Introduction

This memorandum summarizes the Office of Accountability’s review of the Southeastern District, Franklin, Tennessee Field Office. The review focused on enforcement activities at the Franklin, Tennessee Field Office. This review included MSHA field activities, level of enforcement, conditions and practices at the mine, Field Accompanied Reviews, Office Reviews 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 whether mission critical enforcement activities are accomplished effectively. The accountability review also identifies areas for improvement and the subsequent implementation of effective corrective actions to address any identified issues.
Overview

Office of Accountability (OA) Supervisor Ted Smith and Specialist Troy Davis (Review Team) conducted the review in accordance with the annual accountability review plan schedule. The review concentrated on a Regular Safety and Health Inspection (E01) of the Event No. The mine was selected because it is a large surface operation. Mr. Smith and Mr. Davis conducted the on-site review from The review focused on enforcement activities during FY 2017 and the first half of FY 2018, and included review of supervisory oversight activities.

Mine Visit

The Review Team accompanied the Assistant District Manager, Field Office Supervisor and an inspector to the mine on as part of a Regular Safety and Health Inspection (E01).

The mine is a surface operation located in and employs approximately miners working one ten-hour shift per day, five days production and one day maintenance. The mine is mined by drilling and blasting and then loaded onto haul trucks and transported to the primary crusher on the property. The crushed material is deposited onto belt conveyors for transport to the plant for processing and delivery to the customer. During the visit, the Review Team evaluated general conditions at the mine, assessed whether conditions at the mine are commensurate with enforcement levels documented in the inspection reports reviewed, and observed work practices at the mine site.

The mine visit included inspections and observations of the following:

Surface
- pre-inspection discussions with the mine operator
- mine office
- examination records
- work practices
- open pit
- mining cycles (loading, haulage and dump)
- drill bench (no activity during the mine visit)
- primary crusher area and conveyor belts
- silo and screening tower
- haulroads and berms
- two 50 ton rear dump haul trucks
- one front-end loader

The inspector issued three enforcement actions. (Attachment E)
Review Results

This accountability review revealed positive findings in the following areas:

1. For E01 Event, the inspector documented sound level readings taken for various potentially high noise mining procedures and processes.
2. The Franklin, Tennessee Field Office is actively engaging and assisting its stakeholders in the consideration of forming a Tennessee Holmes Safety Council Chapter. In November 2017, 28 mine operators participated in a meeting to discuss the benefits of a potential chapter.

This accountability review identified one issue that required a corrective action plan. District staff 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 of the issue and corrective actions implemented is included in an attachment to this memorandum. (Attachment A)

Issue 1: Documentation for the Regular Health and Safety Inspection (E01) event was not complete and thorough. (Office of Accountability Checklist Item #2)

- Work practices observed during the inspection were not documented in the field notes.

The Review Team also discussed with the District some inspection and procedural best practices as described in the Metal and Nonmetal General Inspection Procedures Handbook. A general outline of discussion topics is included in an attachment to this memorandum. (Attachment C)

As a part of the review, the OA compared enforcement levels of the mine with the Field Office, District, and national averages. The mine had a Significant and Substantial (S&S) rate of 40 percent in FY 2017 compared to the Field Office S&S rate of 23 percent; a District S&S rate of 24 percent; and the national S&S rate of 23 percent. While the S&S rate for the mine was higher than the average S&S rates of the Field Office, District and nation, the enforcement levels were appropriate with existing mining conditions and work practices based on the review and observations made during the mine visit.
Attachments

A. Corrective Action Plan

B. Issues requiring Corrective Action

C. Discussion Topics

D. Office of Accountability Checklist

E. Citations Issued during Mine Visit
   - No. 56.14107(a)
   - No. 56.16005
   - No. 56.14100(b)
May 31, 2018

MEMORANDUM FOR TED SMITH
Supervisor, Office of Accountability

THROUGH: EMILY K. HARGROVE
Acting Deputy Administrator for Metal and Nonmetal Mine Safety and Health

FROM: SAMUEL PIERCE
District Manager
Southeastern District

SUBJECT: Proposed Corrective Actions

This is a response to the review conducted by the Office of Accountability from [redacted] at the Franklin, Tennessee Field Office, Southeast District (SE), and the [redacted]. The results of your review identified one deficiency, which is required to be addressed by this district.

Issue 1: Documentation for the Regular Health and Safety Inspection (E01) event [redacted] was not complete and thorough. (Office of Accountability Checklist Item #2)

Work practices observed during the inspection were not documented in the field notes.

- **ROOT CAUSE:**

The SE District had recently been reassigned an inspector from another District and found documentation procedures for work practices had not been confirmed.

- **PROPOSED CORRECTIVE ACTIONS:**

The Franklin Field Office Supervisor (FOS) met with the inspector individually immediately after the inspection to correct the issues and then with his staff to reassure that procedures for documenting work practices was understood.
Additionally, the SE District Office will meet by teleconference with all supervisors on June 4, 2018 to address the concern of documenting work practices. All supervisors will discuss this during their June staff meeting with all inspectors.

- OFFICE OR POSITION RESPONSIBLE FOR IMPLEMENTING THE CORRECTIVE ACTION(S):
  SE Assistant District Manager (ADM)

- TIMEFRAME FOR COMPLETION OF EACH CORRECTIVE ACTION:
  June 22, 2018

- METHOD FOR DETERMINING SUCCESS:
  In addition to meeting with supervisors on June 4, 2018, the SE FOSs will conduct office meetings with all Authorized Representatives during the June staff meetings. The documentation of work practices will be further reviewed through inspector audits and review of inspector reports through June 22, 2018. All Supervisors will report their findings to the SE ADM, Brian Thompson.

- A DESCRIPTION OF THE DOCUMENTATION THAT WILL DEMONSTRATE CLOSURE OF THE CORRECTIVE ACTION:
  The District Manager will send a memorandum to Thomas W. Charboneau, Director, Office of Assessments through Ted Smith, Supervisor, Office of Accountability, and through Emily K. Hargrove, Acting Deputy Administrator for Metal and Nonmetal Mine Safety and Health upon completion and evaluation of the corrective actions.
Attachment B – Issues requiring Corrective Action Plan

Issue 1: Documentation for the Regular Health and Safety Inspection (E01) event was not complete and thorough. (Office of Accountability Checklist Item #2)

- Work practices observed during the inspection were not documented in the field notes.

Requirement: General Inspection Procedure Handbook page 49 – In particular, general field note documentation shall include all areas, equipment, ventilation, work practices, and other similar activities observed by inspectors during the regular inspection.
Attachment C – Discussion Topics

E01 Event No. [redacted]

- Work Place exam records reviewed. The inspector documented that he reviewed the “past week” of workplace and equipment examination records. Metal and Nonmetal General Inspection Procedures Handbook, PH16-IV-1, June 2016 (GIPH) page 46 - Reviews of required on-site documentation should go back to the previous regular inspection conducted by MSHA.

- Inspection of All Work Shifts. No inspection occurred on the evening production shifts. The inspector was onsite three days conducting inspections during this event. GIPH page 33 - Inspectors should inspect on all work shifts of a mine (which includes mills) during every regular inspection. Inspectors are not required to inspect a second or third (e.g., night, graveyard) work shift where the only employees at the site are security staff. If an inspection is not conducted of a non-work shift, inspectors should assure that mining, maintenance, or similar activities are not occurring and that personnel at the site during these times are not exposed to potential risk.

- Mining Cycle Documentation. The blasting cycle was not observed or documented as to why it was not observed during the inspection. The inspector did document that the highwall drill was out of service because the mine operator currently did not have a miner qualified to operate the drill. GIPH page 33 - Mining cycles not observed during an inspection shall be documented in the inspector’s general field notes along with any specific observations and conversations regarding observed mining cycles.

- MSHA Form 4000-49A – The form was not completed accurately. Section - Office File Reviews item 1 “Past Inspection reports and MIS printouts reviewed?” was marked as “No.” The inspector documented the review in his field notes.

- Enforcement Action Documentation - Gravity was not always documented in the field notes to fully justify the level of likelihood of injury depicted on the citation. See Citation and Order Writing Handbook for Coal Mines and Metal and Nonmetal Mines, PH13-I-1(1), pages 10-18.
### 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 [X]
   - Corrective Action Needed [ ]
   - Comments Below [X]

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

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 [X]

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 [ ]

6. Evaluate the inspector(s) on-site contaminant assessment and documentation.
   - Adequate [X]
   - Corrective Action Needed [ ]
   - Comments Below [ ]
7. Evaluate inspector(s) examination of electrical equipment, transformer stations, and/or electrical circuits.
   Adequate [X] Corrective Action Needed [ ] Comments Below [ ]

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

9. Determine if Possible Knowing/Willful (PKW) Forms are documented and processed according to agency policy and procedures.
   Adequate [X] Corrective Action Needed [ ] Comments Below [ ]

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 [ ] Corrective Action Needed [ ] Comments Below [X]
   NA – The Field Office does not have any mines in a 103(i) status.

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

12. 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 Field Accompanied Reviews (FARs), Office Reviews (ORs) and supervisory follow-up reviews being conducted and documented according to agency policy and procedures? (ORs – One E01/Inspector/every six months/EY; FARs – One/Inspector/EY)

14. 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

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

Adequate X Corrective Action Needed Comments Below

16. Determine if supervisors are visiting active mines.

Adequate X Corrective Action Needed Comments Below

17. 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

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.
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| 19. | **Determine if district management personnel are reviewing work products and reports for accuracy and completeness.**
|   | Adequate **X** | Corrective Action Needed [ ] | Comments Below [ ] |
| 20. | **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 [ ] |
| 21. | **Determine if Districts, when required, are conducting in-depth accountability 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 [ ] |
| 22. | **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 **X** | Corrective Action Needed [ ] | Comments Below [ ] |
| 23. | **Determine if inspectors have sufficient equipment and supplies to conduct thorough inspections.**
|   | Adequate **X** | Corrective Action Needed [ ] | Comments Below [ ] |
| 24. | **Evaluate the overall condition of the mine relative to the level of enforcement documented in previously completed inspections.**
<p>|   | Adequate <strong>X</strong> | Corrective Action Needed [ ] | Comments Below [ ] |</p>
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<td><strong>25.</strong> 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.</td>
<td>Adequate</td>
<td>Corrective Action Needed</td>
<td>Comments Below</td>
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<td><strong>26.</strong> Determine if the management resource tracking tool is being used to track resources regarding Special Investigations.</td>
<td>Adequate</td>
<td>Corrective Action Needed</td>
<td>Comments Below</td>
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<td><strong>27.</strong> Determine if retraining of supervisors, inspectors, and specialists is being tracked.</td>
<td>Adequate</td>
<td>Corrective Action Needed</td>
<td>Comments Below</td>
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<td><strong>28.</strong> Determine if supervisors are rotating the mine assignments annually among inspectors assigned to their Field Office.</td>
<td>Adequate</td>
<td>Corrective Action Needed</td>
<td>Comments Below</td>
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Attachment E – Citations Issued during Mine Visit

| Mine Citation/Order | U.S. Department of Labor
<table>
<thead>
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<tbody>
<tr>
<td></td>
<td>Mine Safety and Health Administration</td>
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</tbody>
</table>

### Standard 56.14107a was cited

- **Section I - Violation Order**
  - **1. Violation:**
    - **A. Health**
    - **B. Section of Act**
    - **C. Part/Section of Title 30 CFR**
  - **2. Standard Citation:**
  - **3. Operator**
  - **4. Served To**
  - **5. Mine ID** (Contractor)
  - **6. Date**
  - **7. Time (24 Hr. Clock)**
  - **8. Mine**
  - **9. Mine ID**

### Condition or Practice
- The C-1 conveyor in the primary plant area had the paddle wheel roller guard missing. The area unguarded was 12 inches wide by 7 inches tall beside the catwalk. Miners access this catwalk to grease and clean catwalk while in operation. This condition creates a hazard of a miner coming in contact with moving parts.

### Standard 56.14107a

- **10.Gravity:**
  - A. Injury or Illness (No, Yes)
    - 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
    - 001
  - D. Number of Persons Affected:
    - 001

### Type of Action
- **11. Negligence (check one):**
  - A. None
  - B. Low
  - C. Moderate
  - D. High
  - E. Reckless Disregard

### Initial Action
- **12. Type of Issuance (check one):**
  - A. Citation
  - B. Order
  - C. Safeguard
  - D. Written Notice

### Area of Equipment
- **13. Type of Issuance (check one):**
  - A. Citation
  - B. Order
  - C. Safeguard
  - D. Written Notice

### Area to Terminate
- **14. Initial Action:**
  - A. Citation
  - B. Order
  - C. Safeguard
  - D. Written Notice

### Action to Terminate
- **15. Area to Terminate**

### Action to Terminate
- **16. Termination Due**
  - A. Date
  - B. Time (24 Hr. Clock)

### Action to Terminate
- **17. Action to Terminate**

### Action to Terminate
- **18. Terminated**
  - A. Date
  - B. Time (24 Hr. Clock)

### Action to Terminate
- **19. Type of Inspection (activity code):**
  - A. Event Number
  - B. Primary or Minor

### Action to Terminate
- **20. AR Number**

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-MINE-FAR (1-888-564-3272), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 1st Street, SW, MC 2190, 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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<tr>
<th>Mine Citation/Order Continuation</th>
<th>U.S. Department of Labor</th>
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<tbody>
<tr>
<td><strong>Section 1—Subsequent Action/Continuation</strong></td>
<td>Mine Safety and Health Administration</td>
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<tr>
<td>1. Subsequent Action/Continuation</td>
<td><strong>Operator</strong></td>
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<td>2. Dated (Original Issue)</td>
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<td>3. Citation/Order Number</td>
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<td>4. Serviced To</td>
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<td>5. Operator</td>
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<td>6. Mine</td>
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<td>7. Mine ID</td>
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**Section 2—Justification for Action**

The operator shut down C-1 conveyor and started repairing the guard.
The C-1 conveyor paddle wheel guard was repaired in the primary plant area.
The oxygen cylinder located in the secondary plant screen building is not secured in a safe manner. The cylinder was turned off pressure was released. A miner stuck by falling cylinder would likely receive serious foot or leg injuries.

Standard 56.16005 was cited

The oxygen cylinder located in the secondary plant screen building was secured in a safe manner.

For more information, please contact Small Business Administration or Office of the National Ombudsman.
The Cat 994B (#506044) front end loader in the pit area had the torque key missing on the left front. The tire had not torn on rim. This condition creates a hazard of tire turning on rim twisting the inside cords damaging them where tire could blow.

Standard 56.14100b was cited.
The Cat 988B (#506044) Loader front end had the front left rim replaced and a torque key installed.