM) during FY 2014 and first half of FY 2015. The [redacted] was selected based on the mine’s S&S rate of 36 percent compared to the National average of 26 percent, a VPIH rate of 0.36 and an elevated enforcement rate of 60 percent during FY 2014. The review team conducted a mine visit focusing on general mine conditions; whether conditions at the mine are commensurate with enforcement levels documented in the inspection reports reviewed; and to observe company work practices at the mine site.

The Office of Accountability specialists accompanied the Field Office Supervisor and an inspector to the mine site on a regular health and safety inspection (E01) as a part of this review.

Mine Visit [redacted]

This surface [redacted] is located in [redacted] and employs approximately [redacted] persons producing approximately [redacted] annually. [redacted] is mined by removing the topsoil layer from the area to be mined with an excavator and then pushing material down a slope with a dozer to another excavator where material is loaded into a feeder conveyor and transported to a milling facility by conveyor belts. The [redacted] is then processed and made ready for commerce.

The Review Team accompanied the Inspector and the Field Office Supervisor to the mine site on [redacted] for a regular safety and health inspection (E01). The Review Team observed the areas of the mine inspected which included the open pit, conveyor haulage system, [redacted] raw storage shed, hammer mill, pulverizer, additive room, and packaging. Mobile equipment inspected included two John Deere 470 excavators, 3 John Deere 410E 40 ton haul trucks, 2 John Deere 850 K dozers, a Caterpillar 908 Rubber tire fork-lift, a Komatsu D 65P dozer, a Ford F-350 service truck, 3 overland conveyor belts, two belt feeder conveyors and one stacker conveyor. Other items inspected included firefighting equipment, electrical disconnect switchgear, pre-operational equipment inspection records for mobile equipment, haul roads, berming, and warning signage throughout the areas traveled, and housekeeping practices. Ten
employees of Cross-Land Harbour contracting were inspected for associated equipment work practices and pre-operational records.

The Review Team observed communications between the mine operator and MSHA personnel during the pre-inspection conference and observed discussions with miners and company officials regarding work practices and enforcement actions.

Review Results

The accountability review 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 review and during the inspection.
2. Inspection procedures observed during the review appeared in compliance with MSHA policy and procedures.
3. Enforcement personnel used appropriate enforcement tools during the mine site visit.
4. The inspector conducted excellent safety talks with miners during the inspection.
5. The [REDACTED] exceeded the minimum required Office Reviews (ORs) for FY 2014.
6. Second level reviews completed exceeded the minimum required and feedback was documented.
7. Staff and safety meetings were documented and showed updates and reviews of MSHA initiatives and policy memoranda.

The review did not reveal any systemic issues requiring corrective actions.
Attachments

A. Office of Accountability Checklist

B. Citations/Orders issued during this review

1. 56.14132(b)(1)(i)
2. 56.9300(a)
3. 56.14107(a)
4. 56.14107(a)

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

D. District Corrective Action Plan
(No issues were identified during this review)
## Attachment A – Office of Accountability Checklist

1. Determine if complete and thorough E01 inspections are being conducted and/or if policy and procedures were properly followed.
   - Adequate [X]  Corrective Action Needed [ ]  Comments Below [ ]

2. Determine if documentation for inspections is complete and thorough.
   - Adequate [X]  Corrective Action Needed [ ]  Comments Below [ ]

3. 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 [X]  Corrective Action Needed [ ]  Comments Below [ ]

4. Evaluate inspector(s) examination of required records and postings for compliance with applicable standards.
   - Adequate [X]  Corrective Action Needed [ ]  Comments Below [ ]

5. Evaluate the inspector(s) physical examination of the active working areas of the mine and inspection of all mining cycles.
   - Adequate [X]  Corrective Action Needed [ ]  Comments Below [X]
   - No drilling or blasting is done at this mining operation.

6. Evaluate the inspector(s) on-site contaminant assessment and documentation.
   - Adequate [X]  Corrective Action Needed [ ]  Comments Below [X]
   - No health samples were taken during this inspection.
Evaluate inspector(s) examination of electrical equipment, transformer stations, and/or electrical circuits.

Adequate □ Corrective Action Needed □ Comments Below □

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

Adequate □ Corrective Action Needed □ Comments Below □

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

Adequate □ Corrective Action Needed □ Comments Below X

NA - Not reviewed as a part of this review.

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 X

No 103(i) mines are in the field office jurisdiction

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

Adequate X Corrective Action Needed □ Comments Below □

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 □
| 13. | 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 X  | Corrective Action Needed □  | Comments Below X |
|     | An additional OR was completed on each inspector in the field office for the period reviewed, exceeding the minimum required. |

| 14. | 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 X  | Corrective Action Needed □  | Comments Below □ |

| 15. | 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 □ |

| 16. | Determine if the Mine Files are legible, up to date, and reviewed by supervisors. |
|     | Adequate X  | Corrective Action Needed □  | Comments Below □ |

| 17. | Determine if supervisors are visiting active mines. |
|     | Adequate X  | Corrective Action Needed □  | Comments Below □ |

| 18. | Review documentation of staff meetings/safety meetings to determine their effectiveness and relevance to current issues and the Agency’s mission. |
|     | Adequate X  | Corrective Action Needed □  | Comments Below □ |
19. 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.

20. Determine if district management personnel are reviewing work products and reports for accuracy and completeness.
   - Adequate [X]
   - Corrective Action Needed [ ]
   - Comments Below [ ]

21. 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 [ ]

22. 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 [X]
   - Corrective Action Needed [ ]
   - Comments Below [X]

The Last In District Peer review was the Hebron, Ohio FO in 2013.

23. Is information (mine status, methane liberation, number of employees, etc) being entered into the MHSA Standardized Information System (MSIS) accurately and in a timely manner?
   - Adequate [X]
   - Corrective Action Needed [ ]
   - Comments Below [ ]

24. Determine if inspectors have sufficient equipment and supplies to conduct thorough inspections.
   - Adequate [X]
   - Corrective Action Needed [ ]
   - Comments Below [ ]
25. Evaluate the overall condition of the mine relative to the level of enforcement documented in previously completed inspections.
   Adequate ☑ Corrective Action Needed ☐ Comments Below ☐

26. Determine if inspectors have an understanding of when a violation of Section 103(a) for Advance Notice occurs and whether appropriate citations are issued for Advance Notice.
   Adequate ☑ Corrective Action Needed ☐ Comments Below ☐

27. Determine if the management resource tracking tool is being used to track resources regarding Special Investigations.
   Adequate ☑ Corrective Action Needed ☐ Comments Below ☐

28. Determine if retraining of supervisors, inspectors, and specialists is being tracked.
   Adequate ☑ Corrective Action Needed ☐ Comments Below ☐
Attachment B - Citations issued during the Review

<table>
<thead>
<tr>
<th>Mine Citation/Order</th>
<th>U.S. Department of Labor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section I - Violation Date</td>
<td>Mine Safety and Health Administration</td>
</tr>
<tr>
<td>1. Date Mo Da Yr</td>
<td>2. Time (24 Hr. Clock)</td>
</tr>
<tr>
<td>4. Served To</td>
<td>5. Operator</td>
</tr>
<tr>
<td>6. Mine</td>
<td>7. Mine ID (Contractor)</td>
</tr>
<tr>
<td>8. Condition or Practice</td>
<td>8a. Written Notice (103g)</td>
</tr>
</tbody>
</table>

There was no automatic reverse-activated signal alarm provided on the Ford F-350 truck. The operators view was obstructed by the extended boxes located on both sides of the truck. The truck is used to transport the excavator operator to and from the pit area. No foot traffic is exposed to the truck and it is not operated with other mobile equipment. Failure to provide the required alarm could lead to a permanently disabling accident. (photo)

Standard 56.14132a was cited.

<table>
<thead>
<tr>
<th>Section II - Inspector's Evaluation</th>
</tr>
</thead>
<tbody>
<tr>
<td>9. Violation A. Health Safety</td>
</tr>
<tr>
<td>C. Part/Section of Title 30 CFR</td>
</tr>
<tr>
<td>10. Gravity: A. Injury or Illness (has)</td>
</tr>
<tr>
<td>C. Significant and Substantial: Yes</td>
</tr>
<tr>
<td>D. Number of Persons Affected: 001</td>
</tr>
<tr>
<td>11. Negligence (check one) A. None</td>
</tr>
<tr>
<td>12. Type of Action 104a</td>
</tr>
<tr>
<td>13. Type of Issuance (check one) Citation</td>
</tr>
<tr>
<td>E. Citation/Order Number</td>
</tr>
<tr>
<td>F. Dated Mo Da Yr</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Section III - Termination Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>16. Termination Due A. Date Mo Da Yr</td>
</tr>
<tr>
<td>17. Action to Terminate</td>
</tr>
</tbody>
</table>

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

MSHA Form 7000-3, Apr 98 (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 Regulatory Ombudsmen 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 20410. 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.
The truck was tagged out of service to allow time to obtain parts and make repairs.
United States Department of Labor  
Mine Safety and Health Administration  
Office of Accountability

District: Northeastern  
Field Office: Staunton  
Mine ID: [Redacted]  
Date: [Redacted]

Mine Citation/Order

<table>
<thead>
<tr>
<th>Section I—Violation Data</th>
<th>U.S. Department of Labor</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>[Redacted]</td>
</tr>
</tbody>
</table>

4. Served To: [Redacted]

5. Operator: [Redacted]

6. Mine: [Redacted]

7. Mine ID: [Redacted]  
(Contractor)

8. Condition or Practice: [Redacted]

The berm was missing on the north and south side of the western road in the northwest corner. Approx. 45' of berm was missing on the south side and approx. 90' was missing on the north side. 125 or more loads are hauled across the roadway daily. Tracks were present approx. 2' from the edge on the south side. The missing berm exposed the miners to a drop of 10'-0' on the north side and 15'-0' on the south side. Failure to maintain the berms could lead to a permanently disabling accident. (photo)

Standard 56.9300a was cited

See Continuation Form (MSHA Form 7000-3a)

<table>
<thead>
<tr>
<th>Section II—Inspector's Evaluation</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>9. Violation</td>
<td>A. Health</td>
</tr>
<tr>
<td>C. Part/Section of Act</td>
<td>56.9300a</td>
</tr>
<tr>
<td>C. Part/Section of Title 30 CFR</td>
<td>56.9300a</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Type of Action</th>
<th>A. Citation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>B. Order</td>
</tr>
<tr>
<td></td>
<td>C. Safeguard</td>
</tr>
<tr>
<td></td>
<td>D. Written Notice</td>
</tr>
</tbody>
</table>

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

11. Negligence (check one)

   - A. None
   - B. Low
   - C. Moderate ✓
   - D. High
   - E. Reckless Disregard

12. Initial Action

   - 104a

13. Type of Issuance (check one)

   - Citation ✓
   - Order
   - Safeguard
   - Written Notice

14. E. Citation/Order Number

15. Area or Equipment

16. Terminated

17. Action to Terminate: Berm were installed. (observed)

18. Terminated

19. Type of Inspection (activity code)

20. Event Number

21. Primary or Mill

22. AR Name

23. AR Number

MSHA Form 7000-2, 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 Ombudsman Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates such 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, 460 3rd Street, SW, MC 2125, Washington, DC 20410. 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.
There was no guard covering the bottom of the self cleaning tail roller of #1 belt located in the pit. The bottom of the roller is 3' above ground level. The missing guard exposed miners to the moving part from both sides as well as the back of the roller. Greasing and cleaning is done with the belt not running before start up. Failure to guard the tail roller could lead to a fatal accident. (photo)

Standard 56.14107a was cited
Access to area was blocked to allow time to obtain materials and make repairs.
there was no guard protecting the head roller or the speed reducer couplers of the surge pile hopper feed belt. The top of the head roller was 81" above ground level and the couplers were 68" above ground level. The head roller has extended grease fitting and no walkway near the area. Failure to guard the moving parts could lead to a permanently disabling accident. (photo)
Belt was deenergized to allow time to obtain materials and make repairs.
Attachment C - Examples of Citations Issued During Previous E01 Inspections

(No issues were identified during this review)
Attachment D - District Corrective Action Plan

(No issues were identified during this review)