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

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

FROM: THOMAS W. CHARBONEAU
Director, Office of Assessments

SUBJECT: Mine Safety and Health Administration (MSHA)
Office of Accountability Review
Coal District 5, Norton, Virginia Field Office

Introduction
This memorandum summarizes the Office of Accountability's (OA) review of Coal's District 5 Norton, Virginia Field Office. The review focused on enforcement activities at the [Redacted]. This review included MSHA field activities, level of enforcement, conditions and practices at the mine, Field Activity Reviews, Accompanied Activity Reviews and MSHA supervisory and managerial oversight activities.

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 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 one Regular Safety and Health Inspection (E01), of the [ID No. ], Event No. . The OA selected the mine for review because it is an underground mine operation with two producing Mechanized Mining Units (MMUs). The Review Team conducted the on-site review from [redacted]. The review focused on enforcement activities conducted in FY 2018 and included a review of supervisory oversight activities.

Mine Visit

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

The mine is located in [redacted], and employs approximately [redacted] miners working two ten-hour production shifts and one ten-hour maintenance shift per day, five days a week. The mine produces an average of [redacted] of raw coal annually. The mining method is room and pillar mining with pillar recovery on the retreat. Coal is mined with continuous mining machines and transported via shuttle cars to a conveyor system routed to the surface. The coal is transported via a conveyor belt to a preparation plant for processing and shipment to the customer. During the mine 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 areas:
- pre-inspection discussions with mine operator
- mine examination records and postings
- escapeway map
- check in and check out system
- communication and tracking system
- Atmospheric Monitoring System for early fire detection along conveyor belts
- roads, ramps and berms
- highwalls

Underground Working Section MMUs 001-0 and 002-0:
- examinations of the working section for imminent dangers, methane tests, air readings and evidence of examinations being conducted
- ventilation, rock dusting, cleanup, and roof and rib conditions
- work practices
- a functional test of the post-accident communication and tracking system
- a functional test of the proximity detection system on the continuous mining machine
• a functional test of the proximity detection system on the continuous mining machine
• escapeway map located at the working section’s Refuge Alternative (RA)
• 30 man RA

Underground Outby areas:
• alternate escapeway traveled from surface to the working section – lifelines and signage observed
• observed general conditions of outby areas (ventilation, rock dusting, cleanup, and roof and rib conditions)
• examined 30 man RA
• examined one outby Self Contained Self Rescuer (SCSR) cache
• a functional test of the post-accident communication and tracking system
• observed a functional test of the fire suppression system at a belt drive
• examined firefighting equipment at a belt drive
• observed branch lines off the lifelines to SCSR caches and RAs
• traveled the combination supply road and belt entry from surface to the working section
• set of seals containing seven 120 psi seals

During this mine visit, the inspector issued six enforcement actions. (Attachment C)

Review Results

The review revealed positive findings in the following areas:

• Inspectors used printed sheets from the Inspection Tracking System as notes to assist in documentation.
• Inspectors examined 34 of 35 total carbon monoxide sensors underground (10% required).
• Inspectors showed start/stop and color coding on the tracking map.
• No issues were identified that require corrective action.

The Review Team discussed with District personnel some 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 included in an attachment to this memorandum. (Attachment A)

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 23 percent in the 1st half of FY 2018 compared to the Field Office S&S rate of 29 percent; a District S&S rate of 25 percent; and the national S&S rate of 21 percent. While the S&S rate for the mine was lower than the average S&S rates of the Field Office and District and higher than the 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. Discussion Topics

B. Office of Accountability Checklist

C. Enforcement Actions Issued During Mine Visit

<table>
<thead>
<tr>
<th>Citation No.</th>
<th>Standard Cited</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>75.370(a)(1)</td>
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<td></td>
<td>75.202(a)</td>
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<td>75.1505(a)(3)</td>
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<td>75.360(d)</td>
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<td>75.220(a)(1)</td>
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Attachment A - Discussion Topics

Topics discussed with the District that do not require a corrective action plan are as follows:

**E01 Event**: 
- Training Records – The specific type of training record reviewed (annual refresher, hazard, new miner, etc.) and the approximate number of training records reviewed was not documented in the field notes.
- Self-Contained Self-Rescuer documentation – The manufacturer and model number was not always documented in the field notes.
- Rockdust samples – No sample was taken in the bleeder entries that are used as part of the section return.
- Inspection Tracking System (ITS) – Measurement point 2A was not recorded in the ITS and one piece of mining equipment was listed as inspected in the ITS but was not documented in the field notes.
- Respirable Dust 2000-86 form – The dust parameter checks for the water pressures on the continuous mining machine were not properly recorded on the form, however, they were documented properly in the field notes.
- Noise Surveys – No sound level readings were taken during the survey for areas of potentially high noise.

**Uniform Mine File (UMF)**:
- The Review Team discussed materials in the UMF that are outdated and no longer required to be maintained such as: rockdust results, gas analysis, MSHA form 2000-86 and 104 D tracking information.
Attachment B - 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/specialist examination of required record books and postings for compliance with applicable standards.
   Adequate [X]  Corrective Action Needed [ ]  Comments Below [ ]

5. Evaluate inspector/specialist examination of the operator’s maps (on-site) for accuracy, escapeway locations, etc.
   Adequate [X]  Corrective Action Needed [ ]  Comments Below [ ]

6. Evaluate, upon arrival to the working section, inspector/specialist examination of all working areas and highwalls for imminent dangers.
   Adequate [X]  Corrective Action Needed [ ]  Comments Below [ ]
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<td>7.</td>
<td>Evaluate the inspector/specialist observation of the work cycle and conditions in the active working section during the review.</td>
<td>Adequate</td>
<td>Corrective Action Needed</td>
<td>Comments Below</td>
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<td>8.</td>
<td>Evaluate the inspector/specialist air quantity, quality, and gas checks during the review.</td>
<td>Adequate</td>
<td>Corrective Action Needed</td>
<td>Comments Below</td>
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<td>9.</td>
<td>Evaluate inspector/specialist examination of equipment electrical cables during the review.</td>
<td>Adequate</td>
<td>Corrective Action Needed</td>
<td>Comments Below</td>
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<td>10.</td>
<td>Evaluate inspector/specialist examination for permissibility during the review.</td>
<td>Adequate</td>
<td>Corrective Action Needed</td>
<td>Comments Below</td>
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<td>11.</td>
<td>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.</td>
<td>Adequate</td>
<td>Corrective Action Needed</td>
<td>Comments Below</td>
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<td>12.</td>
<td>Evaluate, during the review, the inspection of at least one set of seals, including methods for obtaining samples from sealed area.</td>
<td>Adequate</td>
<td>Corrective Action Needed</td>
<td>Comments Below</td>
<td></td>
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</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 X  Corrective Action Needed □  Comments Below □

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 □
<table>
<thead>
<tr>
<th>Determine if required Accompanied Activities (AAs); Field Activity Reviews</th>
<th>Adequate: X</th>
<th>Corrective Action Needed: □</th>
<th>Comments Below: □</th>
</tr>
</thead>
<tbody>
<tr>
<td>18. (FARs) and supervisory follow-ups are being conducted and documented according to agency policy and procedures?</td>
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<tr>
<td>Determine if a 104(d) tracking system is in place and being kept current at the office being reviewed.</td>
<td>Adequate: X</td>
<td>Corrective Action Needed: □</td>
<td>Comments Below: □</td>
</tr>
<tr>
<td>19.</td>
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<tr>
<td>Determine if the Uniform Mine File books are being maintained and reviewed according to current agency policy and procedures.</td>
<td>Adequate: X</td>
<td>Corrective Action Needed: □</td>
<td>Comments Below: □</td>
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<tr>
<td>Determine if supervisors are thoroughly reviewing Uniform Mine Files at least annually?</td>
<td>Adequate: X</td>
<td>Corrective Action Needed: □</td>
<td>Comments Below: □</td>
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<td>21.</td>
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<tr>
<td>Determine if supervisors are visiting each active underground mine at least annually.</td>
<td>Adequate: X</td>
<td>Corrective Action Needed: □</td>
<td>Comments Below: □</td>
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<td>22.</td>
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<td>Determine if all sections where retreat mining is occurring (not to include longwall mining) are being inspected at least monthly?</td>
<td>Adequate: X</td>
<td>Corrective Action Needed: □</td>
<td>Comments Below: □</td>
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<td>23.</td>
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</table>
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 [ ]

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

Additionally, four other Mine ERPs were reviewed to determine that provisions for "Local Coordination" was included in the plan.

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

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

28. Determine if Assistant District Manager is conducting the required second level reviews and holding supervisors accountable for oversight of Field Activity Reviews and Accompanied Activities.
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<tbody>
<tr>
<td>District</td>
<td>Coal District 5</td>
<td>Field Office</td>
<td>Norton, VA</td>
<td>Mine ID</td>
<td></td>
<td>Date</td>
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</tbody>
</table>

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

- Adequate: X
- 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: X
- 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: X

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: X
- Corrective Action Needed: 
- Comments Below: 

33. 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: 

11
<table>
<thead>
<tr>
<th>District</th>
<th>Coal District 5</th>
<th>Field Office</th>
<th>Norton, VA</th>
<th>Mine ID</th>
<th>Date</th>
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</thead>
</table>

### 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**: X
- **Corrective Action Needed**: □
- **Comments Below**: □

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

<table>
<thead>
<tr>
<th>Adequate</th>
<th>Corrective Action Needed</th>
<th>Comments Below</th>
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### 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**: X
- **Corrective Action Needed**: □
- **Comments Below**: □

### 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**: 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.

<table>
<thead>
<tr>
<th>Adequate</th>
<th>Corrective Action Needed</th>
<th>Comments Below</th>
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12
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.

Adequate [X] 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.

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

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:

- 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 [X] Corrective Action Needed [ ] Comments Below [ ]
## Attachment C – Enforcement Actions issued during Mine Visit

### 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>
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<td>2. Time (24 Hr. Clock)</td>
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<td>3. Citation/Order Number</td>
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<tr>
<th>Section II: Violation Description</th>
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<td>4. Serviced To</td>
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<td>5. Operator</td>
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<tr>
<th>Section III: Condition of Practice</th>
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<tbody>
<tr>
<td>6. Mine</td>
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<td>7. Mine ID</td>
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<thead>
<tr>
<th>Section IV: Written Notice (103g)</th>
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<tr>
<td>8. Condition of Practice</td>
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<tr>
<td>9. Violation</td>
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<tr>
<td>10. Gravity</td>
<td></td>
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<tr>
<td>11. Negligence</td>
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<td>12. Type of Action</td>
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<td>13. Type of Issuance</td>
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<td>14. Initial Action</td>
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<td>15. Area of Equipment</td>
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The operator is not fully complying with the approved ventilation plan on the 001/003 Level. When measured in the No. 2 advancing entry, the operator was only maintaining 944 cfm. The No. 4 and 5 advancing entries did not have enough to be measured with a calibrated anemometer. This mine has a history of methane liberation.

Standard 75.370(a)(1) was cited.

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Section I: Inspection Evaluation

<table>
<thead>
<tr>
<th>Violation</th>
<th>A. Health</th>
<th>B. Section of Act</th>
<th>C. Part/Section of Title 30 CFR</th>
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</thead>
<tbody>
<tr>
<td>10. Gravity</td>
<td>A. Injury or Illness (has it):</td>
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<tr>
<td>11. Negligence</td>
<td>A. None</td>
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<tr>
<td>12. Type of Action</td>
<td>104(a)</td>
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<tr>
<td>13. Type of Issuance</td>
<td>Citation</td>
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Section II: Enforcement

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<th>Action to Terminate</th>
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<td>A. Date</td>
<td>Mo Da Yr</td>
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<td>B. Time (24 Hr. Clock)</td>
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Section IV: Administrative System Data

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<thead>
<tr>
<th>Type of Inspection (activity code)</th>
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<tr>
<td>Event Number</td>
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<td>Primary or Mgmt</td>
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United States Department of Labor  
Mine Safety and Health Administration  
Office of Accountability  
NorTon, VA  
Field Office  
Mine ID  
Date  

Note: The information provided is a snapshot of a page from a document and does not represent the entire document.
The roof and ribs on the 001/003 super section is not being adequately supported or otherwise controlled to protect miners from falling mine roof. When checked a piece of draw rock has broken away from the main mine roof and is hanging down in the center of the entry. This layered piece of mine roof measures 48 inches by 34 inches by 6 inches thick. This condition exposes miners who work and travel this entry to lacerations, contusions and broken bones.

Standard 75.202(a) was cited

The broken up piece of draw rock has now been taken down.
An escapeway map shall show the designated escapeways from the working sections or the miners' work stations to the surface or the exits at the bottom of the shaft or slope, refuge alternatives, and SCSR storage locations. When checked, 001/003 MMU refuge alternative escapeway map was not being kept up to date. The map was dated ..., and had not been updated showing the two distinct escapeways from the working section and RA locations.

Standard 75.1505(a)(3) was cited
Refuge alternatives shall be provided with a communications system that is capable of reaching the surface and an additional communication system and other requirements as defined in the communications portion of the operator's approved Emergency Response Plan. When checked, the only communication to the surface was the mine phone.
A certified person conducting the preshift examination shall check the refuge alternative for damage, the integrity of the tamper-evident seal and the mechanisms required to deploy the refuge alternative, and the ready availability of compressed oxygen and air. When checked, the 001/003 MMU refuge alternative was missing two tamper-evident seals located where the oxygen and compressed air gauges are located. These access points have the gas detectors, supplemental pumps and extra batteries. These items are crucial to miners in an event of an emergency.
The operator is not fully complying with the approved roof control plan. The coverage area will extend over the refuge alternative and 4 feet past the area where the RA will be inflated to protect the tent from being punctured with falling roof. When checked, the refuge alternative located adjacent to old 4A belt drive has a mesh provided but is hung from the mine roof with only twisted phone wire and zip ties.

Standard 75.220(a)(1) was cited

10. Gravity:
   A. Injury or Illness (103g): No Likelihood [ ] Unlikely [ ] Reasonably Likely [ ] Highly Likely [ ] Occurred [X]
   B. Injury or Illness could reasonably be expected to be: No Lost Workdays [ ] Lost Workdays Or Restricted Duty [X] Permanently Disabling [ ] Fatal [X]
   C. Significant and Substantial: Yes [ ] No [ ]

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

12. Type of Action
   104(a)

13. Type of Issuance (check one)
   Citation [X] Order [ ] Safeguard [ ] Written Notice [ ]

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

15. Area or Equipment

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

Section III - Termination Action

17. Action to Terminate

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

Section IV - Assisted System Data

19. Type of Inspection (activity code)
   E01

20. Event Number

21. Primary or Mill

22. AR Name

MSHA Form 7000-5, Apr 2005 (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 surveys enforcement agencies and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-800-REDAAIR or 1-800-794-3547, or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 460 Third Street SW, MS 2120, Washington, DC 20415. 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.