



AUG 28 2018

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

THROUGH: TIMOTHY R. WATKINS [REDACTED]
Deputy Administrator for
Coal Mine Safety and Health

FROM: THOMAS W. CHARBONEAU [REDACTED]
Director, Office of Assessments

SUBJECT: Mine Safety and Health Administration (MSHA)
Office of Accountability Review
Coal District 2, Johnstown, Pennsylvania Field Office
[REDACTED]

Introduction

This memorandum summarizes the Office of Accountability's review of Coal District 2, Johnstown, Pennsylvania Field Office. This review focused on enforcement activities at the [REDACTED]. This review included MSHA field activities, level of enforcement, conditions and practices at the mine, and MSHA supervisory and managerial oversight.

Purpose

The purpose of this accountability review is to determine whether MSHA enforcement policies, procedures and guidance are being followed consistently and to assess whether mission critical enforcement activities are accomplished effectively. The accountability review also identifies areas for improvement and evaluates the subsequent implementation of effective corrective actions to address any identified issues.

Overview

Office of Accountability (OA) Specialists Jerry Kissell and Mark Odum (Review Team) conducted the review in accordance with the annual accountability review plan schedule. The review concentrated on one Regular Safety and Health Inspection (E01) of the [REDACTED] (ID No. [REDACTED]), Event No. [REDACTED]. The OA selected this underground coal mine for review because it is a large operation and has worked-out areas from previous mining. The Review Team conducted the on-site portion of the review from [REDACTED]. The review focused on enforcement activities during Fiscal Year 2016 and included a review of supervisory oversight activities.

Mine Visit

The Review Team accompanied the Field Office Supervisor and an inspector to the mine on [REDACTED] as part of a Regular Safety and Health Inspection (E01).

The mine is an underground coal mine located in [REDACTED] near [REDACTED] and employs approximately [REDACTED] miners working two production shifts and one maintenance shift per day, five days per week. The mine has two active room and pillar sections with a continuous haulage Mechanized Mining Unit (MMU) on each section producing an average of [REDACTED] of raw coal daily. Coal is transported from the faces by continuous haulage bridge conveyors and then by conveyor belts to the surface. The coal is processed at the on-site preparation plant and prepared for distribution. During the visit, the Review Team evaluated general conditions, assessed whether conditions at the mine correspond with enforcement levels documented in the inspection reports reviewed, and observed work practices at the mine.

The mine visit included inspections and observations of the following:

- examinations of the M-1 Unit 1 active working section (MMU 001-0) including faces (Entry Nos. 1-5) for imminent dangers, methane tests, and air readings
- section ventilation
- rock dusting and cleanup practices
- roof and rib conditions
- communication and tracking system
- permissibility examination on No. 2 scoop
- section belt tailpiece
- power center area
- the primary escapeway to the section
- escapeway signage
- lifelines
- the section refuge alternative and self-contained self-rescuers cache
- dates, times, and initials of required examinations
- the section low-low belt including the belt transfer and drive area and associated fire protection
- 50/50 water pressure test

- Carbon Monoxide alarm function test
- the check-in/check-out system
- the escapeway map

As a result of the inspection on [REDACTED] the inspector issued two enforcement actions. (Attachment E)

Review Results

This review revealed positive findings for the inspection event reviewed:

- Inspection notes were detailed, clear, and concise.
- Inspectors documented health and safety discussions with miners.
- Inspectors conducted safety discussions with miners.
- During the mine inspection, the inspector was professional and clear in his interaction with the mine operator and miners.

This accountability review identified one issue that required a corrective action plan. The District along with the Review Team analyzed the findings identified during this review to determine the root cause of the issue. The corrective action plan memorandum outlining the root cause and corrective actions implemented is included in an attachment to this memorandum. (Attachment A)

Issue: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The Review Team discussed with District staff inspection and procedural best practices as described in the Coal Mine Safety and Health General Inspection Procedures Handbook. A general outline of discussion topics is attached. (Attachment C)

Based on the review of the E01, Event No. [REDACTED], and on observations made during the mine visit on [REDACTED] the Review Team determined that enforcement personnel used proper enforcement levels at [REDACTED] for the observed mining conditions.

Attachments

- A. Corrective Action Plan
- B. Issues Requiring a Corrective Action Plan
- C. Discussion Topics
- D. Office of Accountability Checklist
- E. Citations Issued During the Mine Visit

Citation No. [REDACTED] 75.380(d)(7)(iii)
Citation No. [REDACTED] 75.337(c)(5)

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

District	Coal District 2	Field Office	Johnstown, PA Field Office	Mine ID	[REDACTED]	Date	[REDACTED]
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Attachment A – Corrective Action Plan

U.S. Department of Labor

Mine Safety and Health Administration
1400 Pennsylvania Avenue, NE
Washington, DC 20045
202-201-2000
www.msha.gov

3/27/2018
10:10 AM
[REDACTED]

March 27, 2018

MEMORANDUM FOR THOMAS W. CHARBONEAU
Director, Office of Assessments

THROUGH: TED SMITH
Supervisor, Office of Accountability

TIMOTHY R. WATKINS [REDACTED]
Deputy Administrator for Coal
Coal Mine Safety and Health Administration

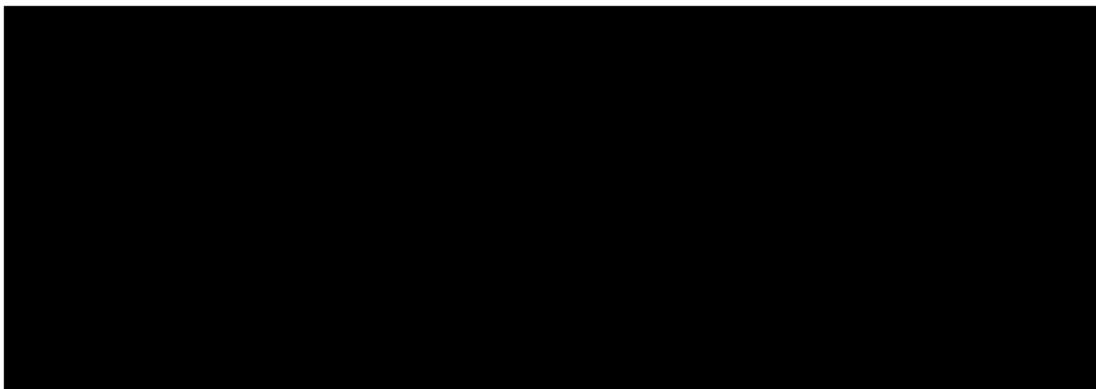
MARCUS SMITH [REDACTED]
Chief, Accident Investigations, Special Investigations,
and ACR

FROM: RUSSELL J. RILEY [REDACTED]
District Manager - Coal Mine
Safety and Health District 2

SUBJECT: Proposed Corrective Actions

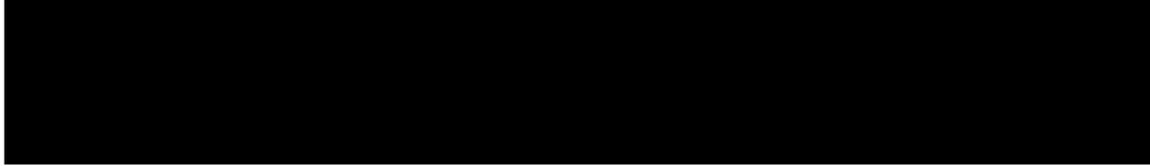
This is a response to the audit conducted by your office from [REDACTED] at the Johnstown, PA Field Office and the [REDACTED] MSHA ID No. [REDACTED]. The results of your audit identified one issue which is required to be addressed by this office.

Issue 1:



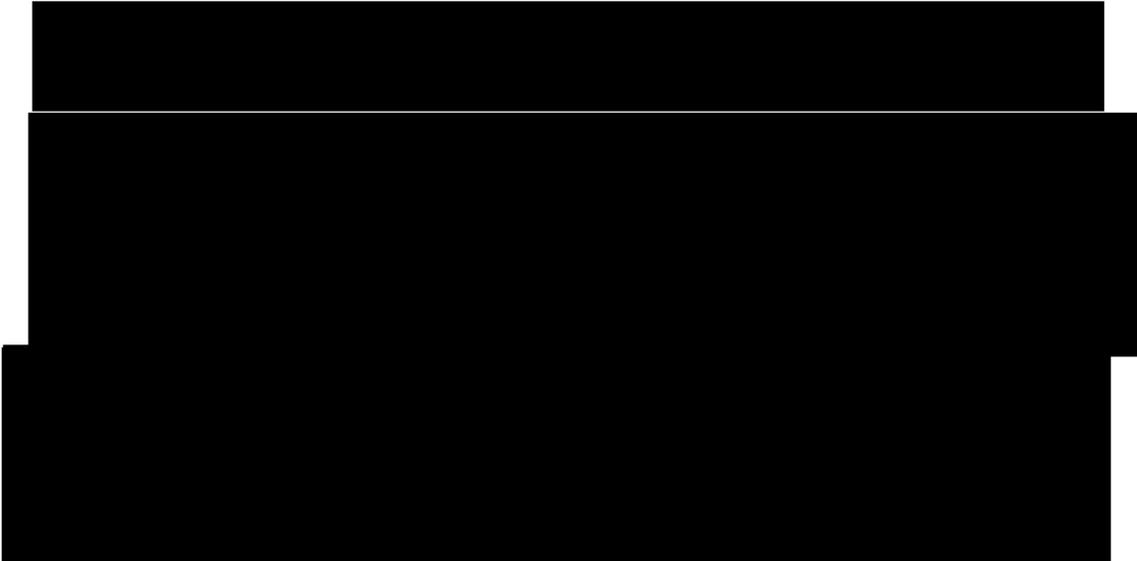
United States Department of Labor
Mine Safety and Health Administration
Office of Accountability

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Requirements: Special Investigations Procedures Handbook, PH05-1-4, page 4-2, states that for "each citation and/or order required by MSHA Policy to be reviewed, a Possible Knowing/Willful Violation Review Form, MSHA Form 7000-20, shall be completed." Page 4-3 states that "within **30 calendar days** of the date of issuance of the citation/order, a determination must be made by the DM (with the assistance of the SSD) whether to initiate an investigation or take no further action."

ROOT CAUSE:



OFFICE OR POSITION RESPONSIBLE FOR IMPLEMENTING THE CORRECTIVE ACTIONS:

Assistant District Manager for Enforcement

TIMEFRAME FOR COMPLETION OF CORRECTIVE ACTIONS:

The instruction for all supervisors involved in the PKW review process was completed by June 9, 2017. A signature sheet with the date, curriculum, and name and title of the instructor will serve as a record of the instruction. Monitoring of the database will begin immediately.

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METHOD FOR DETERMINING SUCCESS

At the conclusion of FY17, the District Manager shall require an evaluation of the PKW review process to determine if all PKW reviews are completed within **30 calendar days** of the date of issuance of the citation/order.

A DESCRIPTION OF THE DOCUMENTATION THAT WILL DEMONSTRATE CLOSURE OF THE CORRECTIVE ACTION:

The District Manager will send a memorandum to Tom Charboneau, Director, Office of Assessments, through Ted Smith, Supervisor, Office of Accountability, upon completion and evaluation of the corrective action.

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Attachment B – Issues Requiring a Corrective Action Plan

Issue:

[Redacted]

Findings showed:

[Redacted]

Requirements: Special Investigations Procedures Handbook, PH05-I-4, page 4-2, states that for “each citation and/or order required by MSHA Policy to be reviewed, a Possible Knowing/Willful Violation Review Form, MSHA Form 7000-20, shall be completed.” Page 4-3 states that “within **30 calendar days** of the date of issuance of the citation/order a determination must be made by the DM (with the assistance of the SSI) whether to initiate an investigation or take no further action.”

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Attachment C – Discussion Topics

- Discussed completeness of the information in the Electronic Uniform Mine File:
 - One rock dust sample was included with air samples
 - Safeguards or a note informing the reviewer where the safeguards are stored should be included
 - Gas well summary was for incorrect mine name and was blank – there was one gas well permit that should be included on the summary form

- Discussed inspection notes – need for additional information for some imminent danger inspections.

- Discussed need to timely complete the Field Activity Review (FAR)/Accompanied Activity (AA) forms. Some of the FAR/AA forms were lost due to computer issues.

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Attachment D - 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 Corrective Action Needed Comments Below

2. Determine if documentation for inspections is complete and thorough.

Adequate 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 Corrective Action Needed Comments Below

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

Adequate Corrective Action Needed Comments Below

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

Adequate Corrective Action Needed Comments Below

6. Evaluate, upon arrival on the working section, inspector/specialist examination of all working places for imminent dangers.

Adequate Corrective Action Needed Comments Below

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

Adequate Corrective Action Needed Comments Below

8. Evaluate the inspector/specialist air quantity, quality, and gas checks during the review.

Adequate Corrective Action Needed Comments Below

9. Evaluate inspector/specialist examination of equipment electrical cables during the review.

Adequate Corrective Action Needed Comments Below

10. Evaluate inspector/specialist examination for permissibility during the review.

Adequate Corrective Action Needed Comments Below

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

Adequate Corrective Action Needed Comments Below

12. Evaluate, during the review, the inspection of at least one set of seals, including methods for obtaining samples from sealed area.

Adequate Corrective Action Needed Comments Below

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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?

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

Adequate 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 Corrective Action Needed Comments Below

Field Office using Electronic Uniform Mine File.

21. Determine if supervisors are thoroughly reviewing Uniform Mine Files at least annually?

Adequate Corrective Action Needed Comments Below

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

Adequate 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 Corrective Action Needed Comments Below

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Not a part of this review. No retreat mining being done at mine's inspected from the Johnstown, PA Field Office.

24. Determine if documentation of staff meetings/safety meetings are effective and relevant to current issues and the Agency's mission.

Adequate Corrective Action Needed Comments Below

25. 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

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

Adequate Corrective Action Needed Comments Below

27. 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

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

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

Adequate Corrective Action Needed Comments Below

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

Adequate Corrective Action Needed Comments Below

31. 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

Not part of this review.

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

Adequate Corrective Action Needed Comments Below

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

Adequate Corrective Action Needed Comments Below

United States Department of Labor
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34. 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

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

36. 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

Not a part of this review; No longwalls inspected by the District 2 Johnstown, PA Field Office.

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

Adequate Corrective Action Needed Comments Below

38. 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

Not part of this review

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Determine if proper procedures for conducting, documenting, and reviewing MSHA respirable dust surveys are being followed. Proper documentation to include blue cards, 2000-86s, etc.

39. Adequate Corrective Action Needed Comments Below

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.

40.

The Roof Control Plan SOP should comply with the established Program Policy Manual requirements as identified by the OIG report to address deficiencies identified in the Internal Review report. The SOPs should account for:

41.

- checking that required information is submitted
- checking for communication with other plan approval groups
- assuring that designated MSHA personnel contact the operator for additional information
- discussing results of on-site evaluations with the operator and identified miners' representatives.

Adequate Corrective Action Needed Comments Below

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Attachment E – Citations Issued During the Mine Visit

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 ████████
4. Served To ████████	5. Operator ████████	
6. Mine ████████	7. Mine ID ████████ (Contractor)	
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

The reflective material placed every 25 feet on the lifeline in the primary intake escapeways of Main A, North Mains, and M-1 Sub Mains was obscured with a layer of rock dust which would impede the escaping miners traveling in the primary intake escapeway.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health <input type="checkbox"/> Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.380(d)(7)(iii)
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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: 018

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

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

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr ████████	B. Time (24 Hr. Clock) ████████
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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 ████████	21. Primary or MII
22. AR Name ████████		23. AR Number ████████

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, 406 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

United States Department of Labor
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District	Coal District 2	Field Office	Johnstown, PA Field Office	Mine ID	██████████	Date	██████████
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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 ██████████
4. Served To ██████████	5. Operator ██████████	
6. Mine ██████████	7. Mine ID ██████████	(Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

A review of construction records for the C Mains seals during the days of ██████████ and again from ██████████ shows that the records were not countersigned by the mine foreman or an equivalent mine official.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.337(c)(5)
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Section II--Inspector's Evaluation

10. Gravity:				
A. Injury or illness (has) (is): No Likelihood <input checked="" type="checkbox"/> Unlikely <input 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 checked="" type="checkbox"/> Lost Workdays Or Restricted Duty <input 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: 000
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>				
12. Type of Action 104(a)		13. Type of issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>		
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>			E. Citation/ Order Number	F. Dated Mo Da Yr
15. Area or Equipment				

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

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

Section IV--Automated System Data

19. Type of inspection (activity code) E01	20. Event Number ██████████	21. Primary or MII
22. AR Name ██████████		23. AR Number ██████████

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.