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CITATION AND ORDER WRITING HANDBOOK FOR COAL MINES AND METAL AND NONMETAL MINES

This handbook sets forth procedures to be followed in writing and issuing citations and orders for health, safety, training, and documentation violations at coal and metal and nonmetal mines. Changes to this handbook must be authorized by the Administrator for Coal Mine Safety and Health and the Administrator for Metal and Nonmetal Mine Safety and Health. Previously issued instructions relating to this subject are superseded by this handbook. Compliance related instructions contained in the MSHA Program Policy Manual are not superseded by this handbook.

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DISCLAIMER

The citations and orders shown in the Appendices are examples for illustrative purposes only. Citation and order forms depicted in this Handbook are also for illustrative purposes and may not be an exact duplicate of the actual forms. Citations and orders issued for violations of the Federal Mine Safety and Health Act of 1977, the Mine Improvement and New Emergency Response Act of 2006, or other standards or regulations must depict gravity and negligence determinations reflective of circumstances present at the time of issuance.

CHAPTER 1 – INTRODUCTION

I. AUTHORITY

The Federal Mine Safety and Health Act of 1977 (Mine Act) directs an Authorized Representative (AR) of the Secretary of Labor to issue citations and orders when he or she believes that a violation of the Mine Act or any mandatory health or safety standard, rule, order, or regulation promulgated pursuant to the Mine Act has occurred. The Mine Act also authorizes an AR to issue an order of withdrawal when an imminent danger condition exists. Sections 103, 104, and 107 of the Mine Act describe in detail the authority for issuing these citations and orders.

The Mine Improvement and New Emergency Response Act of 2006 (MINER Act) amended the Mine Act. It provides for such things as:

- increased protection for underground coal miners;
- changed reporting requirements for certain accidents occurring at mine sites;
- established a new classification of violations which may be deemed flagrant; and
- a modified civil penalty criteria.

II. PURPOSE

This handbook is intended to provide guidance for all enforcement personnel in:

- issuing, extending, modifying, vacating, and terminating citations and orders;
- describing the conditions or practices constituting a violation or imminent danger;
- writing clear justification for extensions and modifications of citations and orders;
- adequately describing the area or equipment affected by citations or orders; and
- adequately evaluating the degree of gravity and negligence of the violation.

This handbook has been combined to reflect the uniformity of citation and order writing for both metal and nonmetal and coal enforcement personnel. Procedures, scenarios, and examples in this handbook should be used by all enforcement personnel, except for safeguards which can only be issued by coal inspectors.

III. RESPONSIBILITY

If, upon inspection or investigation, an AR believes that a mine operator has committed a violation of the Mine Act or any mandatory health or safety standard, rule, order, or regulation promulgated pursuant to the Mine Act, he or she must issue a citation or order to the mine operator. Each citation or order must be in writing and shall describe with particularity the nature of the violation, including reference to the provision of the Mine

Act, standard, rule, regulation, or order alleged to have been violated. In addition, each citation must fix a reasonable time for abatement of the violation.

IV. BACKGROUND

Mine Safety and Health Administration (MSHA) personnel must constantly strive for accuracy in writing citations and orders. A significant percentage of citations and orders have been overturned during the legal process for reasons such as:

- failure to cite the appropriate standard;
- failure to establish the existence of an imminent danger;
- assumptions or suppositions not based on evidence of facts;
- failure to specifically describe the area of danger or area affected;
- issuance of a 107(a) order for control purposes when no imminent danger exists;
- illegible or confusing writing; and
- failure to properly evaluate the degree of gravity, exposure to the hazard, or the mine operator's negligence.

The description of a violation must be written in such a manner that all parties know the true nature of the situation. The descriptive narrative must include information that clearly establishes a violation and describes with particularity the nature of the violation. The proposed civil penalty prepared by the Office of Assessments is determined, in part, by information contained in the citation or order.

CHAPTER 2 - SELECTED PROVISIONS OF THE MINE ACT

I. INSPECTIONS AND INVESTIGATIONS

A. Section 103(a)

MSHA must conduct frequent inspections and investigations at coal and other mines each year for the purpose of: obtaining, utilizing, and disseminating information relating to health and safety conditions, the causes of accidents, and the causes of diseases and physical impairments originating in such mines; gathering information with respect to mandatory health and safety standards; determining whether an imminent danger exists; and determining whether mine operators have complied with mandatory health and safety standards, citations, orders, and decisions issued under the Mine Act. Additionally, MSHA must develop guidelines for additional inspections of mines.

B. Section 103(j)

Enforcement personnel shall consult with the appropriate District Manager before issuing 103(j) orders of withdrawal. In the event of a mine accident where rescue and recovery work is necessary, MSHA is authorized to take any action deemed appropriate to protect lives, including supervising and directing any mine rescue and recovery effort. The mine operator is required to take measures to prevent destruction of evidence that could assist accident investigators.

C. Section 103(k)

In the event of a mine accident MSHA may issue orders deemed appropriate to ensure the safety of any person in the mine. The operator of that mine shall obtain the approval of the MSHA representative, in consultation with state mining agency representatives (if appropriate), regarding any plan to recover any person in the mine, to recover the mine, or to return affected mining areas to normal.

II. CITATIONS, ORDERS AND NOTICES

A. Section 104(a)

If, upon inspection or investigation, an inspector believes that a mine operator subject to the Mine Act has violated this Act, or any mandatory health or safety standard, rule, order, or regulation promulgated pursuant to the Mine Act, he or she shall, with reasonable promptness, issue a citation to the mine operator. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of the Mine Act, standard, rule, regulation, or order alleged to have been violated. In addition, the citation shall fix a reasonable time for the abatement of the violation. The requirement for the issuance of a citation with

reasonable promptness shall not be a jurisdictional prerequisite to the enforcement of any provision of the Mine Act.

B. Section 104(b)

When an inspector finds that a violation previously cited has not been abated and that the period of time for abatement should not be further extended, he or she must issue a withdrawal order for the cited equipment or that part of the mine affected by the violation. The operator is required by such an order to remove all persons from the area affected, except those persons necessary to correct the violation as referenced in Section 104(c), until the violation is abated.

C. Section 104(d)(1) Citations

Upon MSHA's finding of a violation which could significantly and substantially contribute to the cause and effect of a safety or health hazard and is due to the mine operator's unwarrantable failure to comply, such a finding shall be included in any citation issued to the operator.

D. Sections 104(d)(1) and 104(d)(2) Orders

If another violation of a mandatory standard, whether significant and substantial or not and which is caused by the mine operator's unwarrantable failure, is found during the same or any subsequent inspection within 90 days of issuance of the 104(d)(1) citation, MSHA shall issue a 104(d)(1) withdrawal order. If an unwarrantable failure violation is observed during any subsequent inspection made after a 104(d)(1) order has been issued, a 104(d)(2) order shall be issued. These two sections provide for the issuance of withdrawal orders that are caused by the mine operator's unwarrantable failure to comply with mandatory safety and health standards.

E. Section 104(e)(1)

If MSHA has established that a mine operator has the same pattern of violations by receiving repeat or multiple significant and substantial violations of mandatory MSHA standards, the operator shall be issued a notice that such a pattern exists. Provisions are also made in this section for withdrawing all persons from the affected area if MSHA finds another significant and substantial violation during an inspection within 90 days of issuance of the notice of pattern of violations. The 104(e) withdrawal order remains in effect until MSHA finds the violation has been abated.

F. Section 104(e)(2)

Where miners have been withdrawn under Section 104(e)(1), a further withdrawal order shall be issued upon MSHA's finding of a significant and substantial violation during a subsequent inspection.

G. Section 104(e)(3)

The pattern of violations that resulted in the issuance of a notice shall be terminated if an MSHA inspection of the entire mine finds no significant and substantial violations of mandatory standards. However, a mine operator can reestablish a pattern of violation status as a result of subsequent significant and substantial violations.

H. Section 104(g)(1)

If an inspector finds that any miner has not received the mandatory health and safety training required under Section 115 of the Mine Act, the miner shall be ordered withdrawn from the mine until he or she has completed the required training.

I. Flagrant Violations

With the passage of the MINER Act, Section 110(b) of the Mine Act was amended to include:

"Violations under this Section [110(b)] of the Mine Act that are deemed to be flagrant may be assessed a civil penalty of not more than $220,000. For purposes of the preceding sentence, the term 'flagrant' with respect to a violation means a reckless or repeated failure to make reasonable efforts to eliminate a known violation of a mandatory health or safety standard that substantially and proximately caused, or reasonably could have been expected to cause, death or serious bodily injury."

"Flagrant" violations are an MSHA assessment enforcement tool as are other special assessments. They are applied only to elevated enforcement actions meeting certain criteria. The inspectors' determination of the proper level of enforcement action remains the same. The enforcement actions of 104(d)(1) citations, 104(d)(1) orders, and 104(d)(2) orders and the policies and procedures used to determine their use remains the same without regard to a 'flagrant" designation. More information on this subject can be found in Chapter 4 in this handbook.

III. PROCEDURES TO COUNTERACT DANGEROUS CONDITIONS

A. Section 107(a)

If an inspector finds an imminent danger condition or practice existing at a mine, he or she shall issue a 107(a) order withdrawing persons from the affected area or equipment from service. No one may enter the area, except those persons necessary to correct the conditions as referenced in Section 104(c), until MSHA determines that conditions and practices which caused the imminent danger no longer exist.

B. Section 107(b)

If an inspector finds that conditions exist at a mine which have not yet resulted in an imminent danger, that such conditions cannot be effectively abated using existing technology, and that an imminent danger cannot be ruled out if mining activities were to proceed, the inspector shall issue a 107(b) notice to the operator informing him or her of such conditions. A copy of this notice shall be filed with the Secretary of Labor and with the representative(s) of the miners. This section also permits MSHA to issue notices, conduct investigations, hold public hearings, and make findings of fact. The appropriate District Manager shall be consulted before these types of actions are issued.

IV. MINERS SMOKING OR CARRYING SMOKING MATERIALS IN PROHIBITED AREAS -- SECTION 110(g)

Any miner who willfully violates the mandatory safety standards relating to smoking or the carrying of smoking materials, matches, or lighters shall be subject to a civil penalty assessed by the Commission of not more than $375 for each occurrence of such violation.

CHAPTER 3 - VIOLATION DESCRIPTION AND ISSUING FORM

I. FACTUAL INFORMATION

It is important that factual information, not conclusions, be included in each citation or order. Statements such as "additional roof support is needed" or "adequate fire protection was not provided" may be true but these descriptions do not clearly describe a violation. The former does not describe the condition of the roof or the type and amount of roof supports installed, nor identify a hazard. The latter does not indicate the nature of the fire hazard nor the degree to which protection is not provided.

The citation or order must contain facts sufficient to establish a violation of the standards under the Mine Act and any special circumstances related to the violation, such as "significant and substantial" and "unwarrantable failure" findings.

II. VIOLATION DESCRIPTION

Essential elements to be considered in a violation description are:

A. The conditions and practices causing and constituting the violation of a specific regulation or section of the Mine Act. They must be accurately identified and described.

B. A determination of what caused the violation by clearly describing conditions and practices. This determination is particularly significant when citing violations in conjunction with imminent danger orders and Section 104(d) citations and orders.

C. The location or equipment where the violation or hazard exists. This element **must** be specifically identified for several reasons:

   1. It serves as notification to the mine operator for abatement purposes;

   2. It informs the miners and miners' representative(s) of the exact location of the hazard; and

   3. It serves as clarification for inspectors on abatement visits.

D. Information concerning gravity and negligence. This information must be provided so an accurate determination of the proposed civil penalty can be made.

E. Information concerning the hazard, exposure, or lack of exposure to miners. Some mandatory standards require that exposure be shown to support a citation or order.

F. Facts relevant to the mine operator's knowledge of the violative condition or practice.

III. CITATION, CONTINUATION, SUBSEQUENT ACTION, AND ORDER FORMS

A. MSHA Form 7000-3 shall be used for issuing citations, orders, 110(g) notices, and the initial pattern of violations notice.

B. MSHA Form 7000-3a shall be used for continuations and subsequent actions for citations, orders, and pattern of violations notices.

C. Each set of forms are usually distributed as follows:

Original	-	mine operator
Second page	-	MSHA inspector
Third page	-	miners' representative, if applicable

D. Computer generated citations/orders require an original signature for each printed copy.

E. Distribution of the computer copies will be the same as for the hand written copies.

CHAPTER 4 - CITATIONS AND ORDERS

These procedures shall be followed when completing Mine Citation/Order Form 7000-3 unless otherwise specified. The items referenced below correspond to the appropriate sections on Form 7000-3. Many of the documentation procedures in this Handbook do not include completion of Section IV of the Citation/Order or Continuation form in order to reduce redundancy.

I. COMPLETING MINE CITATION/ORDER FORMS

A. Section I - Violation Data

1. Date - Enter the issue date by using the following format for the month, day, and year (mm/dd/yyyy, e.g., 01/07/2013).

2. Time - Enter the issue time with a four-digit number based on a 24-hour clock (military time, e.g., 22:30).

3. Citation/Order Number - The seven-digit number preprinted on the Form 7000 3 or generated by an inspector's computer.

4. Served To - Enter the first and last name of the operator (or operator's agent) and title to whom the citation or order is served.

5. Operator - Enter the official business name of the mining company as shown on the MSHA Legal Identity Report Form 2000-7 in effect at the time the violation occurred. Enter the name of the independent contractor if a contractor is being cited.

6. Mine - Enter the mine name as shown on the Legal Identity Report Form in effect at the time the violation occurred.

7. Mine ID - Enter the seven-digit MSHA mine identification (ID) number. If applicable, also enter the contractor's three or four digit MSHA ID number.

8. Condition or Practice - Provide a detailed description of the condition(s) or practice(s) which causes and constitutes a violation or an imminent danger. If more space is needed, check the "Continuation" block in the lower right hand corner of Item 8 and use a Mine Citation/Order Continuation Form 7000-3a.

8a Written Notice - This block is for coal inspectors to use when a violation is cited during any inspection conducted as a result of a written complaint. Coal inspectors should not use this block for any violation other than those issued as a result of the complaint. This does not alter the type of inspection that is ongoing.

9. Violation

   A. Health, Safety, and Other - These blocks are for coal inspectors to use to mark whether the cited hazard relates to health, safety, or other (administrative). For violations of § 75.370, coal inspectors may mark both the health and safety blocks.

B. Section of Act - Enter the applicable section [e.g., Section 103(a), Section 104(b)] here if a section of the Mine Act has been violated, otherwise leave blank.

C. Part/Section of Title 30 CFR – Identify the Part and Section of Title 30 CFR violated including the subparagraphs of the section violated. **Exception: Do not** complete Item 9C if you issue a section 107(a) imminent danger order without citing a violation of a mandatory health or safety standard. Refer to Section XVII in this chapter for further guidance concerning section 107(a) imminent danger orders.

B. Section II – Inspector's Evaluation

10. Gravity - Gravity is an evaluation of the seriousness of the violation. It is determined by the three factors listed in § 100.3 (e) (Determination of penalty amount; regular assessment). Section 100.3 states: "Gravity is determined by the likelihood of the occurrence of the event against which a standard is directed; the severity of the illness or injury if the event has occurred or was to occur; and the number of persons potentially affected if the event has occurred or were to occur." These factors correspond to items 10A, 10B, and 10D on MSHA Form 7000 3.

Inspectors should first determine what injury or illness the standard is designed to prevent based on the specific facts pertaining to the violation. In general, a mandatory safety or health standard is designed to prevent an injury or illness. For example, § 62.100 (Occupational noise exposure) states that the purpose of Part 62 standards is to: "…prevent the occurrence and reduce the progression of occupational noise-induced hearing loss among miners." Likewise, the standards in Subpart C of Part 75 (Roof Support) are designed to protect persons from injuries caused by falls of the roof, face, or ribs and coal or rock bursts.

Some standards are designed to prevent more than one type of injury or illness, depending on the circumstances specific to the cited condition or practice. For example, § 75.400 (Accumulation of combustible materials) is generally designed to prevent fires; however, when accumulations of float coal dust are present, this standard is also designed to prevent coal dust explosions.

After determining the injury or illness against which the standard is directed, the inspector should consistently consider that same injury or illness when evaluating each of the gravity factors listed in items 10A, 10B, and 10D on MSHA Form 7000-3.

A. **Injury or Illness (has) (is):** Check the appropriate block to indicate the likelihood of an injury or illness occurring. Factors such as the fatality and injury or illness frequency associated with the violation in the general industry are relevant but must be tied to an evaluation of the particular circumstances surrounding the violation as found by the inspector.

In determining the likelihood of an injury or illness, the inspector should assume that normal mining operations would have continued with the violation remaining unabated. Factors to consider when evaluating likelihood include: how frequently miners are exposed to the condition or practice; the number of miners exposed to the condition or practice; the location and extensiveness of the condition or practice; and the length of time the condition or practice has existed. The longer a condition

or practice has existed, together with the frequency of exposure, increases the likelihood of an injury or illness.

Also, in evaluating the likelihood of harm from violation of a standard intended to protect miners in an emergency, the inspector should assume that the emergency has occurred. For example, in evaluating the likelihood of harm arising from an operator's failure to properly maintain SCSRs, the inspector should assume that a fire, explosion, or other event that would cause a miner to don an SCSR has occurred.

The choices for likelihood on the Mine Citation/Order Form are as follows.

- No Likelihood – Select this box for violations of laws or regulations that are not designed to prevent injury or illness. This block must always be selected when citing a violation of a law or regulation that is not a mandatory health or safety standard. (See Paragraph E)

- Unlikely – Select this box for violations of mandatory standards when the injury or illness against which the standard is directed is not reasonably likely to occur. This would include violations in which normal mining operations would not be expected to create the circumstances necessary to trigger the injury- or illness-causing event.

- Reasonably Likely – Select this box for violations of mandatory standards when the injury or illness against which the standard is directed is reasonably likely to occur. This would include violations in which normal mining operations would be expected to create the circumstances necessary to trigger the injury- or illness-causing event. The occurrence of an injury or illness <u>does not have to be</u> more probable than not in order for the likelihood to be designated as reasonably likely.

- Highly Likely – Select this box for violations of mandatory standards when the injury or illness against which the standard is directed is highly likely to occur. This would include violations in which the circumstances necessary to trigger the injury- or illness-causing event already exist.

- Occurred – The "Occurred" block can only be checked when an injury or illness has actually occurred. For example, the inspector might observe a recent roof fall along a travelway. It is evident the roof was not adequately supported or scaled. The inspector should not evaluate the likelihood as "Occurred" because a miner was not injured by the fall. Based on the traffic along the travelway and other factors, the inspector could evaluate the likelihood of injury as "Highly Likely," "Reasonably Likely," or "Unlikely."

  When an event has "Occurred" and an injury or illness resulted, the severity of injury or illness marked in Item 10B on MSHA Form 7000-3 should match the injury or illness that actually occurred if the actual injury/illness was equal to or more severe than expected. If, however, an injury or illness has occurred that is less serious than could reasonably be expected, the inspector should evaluate the injury or illness at the level of severity that could reasonably be expected.

Example of an injury less severe than expected

Scenario: A miner was trapped in a bin for an hour, but emerged with only minor injuries. However, a fatal injury would have been expected given the facts of the entrapment.

These types of violations should be evaluated based on the expected rather than the actual results. Accordingly, assuming a violation was observed that directly related to the entrapment, the violation would be evaluated as at least "Reasonably Likely" and "Fatal" rather than "Occurred" and "No Lost Workdays."

Example of an injury more severe than expected

Scenario: A miner was struck on the head with a small rock and later dies as a result of the injury.

These types of violations should be evaluated based on the actual rather than the expected results. Accordingly, assuming a violation was observed that directly related to the miner being injured, the violation would be evaluated as "Occurred" and "Fatal."

B. Injury or illness could reasonably be expected to be: Evaluate the expected severity of the injury or illness and check the appropriate box based on the facts available. This evaluation is entirely independent of the likelihood of the injury or illness. The inspector should assume that an injury or illness has occurred and evaluate only the expected severity.

The degrees of severity on the Mine Citation/Order Form are as follows:

- No lost work days – Select this block when the expected injury or illness would not cause the affected miner(s) to miss one or more scheduled workday(s) or to be placed on restricted duty, excluding the day of injury or onset of illness. This block must always be selected when citing a violation of a law or regulation that is not a mandatory health or safety standard. (See Paragraph E)

- Lost work days or restricted duty – Select this box when the expected injury or illness would cause the injured or ill person to lose one full day of work or more after the day of the injury or illness, or would cause one full day or more of restricted duty.

- Permanently disabling – Select this box when the expected injury or illness would result in the total or partial loss of the use of any member or function of the body.

- Fatal – Select this box when the expected injury or illness would result in death, or has a reasonable potential to cause death.

Scenario: A berm or guardrail is not provided for a haul road located at the top edge of a 300-foot tall highwall. The haul road is accessible but is rarely used. Tire

tracks are not present and there is no operational or maintenance need to travel the haul road. (Unlikely; Fatal; "S&S" - No)

C. **Significant and Substantial:** By checking "Yes" in Item 10C ("S&S"), the inspector is indicating that based upon the particular facts surrounding the violation there exists a reasonable likelihood the hazard contributed to by the violation will result in an injury or illness of a reasonably serious nature.

It is very important to first determine the likelihood of the injury or illness (Box 10A) and the expected severity of the injury or illness (Box 10B) before attempting to make the S&S determination for a violation. Checking the correct boxes will greatly simplify making the correct S&S determination.

Check the appropriate box based on the evaluations made in items 10A and 10B.

- Yes – Select this block for a violation of a mandatory health or safety standard when the likelihood of injury or illness in item 10A is marked at least "Reasonably Likely," and the expected injury or illness in item 10B is marked at least "Lost Workdays or Restricted Duty."

- No – Select this block when the likelihood of injury or illness in item 10A is marked less than "Reasonably Likely," and/or the expected injury or illness in item 10B is marked less than "Lost Workdays or Restricted Duty."

Only violations of mandatory health and safety standards, as opposed to violations of regulations, can be designated as "S&S." Violations of sections of the Mine Act other than Titles II and III, without an accompanying mandatory health or safety standard, also cannot be designated as "S&S." (See Paragraph E)

The Federal Mine Safety and Health Review Commission (Commission) has determined that the relevant time frame for determining whether a reasonable likelihood of injury exists includes both the time that a violative condition existed prior to the citation and the time that it would have existed if normal mining operations had continued. Therefore, if no miners were exposed to the hazard at the time of the violation, an inspector still might evaluate the violation as "Reasonably Likely" if a miner was exposed to the hazard before the inspector observed the violation or if it was reasonably likely that a miner would be exposed to the hazard if normal mining operations were allowed to continue.

The Commission has also held that in evaluating the reasonable likelihood of a fire, ignition, or explosion, one must examine whether a "confluence of factors" is present based on the particular facts surrounding the violation. This means that in some cases, additional circumstances must occur for the hazard associated with the violation to cause an injury or illness.

Examples of properly evaluated violations

Scenario: [Referencing § 56/57.14107 (Moving Machine Parts) or § 77.400 (Mechanical Equipment Guards)] Persons were working next to the stacking conveyor while it was in motion. They were reasonably likely to come in contact

with and be injured by the unguarded moving machine parts of the #2 self-cleaning tail pulley. (Reasonably Likely; Permanently Disabling; "S&S" - Yes)

Scenario: (Referencing § 56/57.14107 or § 77.400) A guard was not provided on the #2 self-cleaning tail pulley of the stacking conveyor. Persons did not work or travel in the area on any shift while the machinery was running. The conveyor was turned off and locked out when maintenance was performed. (Unlikely; Permanently Disabling; "S&S" - No)

Scenario: (Referencing § 56/57.14107 or § 77.400) A guard was not provided on the #4 self-cleaning tail pulley adjacent to the walkway. Persons were not in the area and the tail pulley was not in operation at this time. However, persons had been in the area and the equipment had been operating on the previous shift with the guard off. The tail pulley was not out of service, however, and it was scheduled to operate when night shift operations began later today. Personnel travel on the walkway next to the energized tail pulley during the night shift. (At least Reasonably Likely; Permanently Disabling; "S&S" - Yes)

Scenario: (Referencing Section 109 of the Mine Act (Posting of Orders and Decisions)) Citations issued during an inspection are not being posted on the mine bulletin board. (No likelihood; No Lost Workdays; “S&S”-No)

<u>Examples of improperly evaluated violations</u>

Scenario: (Referencing § 56.14107) the #2 conveyor motor V-belt drive was not guarded and persons were not in the area at the time. (Unlikely; Permanently Disabling; "S&S" - No)

This evaluation is not correct if it is based only on the insufficient reason that miners were not in the area at the time the violation was observed. There must be documented evidence based on past, present, and continued mining operations, that miners had not or would not be in the area for the violation to be properly be evaluated as “unlikely” and therefore "non-S&S.” Further, a statement that "the machinery was not operating at this time" is not sufficient reason for evaluating a violation as "non-S&S."

Scenario: A loader was observed parked and not operating at the time of inspection. It did not have the required seat belts installed. The inspector determined that the machine was used as a spare and was not out of service. The inspector did not issue a citation for the lack of seat belts. The only rationale used by the inspector was that the loader was not operating at the time he or she observed the violation.

This evaluation is not correct - a violation was observed on mobile equipment that could be started and used any time subjecting miners to possible injury or death. A citation shall be issued for all violations found on equipment or machinery not taken out of service and tagged prior to being inspected by MSHA.

D. Number of Persons Affected: Enter the number of persons affected if the injury or illness occurred or were to occur. The number of persons affected is the number of persons who could reasonably be expected to be harmed should the anticipated

event occur, or the number of persons who received an injury or illness if the event did occur and the likelihood is marked as "Occurred." This number is always zero (000) when citing a violation of the Mine Act or a regulation that is not a mandatory safety or health standard. (See Paragraph E) The "Number of Persons Affected" can vary, depending on mining conditions, the hazard, and the area of exposure.

- Scenario: A citation was issued for overexposure to noise. The inspector determined that the crusher operated three shifts, seven days a week and that one miner worked in the crusher area performing the same duties on each of the three shifts. The total "Number of Persons Affected" for this violation would be 3.

- Scenario: A citation was issued for overexposure to respirable dust for the designated occupation on a mechanized mining unit (MMU). The inspector determined that 7 miners worked on the MMU on each of three shifts. The total "Number of Persons Affected" for this violation would be 21.

- Scenario: A citation was issued because a mine operator was not complying with the Approved Mine Emergency Evacuation and Firefighting Program of Instruction. The inspector determined that 10 miners worked underground on one shift. The total "Number of Persons Affected" for this violation would be 10.

- Scenario: A citation was issued to a mine operator for a front end loader not having effective service brakes. The inspector determined that one miner operated the loader on each of three shifts. The total "Number of Persons Affected" would be 1, since only one miner would be injured (affected) if the brakes failed. (This is based on the assumption that the brakes would be repaired before another miner is injured.)

- Scenario: An "S&S" violation was issued to a mine operator for two miners working on a crusher without the machinery's controls having been locked or tagged as being out of service. The inspector determined that the two miners were the only persons working on the crusher and that work was not performed on the machinery on other shifts. The total "Number of Persons Affected" would be 2.

It is important not to confuse the "Number of Persons Affected" by a condition or practice with the number of persons <u>exposed</u> to the condition or practice. The "Number of Persons Affected" is entered in Block 10D of the Mine Citation/Order Form (See above.) The number of persons <u>exposed</u> is not entered on the Form, but it often can be used in evaluating the likelihood that an event will cause an injury or illness. For example, assume there is a small area of loose roof in the travelway between the end of the track and the working section. Each day 10 miners travel under the bad roof twice a shift, three shifts per day. Thirty miners (10 miners, three shifts) are exposed to the hazard created by the bad roof. This exposure could be used to justify a finding that the hazard was "Reasonably Likely" or even "Highly Likely" to injure a miner. However, the loose roof is small enough that if it

fell, it would only strike one miner. As a result, only one miner would be affected by the hazard, while 30 miners were exposed to the hazard created by the violation.

E. Only a violation of a "mandatory health or safety standard" can be designated as "S&S." Therefore, only violations of requirements in § 50.10 and 30 CFR Parts 46, 47, 48, 49, 56, 57, 58, 62, 70, 71, 72, 75, 77, and 90 can be designated as "S&S."

Violations of requirements in 30 CFR Parts 40, 41, 43, 44, 45, or 50 (except § 50.10) cannot be designated as "S&S" because they are regulations, not mandatory health and safety standards. For these violations, item 10A shall be marked "No Likelihood," item 10B shall be marked "No Lost Workdays," item 10C shall be checked "No," and item 10D shall indicate the "Number of Persons Affected" as "000."

Violations of sections of the Mine Act other than Titles II and III, without an accompanying mandatory health or safety standard, also cannot be designated as "S&S." Enter the following into the Condition or Practice section of the 7000-3 Form for these violations:

> "The condition has been designated as "non significant and substantial" because the conduct violated a provision of the Mine Act other than a mandatory safety or health standard."

11. **Negligence** - Negligence is defined in § 100.3(d) as "…conduct, either by commission or omission, which falls below a standard of care established under the Mine Act to protect miners against the risks of harm. Under the Mine Act, an operator is held to a high standard of care. A mine operator is required to be on the alert for conditions and practices in the mine that affect the safety or health of miners and to take steps necessary to correct or prevent hazardous conditions or practices. The failure to exercise a high standard of care constitutes negligence."

The degrees of negligence are defined in § 100.3 (d) as follows:

- No negligence - The operator exercised diligence and could not have known of the violative condition or practice.
- Low negligence - The operator knew or should have known of the violative condition or practice, but there are considerable mitigating circumstances.
- Moderate negligence - The operator knew or should have known of the violative condition or practice, but there are mitigating circumstances.
- High negligence - The operator knew or should have known of the violative condition or practice, and there are no mitigating circumstances
- Reckless disregard - The operator displayed conduct which exhibits the absence of the slightest degree of care.

If there are no mitigating circumstances, negligence must be evaluated at least "High" unless the operator could not have known about the violation (that is, there was no

negligence at all). Mitigating circumstances may include but are not limited to the following:

- The operator has made a reasonable effort to prevent or correct hazardous conditions or practices before the inspector observed the conditions or practices.

- Ordering repair parts, posting warning signs, or restricting travel in a hazardous area prior to being cited also could be considered as possible mitigating circumstances. However, actions taken by the operator after being cited, such as, withdrawing equipment and personnel and/or immediately proceeding to correct the violation should not alter the negligence evaluation made by the inspector.

Mine operators are required to be on alert for conditions or practices in the mine that affect the safety or health of miners and to take the steps necessary to correct or prevent hazardous conditions or practices.

Negligence for unwarrantable failure violations has been defined as aggravated conduct constituting more than ordinary negligence. Accordingly, when citing a violation with "high" negligence, the inspector also must evaluate whether aggravated conduct exists to determine if the violation also is an unwarrantable failure to comply.

Factors inspectors should evaluate when determining "aggravated conduct" may include the following:

- The violative condition or practice posed a high degree of danger to miners.

- The violative condition or practice was obvious and/or extensive.

- The violative condition or practice had existed for a period of time.

- Repeated similar violations have been cited at the mine or to the contractor in the recent past.

- An agent of the operator or contractor had been in the area, or was aware of the existence of the hazard.

- The operator knew or had reason to know that its action(s) violated a mandatory standard.

- The violative condition or practice had been reported to the operator or contractor who then allowed it to exist, without correcting or adequately addressing the problem, for a period of time.

- The violation was a result of deliberate activity by the operator.

- The individual who committed or allowed the condition or practice to exist was a supervisor or an agent of the operator or contractor;

- Reasonable efforts were not made by the mine operator or contractor to prevent or correct the hazard.

- Other factors, not enumerated above, resulted in a negligence evaluation by the inspector of “high” or “reckless disregard.”

Any one of the circumstances above may constitute sufficient grounds for an unwarrantable failure citation or order.

Inspectors must include the factors that explained how the operator engaged in aggravated conduct in the Condition or Practice section of the Mine Citation/Order Form when issuing a section 104(d) citation or order.

(See Section XIII of this document for detailed information on Section 104(d) Citations and Orders.)

12. Type of Action - Identify the Section of the Mine Act under which action is being taken [e.g., 104(a), 104(d)(1)].

13. Type of Issuance - The "Safeguard" block is for Coal use only. Check the "Citation," or "Order," or “Safeguard” block for the appropriate type of issuance. The “Written Notice” block is to be used by District Managers when issuing the initial 104(e) Pattern of Violations Notices. It is also used by inspectors when issuing 110(g) notices for miners smoking or carrying smoking materials in prohibited areas.

14. Initial Action - Check block “A” or "B” or “D” for the type of initial issuance, if appropriate, that subsequently resulted in this action. The "Safeguard" block (block “C”) is for Coal use only.

    E. Citation/Order Number - Enter the seven-digit preprinted control number from the initial action.

    F. Dated - Enter the date of the initial action.

15. Area or Equipment - This pertains only to orders of withdrawal [i.e., 104(b), 104(d), 104(e), 104(g), 107(a), 103(j) and 103(k)] and must indicate the area from which employees shall be withdrawn until the dangerous conditions and causes of those conditions have been corrected. Equipment should be identified by manufacturer, model, serial number (if known), color, and name, etc. if it is ordered removed from service.

    Note: The phrase "No Area Affected" should be written in this space if this is a technical order of withdrawal [e.g., 104(b) order for failure to complete Part 50 employment or injury reporting reports.

16. Termination Due Date and Time (A and B) - Enter the date and time the mine operator is required to have the violation corrected. These blocks are left blank for orders of withdrawal.

C. Section III - Termination Action

17. Action to Terminate - Describe in detail the specific action(s) taken to correct the cited condition(s) or practice(s) which justifies termination. Do not write terms like "The condition was corrected."

18. Terminated Date and Time (A and B) - Enter the date and time the termination was issued.

D. Section IV - Automated System Data

19. Type of Inspection (Activity Code) - Enter the appropriate enforcement activity code.

20. Event Number - Enter the preprinted event number from the Inspection/Investigation Data Summary Form 4000-40 for M/NM and from the Mine Activity Data Form 2000-22 for Coal.

21. Primary or Mill – This block is for metal and nonmetal inspectors. They should enter the letter "P" if the violation occurred in the production or primary mining phase of the operation. Generally, an entry of "P" includes activities and/or equipment from the mining site up to, but not including, milling processes. Enter the letter "M" if the violation occurred in the milling phase of the operation.

    Exception: Violations cited at free standing mills with a separate Mine ID number should have "P" entered in this space.

22. Signature - The signature of the inspector issuing the citation or order must be entered in this block.

23. AR Number - Enter the AR number of the inspector issuing the citation or order.

II. SECTION 103(a) - CITATIONS FOR DENIAL OF ENTRY

A. Denial of Entry - Established MSHA Mine ID Number

When a mine operator or his or her agent directly refuses to allow an inspector entry to an active mining operation having an MSHA mine ID number, the inspector must issue a Section 104(a) citation citing Section 103(a) of the Mine Act and immediately contact his or her supervisor. The inspector must either hand deliver or mail the citation to the mine operator certified mail, return receipt requested.

Note: In the rare instances that these types of violations are issued, inspectors and supervisors should discuss them with the district office and/or regional solicitor prior to issuance. These violations are frequently litigated and are often contentious so consultation and coordination with all parties prior to issuance will assure that everyone understand the situation and are in agreement with the actions being taken.

B. Denial of Entry - No Established MSHA Mine ID Number

The inspector must notify his or her supervisor to determine whether or not the mining operation falls under the jurisdiction of the Mine Act. If it is subsequently determined that the operator is engaged in mining or milling activities and if entry is denied to a mine that does not have an MSHA mine ID number, a mine ID number should be obtained based on the information that has been acquired.

After the mine ID number has been obtained, the field office supervisor and inspector should return to the mine, or make arrangements to meet with the mine operator, and request access under the provisions of the Mine Act.

C. Other Forms of Denial of Entry

Denial of right of entry procedures also apply when inspectors have been granted entry but are not allowed to inspect or to continue an inspection or investigation. These procedures apply to any type of interference whether it be delay, harassment, or personal assault.

In all such cases, except personal threats or assault, the inspector should try to communicate with the mine operator, explaining the entry and inspection rights of MSHA under Section 103(a) of the Mine Act.

MSHA policy requires that an inspector leave the scene where an apparent violation of Section 111 of Title 18 of the United States Code is about to occur. To avoid a confrontation, inform the person(s) involved that an attack on an MSHA inspector is a Federal crime and that they may be subject to arrest. If the inspector believes that he/she is subject to physical harm or assault, he/she should leave the property immediately and promptly notify his/her supervisor.

D. 104(b) Orders - Denial of Entry

A Section 104(b) order of withdrawal must be issued if the operator still refuses entry after a Section 104(a) citation has been issued. Injunctive proceedings may be initiated by the District Manager if the operator does not comply with the order. Section XIX in this chapter details procedures on issuing 104(a) citations if the operator works in the face of an order of withdrawal.

Note: In the rare instances these types of violations are issued, supervisors should discuss them with the district office and/or regional solicitor prior to issuance. These types of violations are frequently litigated and are often contentious so consultation and coordination with all parties prior to issuance will assure that everyone understand the situation and are in agreement with the actions being taken.

E. Documentation for Denial of Entry

1. On a Mine Citation/Order Form, fill out the other blocks as you normally would and then:

a. After the violation description has been entered in Section I, item 8, the following sentence shall be added: The condition has not been designated as "significant and substantial" because the conduct violated a provision of the Mine Act rather than a mandatory safety or health standard.

b. Enter "103(a)" in Item 9B. Leave Item 9C blank since a standard is not violated.

c. Complete Items 10A through 10D, Item 11, and enter "104(a)" in Item 12. Note: Item 10C must be marked "no."

d. Check the "Citation" block in Item 13 and leave Item 15 "Area or Equipment" blank.

e. In Item 16 enter the "Termination Due Date and Time." Terminate the citation if entry is permitted.

2. On an Order of Withdrawal, fill out the other blocks as you normally would and then:

a. Enter "103(a)" in Item 9B and leave Item 9C blank.

b. Do not complete Items 10A through 10D and Item 11. In Item 12 enter "104(b)" and check the "Order" block in Item 13.

c. In Item 14 check the "Citation" block and enter the number of the denial of entry citation and the date it was issued.

d. In Item 15 enter "No Area Affected" and leave Item 16 blank. Terminate the order if entry is permitted.

3. In Item 19 enter the appropriate "Type of Inspection" MIS code for the inspection type that was intended if the inspection occurs.

III. SECTION 103(j) AND 103(k) ORDERS

After a mine accident defined in 30 CFR Part 50.2 has occurred, an AR may assume the authority to take whatever action is necessary to protect the health, safety, and life of any person under Section 103(k) of the Mine Act.

A 103(j) or 103(k) order **should not** be solely issued to preserve accident evidence since the mine operator is required to take this action under 30 CFR Part 50.12.

If the operator does not preserve accident evidence, it is appropriate to issue a 104(a) citation citing Part 50.12. This 104(a) citation should not be issued unless pertinent accident evidence has been removed, changed or destroyed.

INSPECTORS SHALL NOT ISSUE 103(j) ORDERS UNTIL CONSULTING WITH THE APPROPRIATE DISTRICT MANAGER.

A. Accident and Rescue/Recovery Procedures

Inspectors will generally use Section 103(k) to protect the safety of any person in the mine when a mine condition exists as a result of an accident that threatens the safety of miners. The 103(k) order does not preclude the issuance of a Section 107(a) order if an imminent danger situation is found. It is imperative that discretion and good judgment be exercised by inspectors when using the broad authority provided by the Mine Act.

In instances where an accident has resulted in the death or serious injury to a miner and the inspector believes that the hazardous condition(s) or practice(s) causing that accident is likely to exist elsewhere at the mine, the Section 103(k) order shall include all such areas of the mine. In some instances, it will be obvious that the conditions are peculiar to the accident site, and, therefore, the Section 103(k) order would not apply to areas other than the accident site.

The 103(k) order should remain in effect until a systematic evaluation of the conditions and safety practices is conducted and a determination is made that hazards similar to those which caused or contributed to the accident have been eliminated. The evaluation can be made prior to the accident investigation or concurrent with it. After this evaluation and determination has been made, the Section 103(k) order may be modified to permit an area of the mine to resume operations, or terminated, provided that such action will not pose a hazard to the miners.

B. Differences Between Sections 103(j), 103(k), and 107(a) Orders

Section 107(a) orders contain an exception to the requirement to withdraw persons from the affected area(s) under Section 104(c).

Section 104(c) of the Mine Act states that certain persons are not required to be withdrawn or prohibited from entering any mine area. This refers to persons who, in the judgment of the mine operator or the inspector, are necessary to eliminate the conditions described in the order.

Sections 103(j) and 103(k) of the Mine Act contain no exceptions. If an inspector believes it is necessary to protect the life or safety of any person, even those persons mentioned in Section 104(c) may be prohibited from entry into a mine area. This exclusion would be noted in the written narrative of the 103(j) or 103(k) order.

The issuance of a Section 103(k) order does not preclude the issuance of a Section 107(a) order should an imminent danger situation be found. Additionally, a 103(k) order will not be used as a substitute for, or in place of, a 107(a) imminent danger order.

C. Documentation for 103(j) and 103(k) Orders

1. Section I of Form 7000-3: fill out the other blocks as you normally would and then:

   Item 8 - describe in detail what has occurred and what the mine operator is required to do.

   Item 9 - leave blank.

2. Section II of Form 7000-3:

   Items 10 and 11 - leave blank.

   Item 12 - enter "103(j)" or "103(k)" whichever is applicable.

   Item 13 - check the "Order" box.

   Item 14 - leave blank.

   Item 15 - provide a detailed description of the area or equipment affected.

   Items 16, 17, and 18 - leave blank.

IV. SECTION 104(a) CITATIONS

Section 104 citations are the primary tool for obtaining compliance with the Mine Act, mandatory health, safety, training, and other standards, rules or regulations.

A Section 104(a) citation must set forth:

- a violation of a standard, regulation, or section of the Mine Act;
- the degree of hazard that exists;
- the degree of exposure to the hazard; and
- the degree of negligence by the mine operator.

The time fixed for abatement of a violation shall be determined, whenever practical, after a discussion with the mine operator or the operator's agent. Inspectors shall give primary consideration to the health and safety of miners in establishing abatement times for all citations.

V. MODIFYING CITATIONS TO "NON-S&S"

An "S&S" citation may be reduced to "non-S&S" only if:

- the "S&S" determination was made in error;
- evidence is presented to the inspector or other MSHA officials (e.g., Conference Litigation Representative) justifying a modification to "non-S&S";
- the determination of "S&S" is modified on the recommendation of the Office of the Solicitor; or
- the determination of "S&S" is modified by an Administrative Law Judge.

The specific reason(s) for an inspector to modify an "S&S" violation to "non-S&S" **must be documented on MSHA Form 7000-3a**. A violation has to meet the minimum criteria of "Reasonably Likely" and "Lost Workdays or Restricted Duty" to have been evaluated as "S&S." Therefore, to re-evaluate the citation or order to "non-S&S," at least one of those requirements must be reduced to a lower evaluation and the specific reason(s) for the change documented. The modification must also indicate that the "S&S" block in Item 10C is changed to "No."

Note – See example in Appendix A (Safety Violations) of this Handbook.

VI. NOTICE TO PROVIDE SAFEGUARDS

Section 314(b) of the Mine Act is specific to coal only and is intended for use in regards to minimizing haulage and hoisting related hazards with respect to the transportation of men or materials that are identified at a specific mine.

When preparing for an inspection, an inspector must review the safeguard summary sheet in the uniform mine file so that he/she knows what safeguards have been previously issued for the mine. The inspector should also be familiar with the requirements for each safeguard.

When an inspector identifies a hazard specific to the mine and similar to those already identified in 30 CFR, Subpart O, Sections 75.1403-2 through 75.1403-11, he/she will issue a notice to provide safeguards to the mine operator if one has not been previously issued. Refer to Appendix A (Safety Violations) of this Handbook for further guidance. In those cases where the provisions of a safeguard notice are found to be violated at a mine, a citation or order will be issued as appropriate. The safeguard originally issued will be referenced in the initial action block on the Mine Citation/Order Form 7000-3.

VII. SECTION 104(b) ORDERS

Inspectors shall review the circumstances when the time fixed for a citation's abatement has expired. In determining whether to issue a Section 104(b) order, the inspector must determine whether there is a reasonable basis for extending the abatement date. If an extension of time is not justified and the cited condition or practice is not abated, the inspector must issue a Section 104(b) order of withdrawal. Upon abatement of the condition or practice cited in the original citation, the order can be terminated.

Chapter 7 in this handbook details the action to be taken if the mine operator files for a petition for modification or appeals a violation to the Federal Mine Safety and Health Review Commission.

A 104(b) order will not be issued when other orders of withdrawal are not complied with. See Section XIX in this chapter regarding mine operators who work in violation of an order of withdrawal.

Documentation for Section 104(b) Orders

1. Section I of Form 7000-3: fill out the other blocks as you normally would and then:

   - Complete Item 9B with the appropriate section of the Mine Act if a section [e.g., Sections 103(j) or 103(k)] is violated.

   - If appropriate, complete Item 9C with the standard violated.

   - Do not complete Items 10A through D or Item 11.

   - **Do not** modify the initial citation to make the negligence or gravity higher than was marked on the initial citation.

2. Enter 104(b) in Item 12 and check the "Order" block in Item 13.

3. Check the "Citation" block in Item 14A; enter the initial citation number in Item 14E and the date of citation issuance in Item 14F.

4. Complete Item 15 "Area or Equipment" with the area or equipment affected by the order. Enter the phrase "No Area Affected" if this is a technical violation.

5. Do not complete item 16A or B.

6. A 104(b) order does not require the completion of a Special Assessment Review Form or a Possible Knowing/Willful Violation Review Form.

7. Terminate the 104(b) order when the out of compliance condition(s) is/are corrected.

VIII. SECTION 104(d) CITATIONS AND ORDERS

A. Criteria for Issuing a 104(d)(1) Citation

A 104(d)(1) citation shall be issued if:

1. there is a violation of a mandatory health or safety standard;

2. the violation significantly and substantially contributes to the cause and effect of a mine safety or health hazard; and

3. there is an unwarrantable failure of the mine operator or contractor to comply with the standard.

Note: A violation of a section of the Mine Act cannot be issued as a 104(d) citation or a 104(d) order even if the negligence evaluation is determined to be "high" or "reckless disregard." Violations of regulations at 30 CFR Parts 40, 41, 43, 44, 45, or 50 [excluding 50.10] also cannot be issued as 104(d) citations or orders even if the negligence evaluation is "high" or "reckless disregard." However, violations of interim mandatory health and safety standards found in Title 2 and Title 3 of the Mine Act, not superseded by mandatory health and safety standards, can be cited as "S&S" and evaluated as unwarrantable failure citations or orders based on the evaluations conducted in Items 10A and 10B of the Citation/Order form.

A violation is caused by an unwarrantable failure if it is determined that the mine operator or contractor has engaged in aggravated conduct constituting more than ordinary negligence.

B. Determining "Aggravated Conduct" for Purposes of Determining Unwarrantable Failure

Factors inspectors should evaluate when determining "aggravated conduct" include one or more of the following:

1. the violative condition or practice was obvious or extensive;

2. the violative condition or practice had existed for a period of time;

3. similar violations have been issued at the mine or to the contractor in the recent past;

4. an agent of the operator or contractor had conducted an examination or had been in the area, or was aware of the existence of the condition;
5. the violative condition or practice had been reported to the operator or contractor who then allowed it to exist, without correcting or adequately addressing the problem, for a period of time;

6. the individual who committed or allowed the condition or practice to exist was a supervisor or an agent of the operator or contractor;

7. reasonable efforts were not made by the mine operator or contractor to correct the violative condition or practice; and

8. other factors, not enumerated above, resulted in a negligence evaluation by the inspector of “high” or “reckless disregard.”

Only one 104(d)(1) citation can be issued during a 90-day period, or for as long as the mine operator or contractor remains under the 104(d) series. The inspector who issues the 104(d)(1) citation must keep other MSHA inspectors at the mine informed that the operator or contractor is under the 104(d) series to avoid the issuance of two 104(d)(1) citations to the operator or contractor.

Note: The mine operator or contractor remains on the 104(d) citation series until 90 days pass since the issuance of the original 104(d)(1) citation.

If another unwarrantable failure violation is observed during the same inspection, or any other type of inspection being conducted at the same time, or any other inspection within 90 days of the issuance of the unwarrantable failure citation, a 104(d)(1) order must be issued. If a 104(d)(1) order is issued, inspectors will issue 104(d)(2) orders for unwarrantable failure violations observed during <u>any subsequent</u> inspections until the mine is inspected in its entirety without an unwarrantable violation found.

C. Criteria for 104(d) Orders

Section 104(d) orders are required to meet the following criteria:

1. there is a violation (either "S&S" or "non-S&S") of a mandatory health or safety standard which was caused by the mine operator’s or contractor's unwarrantable failure to comply;

2. the first 104(d)(1) order must be issued within 90 days of the issuance of a 104(d)(1) citation; and

3. 104(d)(2) orders follow the issuance of a 104(d)(1) order and must be issued on a subsequent inspection following issuance of a 104(d)(1) order. All 104(d)(2) orders are to refer to the original 104(d)(1) order.

   Note: Section 104(d) orders do not have to be issued for a violation of the same health or safety standard as the 104(d)(1) citation. The violation causing the issuance of a 104(d)(1) or (d)(2) order does not have to be evaluated as "S&S." The only requirement for a 104(d)(1) or (d)(2) order is that the safety or health violation was caused or contributed to by the operator's or contractor's aggravated conduct.

Unwarrantable failure violations observed on a subsequent inspection will be 104(d)(2) orders if two conditions are met:

- the operator or contractor is on the 104(d) series; and

- a 104(d)(1) order was issued on a previous inspection

Section 104(d) orders will be issued until a "clean" inspection is made of the **entire mining operation**, through any combination of enforcement related inspections, and no unwarrantable failure violations are observed. **The mine operator or contractor remains on the 104(d) order series until this clean inspection occurs and no further unwarrantable failure violations are observed.**

Note: The 90 day time frame established for 104(d) citations does not apply to 104(d) orders.

If a 104(d)(1) or (d)(2) order is issued at a large mine and it is not possible to inspect the entire mine during the same inspection, the areas inspected will be documented until the mine is inspected in its entirety. Examples of the 104(d) series are:

Scenario: The inspector issues a 104(d)(1) citation. Other unwarrantable failure violations are not found on that inspection or any other inspection within 90 days. Other violations are cited but they are not unwarrantable failures. The operator is removed from the 104(d) series.

Scenario: The inspector issues a 104(d)(1) citation on a regular inspection. Another unwarrantable failure is found during the same inspection and a 104(d)(1) order is issued. Another inspector returns to the property several days later and conducts a subsequent inspection of the entire operation. Unwarrantable failure violations are found during the inspection and 104(d)(2) orders are issued.

Scenario: The inspector issues a 104(d)(1) citation. Other unwarrantable failure violations are not found during the inspection. An inspector goes back to the property within 90 days. Another unwarrantable failure violation is found and a 104(d)(1) order is issued. Several other unwarrantable failure violations are cited during the same inspection - all are 104(d)(1) orders.

Scenario: The inspector issues a 104(d)(1) citation. Another inspector returns to the property within 90 days on a subsequent inspection to check on compliance of an outstanding citation and finds no unwarrantable failure violations. The mine operator remains on the 104(d) series for the remainder of the 90 days (assuming that other unwarrantable violations are not found and cited during that time).

Scenario: The inspector issues a 104(d)(1) citation and a 104(d)(1) order during the same inspection. Another inspector returns to the property on a subsequent inspection, finds an unwarrantable failure violation and issues a 104(d)(2) order. Several days later, an inspection is made of the entire mine and unwarrantable failure violations are not found during that inspection. The operator is removed

from the 104(d) series because of this "clean" inspection.

Scenario: The mine operator is issued a 104(d)(1) citation. Ninety days pass and other unwarrantable failure violations are not found. An inspector returns to the mine on the 91st day and finds an unwarrantable failure violation. The unwarrantable sequence starts over with the issuance of a Section 104(d)(1) citation.

Scenario: An operator is issued a 104(d)(1) citation and a 104(d)(1) order. On a subsequent inspection the operator is issued a 104(d)(2) order. Two weeks later a complete inspection of the entire mine is conducted and unwarrantable failure violations are not cited. An inspector returns to the property after this clean inspection and finds an unwarrantable failure violation. The unwarrantable series is started anew with the issuance of a 104(d)(1) citation.

Scenario: The inspector issues a 104(d)(1) citation. Other unwarrantable failure violations are not found during the inspection. An inspector goes back to the property within 90 days. An imminent danger with an unwarrantable failure violation is found, a 107(a) order is issued, and a 104(d)(1) order is issued in conjunction with the 107(a). Several other unwarrantable failure violations are cited during this same inspection; all are 104(d)(1) orders.

D. Documentation for Section 104(d) Citation/Orders

1. **Section 104(d)(1) Citation:** Item 8 of the Mine Citation/Order Form shall include the following statement in the violation narrative:

   "This violation is an unwarrantable failure to comply with a mandatory standard."

   The remainder of the form is completed similarly to a 104(a) citation except that "104(d)(1)" is written in Item 12. Item 8 of the Mine Citation/Order Form shall also include the factors that explain how the operator engaged in aggravated conduct. **The violation must be evaluated as "S&S," the "Yes" block checked, and negligence evaluation marked at least "High."**

   Note: A Section 104(b) withdrawal order will be issued, not a 104(d) order of withdrawal, if the operator or contractor fails to abate or correct a condition cited under a 104(d)(1) citation.

2. **Section 104(d)(1) Order:** Item 8 of the Mine Citation/Order Form shall include the factors that show how the operator engaged in aggravated conduct. The following statement must also be written within the violation narrative:

   "This violation is an unwarrantable failure to comply with a mandatory standard."

   Enter "104(d)(1)" in Item 12 and check the "Order" block in Item 13. **The order can be evaluated as "S&S" or "non-S&S."** Complete Item 14 by checking the "Citation" block and Items 14E and F with the number of the 104(d)(1) citation

and the date it was issued.

3. **Section 104(d)(2) Order:** The procedure is the same as for the 104(d)(1) order except in Item 14 E & F, check the "Order" block; in Item 14E refer to the **first** 104(d)(1) order; and in Item 14F enter the date the first 104(d)(1) order was issued. **The order can be evaluated as "S&S" or "non-S&S." Note:** All 104(d)(2) orders must refer to the **first** 104(d)(1) order issued.

4. **Section 104(d)(1) and 104(d)(2) Orders:** Item 15 "Area or Equipment" is completed with information relating to what is ordered withdrawn. Enter the phrase "No Area Affected" if the 104(d) order is a technical violation and evaluated as "non-S&S."

5. Initiate both a Possible Knowing/Willful Violation Review Form for each 104(d)(1) citation **and** each "S&S" 104(d) order issued.

6. Prepare and send to the District Office a packet that includes: the original Possible Knowing/Willful Violation Review Form; a copy of the Legal Identity Report; a copy of the relevant general field notes; a copy of the citation/order notes; photographs if available; a copy of relevant citation(s) or order(s); and a copy of all modifications. Each photograph should be identified by the citation or order number and a descriptive and legible narrative should be attached or written underneath each photograph. This packet shall be submitted to the District Office in a timely manner or as directed by the District Manager.

IX. FLAGRANT CITATIONS AND ORDERS

Section 110(b)(2) of the Mine Act permits the assessment of significant penalties for a flagrant violation, which is a reckless or repeated failure to make reasonable efforts to eliminate a known violation of a mandatory health or safety standard that substantially and proximately caused, or reasonably could have been expected to cause, death or serious bodily injury.

Only violations of mandatory health or safety standards can be evaluated as flagrant violations. While most sections of the Mine Act are not mandatory health or safety standards, violations of interim mandatory health and safety standards found in Title 2 and Title 3 of the Mine Act, which are not superseded by mandatory health and safety standards, can be cited as "significant and substantial" ("S&S") and evaluated as flagrant violations. A violation can be classified as a flagrant violation when the cited condition or practice either (i) substantially and proximately caused death or serious injury or (ii) reasonably could have been expected to cause death or serious injury.

Any violation that meets either the reckless failure or the repeated failure screening criteria below must be evaluated for possible classification as a flagrant violation:

Flagrant violations that arise from a mine operator's **reckless failure** must have:

1. been evaluated as significant and substantial;
2. been evaluated with an expected injury of at least permanently disabling,
3. been marked as an unwarrantable failure; and
4. been evaluated with a negligence level of reckless disregard.

The following is an example of a violation required to be evaluated in the District as a possible reckless failure flagrant violation in conjunction with the unwarrantable failure violation.

Scenario: A 104(d)(1) "S&S" citation was issued for the mine operator's failure to install a guard on the tail pulley of a conveyor belt with miners working in the area. Injury or illness was evaluated as permanently disabling and negligence was evaluated as reckless disregard because the mine operator had been informed of the condition for several work shifts prior to being cited and had instructed miners to continue operating the belt without providing a suitable guard.

Flagrant violations that arise from a mine operator's **repeated failure** must have:

1. been evaluated as significant and substantial;
2. been evaluated with an expected injury of at least permanently disabling;
3. been marked as an unwarrantable failure; and
4. two prior "unwarrantable failure," S&S violations of the same safety or health standard cited within the past 15 months. The 15-month time period includes violations cited previously on the same day or during the same inspection as the flagrant violation.

For repeated failure evaluations, prior citations/orders must be violations of the same safety or health standard citing the same subsections (e.g., citing 56/57.14201(a) and 56/57.14201(b) do not meet the criteria for flagrant repeated failure consideration), and have been cited as 104(d)(1) or 104(d)(2) enforcement actions. Prior violations that cite the same subsection as the potentially repeated flagrant violation should be forwarded for evaluation, regardless of whether there is some distinction in the underlying cited condition or practice (e.g., an order asserting a violation of 75.220(a)(1) because the entries were driven at widths exceeding the roof control plan minimum distance should be forwarded for flagrant review in conjunction with two prior 75.220(a)(1) violations issued because roof bolts were not inserted at distances specified in the roof control plan).

The following is an example of a violation required to be evaluated in the District as a possible repeated failure flagrant violation in conjunction with the unwarrantable failure violation.

Scenario: A 104(d)(2) "S&S" order of withdrawal was issued for a mine operator's having failed to install a guard on the tail pulley of a conveyor belt with miners working in the area. Injury or illness was evaluated as permanently disabling. Negligence was evaluated as high negligence because the operator had: (a) been informed of the condition several work shifts prior to being cited; (b) instructed miners to continue operating the belt without providing a suitable guard; and (c)

given miners an oral warning to be careful in this area. The inspector determined that three unwarrantable, S&S violations of the same subsection of the guarding standard (56.14107(a)) had been cited within the past 15 months.

Inspectors must complete the relevant portions of a Special Assessment Review (SAR) Form, check the "flagrant violation" box in section 10 of the SAR Form, and initiate the district review procedure for every violation that meets the “reckless” and/or “repeated” flagrant screening criteria. Inspectors must send to the District Office a packet that includes each of the following items:

- the completed Possible Knowing/Willful Violation Review Form;
- a copy of the Legal Identity Report;
- a copy of the relevant general field notes;
- a copy of the citation(s)/order(s), including associated violation notes;
- diagrams and photographs, if available;
- applicable portions of mine plans or records, if relevant;
- accident investigation reports, data sheets, witness statements, prior associated citation(s)/order(s), and/or memoranda or other evidence, if relevant; and
- a copy of any modifications.

This packet shall be submitted to the Field Office Supervisor for review and evaluation before being submitted to the District Office in a timely manner or as directed by the District Manager.

District Managers have the discretion to recommend violations that do not meet the reckless or repeated flagrant violation screening criteria, but which meet the broader statutory definition of a flagrant violation, for evaluation as flagrant violations pursuant to existing guidance. To allow more effective and efficient review, District Managers should informally notify the Office of the Solicitor that such matters have been referred.

X. SECTION 104(e) PATTERN OF VIOLATIONS

Section 104(e) of the Mine Act provides for sanctions against mine operators who have a pattern of violations of mandatory health and safety standards that could significantly and substantially contribute to the cause and effect of health and safety hazards. 30 CFR Part 104 includes procedures for initial screening of mines that may be developing a pattern of violations; criteria for determining whether a pattern of violations exists at a mine; procedures for issuance of potential pattern notice and final pattern notice; and procedures for terminating a Notice of Pattern of Violations. Either the Administrator for Coal Mine Safety and Health or the Administrator for Metal and Nonmetal Mine Safety and Health makes the final determination as to whether a Notice of Pattern of Violations will be issued at a specific mine. Mine operators remain on the 104(e) Pattern of Violation series until:

- No 104(e) Order of Withdrawal is issued within 90 days of issuance of the initial 104(e) Notice of Pattern of Violations;
- An inspection of the entire mine occurs and no "S&S" violations are issued; or
- Partial mine inspections, collectively covering the entire mine, are conducted within 90 days of issuance of the 104(e) Notice of Pattern of Violations and no "S&S" violations are cited.

A. Issuance of a Notice of Pattern of Violations

The Notice of a Pattern of Violations shall only be issued by a District Manager on an MSHA Citation/Order Form 7000-3.

1. Complete Item 8 with the following language:

Pursuant to Section 104(e)(1) of the Federal Mine Safety and Health Act of 1977 (Mine Act), you are hereby notified that a violation exists at the (Name of Mine). If upon any inspection within 90 days after issuance of this Notice, an Authorized Representative of the Secretary finds any violation of a mandatory health or safety standard that could significantly and substantially contribute to the cause and effect of a coal or other mine

safety or health hazard, the Authorized Representative shall issue an order requiring the operator to cause all persons in the area affected by such violation, except those persons referred to in Section 104(c) of the Mine Act, to be withdrawn from, and to be prohibited from entering such area until an Authorized Representative of the Secretary determines that such violation has been abated. This Notice of Pattern of Violations shall remain posted at the (Name of Mine) until it is terminated by an Authorized Representative.

2.Leave Items 9A, 9B, 9C, 10A through 10D, and Item 11 blank.

3.In Item 12, enter "104(e).

4.Check the “Written Notice” block in Item 13.

5.Items 14A through 14F should be left blank.

6.Items 15, 16, 17, and 18 are left blank.

B. Issuing 104(e)(1) or 104(e)(2) Orders of Withdrawal on MSHA Citation/Order 7000-3 Form

1. Complete Item 8 with a narrative description of the violation. At the end of the narrative, add the following statement: “A Notice of Pattern of Violations, number xxxxxxx, was issued on xx/xx/xx.”

2. Leave Items 9A and 9B blank. However, where violations of interim mandatory health and safety standards found in Title 2 and Title 3 of the Mine Act, not superseded by mandatory health and safety standards, are cited as “S&S” enter the appropriate section in 9B. Complete Item 9C with the mandatory standard violated;

3. Complete Items 10A through D and Item 11 based on the determination made at the time the violation was observed.

4. In Item 12, enter "104(e)(1)" or "(2)" and in Item 13 check the "Order" box;
For 104(e)(1) orders, check Item 14D. Complete Item 14E with the Notice of Pattern of Violations number and Item 14F with its issuance date; For 104(e)(2) orders, check the "Order" box in Item 14B. Write the number from the 104(e)(1) order in Item 14E and its date of issue in Item 14F;

5. In Item 15 "Area or Equipment" describe the area or equipment affected; and

6. Item 16 "Termination Due Date and Time" is left blank.

C. Terminating a Notice of Pattern of Violations

Terminating a Notice of Pattern of Violations is done on a Mine Citation/Order Continuation Form 7000-3a using the initial number from the Notice of Pattern of

Violations. Termination of Notices of Pattern of Violations will be issued by the District Manager or his designee. Depending on the basis for terminating the Notice of Pattern of Violations, language in the narrative should include one of the following statements:

Example One - "xxxxxx Mine has gone 90 days from the issuance of a Notice of Pattern of Violations without being cited for a violation which could significantly and substantially contribute to the cause and effect of a mine safety or health hazard. Therefore, the mine is no longer subject to orders of withdrawal issued pursuant to Section 104(e) of the Federal Mine Safety and Health Act of 1977. Accordingly, the Notice of Pattern of Violations is terminated."

Example Two - "xxxxxx Mine underwent an inspection of the entire mine which was completed on xx/xx/xx without being cited for a violation which could significantly and substantially contribute to the cause and effect of a mine safety or health hazard. Therefore, the mine is no longer subject to orders of withdrawal issued pursuant to Section 104(e) of the Federal Mine Safety and Health Act of 1977. Accordingly, the Notice of Pattern of Violations is terminated."

D. All 104(e) violations should be reviewed for possible knowing and willful if the negligence is at least "High."

E. Prepare and send to the District Office a packet that includes: the original Possible Knowing/Willful Violation Review Form; a copy of the Legal Identity Report; a copy of the relevant general field notes; a copy of the citation/order notes; photographs if available; a copy of relevant citation(s) or order(s); and a copy of all modifications. This packet shall be submitted to the District Office in a timely manner <u>or as directed by the District Manager</u>.

XI. SECTION 104(g)(1) ORDERS

Section 104(g)(1) of the Mine Act provides for the withdrawal of untrained miners from a mine or mill until they have received the training required by Section 115 of the Mine Act. The purpose of a Section 104(g)(1) order is to eliminate the hazard that untrained or inadequately trained miners pose to themselves and to other miners. Section 104(g)(1) orders shall be evaluated for "S&S" using the criteria in Section VI of this Chapter.

Underground Mines (Part 48). Sections 48.5, .6, .7, .8, and .11 are the only standards which may be cited under 104(g)(1) for untrained miners.

Surface Mines and Surface Areas of Underground Mines (Part 48). Sections 48.25, .26, .27, .28, and .31 are the only sections that may be cited under 104(g)(1) for untrained miners.

Surface Mines (Part 46). Sections 46.5, .6, .7, .8, and .11 are the only sections that may be cited under 104(g)(1) for untrained miners.

Citations shall **not** be issued in lieu of Section 104(g)(1) orders **unless** the miner cannot be trained because he or she is no longer employed at the mine, was permanently disabled, or was fatally injured.

When miners have received training but there are violations involving training plans, cooperative training programs, records of training, compensation for training, etc., Section 104(g)(1) orders of withdrawal should not be issued. Issuances of 104(a) or 104(d) actions, in these situations, are appropriate.

Section 104(g)(1) orders of withdrawal shall be written for the following types of untrained miners:

- new miners;
- experienced or newly-hired experienced miners;
- miners assigned to perform a task for which they have had no previous experience;
- miners whose annual refresher training is not up-to-date; and
- miners or applicable persons working on mine property who have not been given hazard training.

A. Determining the Number and Type of Citations or Orders to Issue for Part 46 and Part 48 Training Violations

1. Violations Involving One Miner:

   If one miner is involved, but two or more sections of Part 46 or Part 48 have been violated, one Section 104(g)(1) order will be issued citing the appropriate section(s). Separate evaluations of negligence and gravity should be provided for each violation.

   Scenario: One underground miner was found not task trained and had not received annual refresher training. One Section 104(g)(1) order would be issued.

2. Violations Involving More Than One Miner:

   a. When more than one untrained miner is withdrawn from a mine, a single 104(g)(1) order is appropriate provided the Part 46 or Part 48 training violation is the same for all the miners.

   b. Where multiple miners are involved and different violations of the training requirements have occurred for each miner, one or more 104(g)(1) orders of withdrawal would be issued, depending on the circumstances.

Scenario: Eight underground miners did not have the requisite safety training (three did not receive new miner training; two were not task trained; three missed annual refresher training). Three separate 104(g)(1) orders would be issued: one citing 30 CFR 48.5; one citing 30 CFR 48.7; and one citing 30 CFR 48.8. The relevant miners' names will also be listed in Item 15 "Area or Equipment" on each violation.

c. When more than one miner is involved in violation of the same standard, the total number of miners withdrawn will be entered in Item 10D "Number of Persons Affected" on Form 7000-3. Each miner's name will also be listed in Item 15 "Area or Equipment."
d. A 104(g)(1) order including more than one miner may be modified to allow individual miners to return to work as soon as each miner completes the training specified in the order.

3. 104(g)(1) Violations Involving Independent Contractors:

   A Section 104(g)(1) order of withdrawal would be issued to the direct employer of any miner who has not received the required training. If there is uncertainty as to who employs the miner, the order of withdrawal should be issued to the operator with the greatest physical presence at the mine. Any discrepancies occurring after the miner is withdrawn can be resolved through subsequent modification actions.

4. Citations Issued With Section 104(g)(1) Orders:

   Citations shall not be issued in addition to 104(g)(1) orders for the same violation except in instances of overlapping compliance responsibility between contractors and mine operators. There may be circumstances where it is appropriate to issue citations or orders for training violations to both the independent contractor and the production operator.

   Scenario: A miner is the employee of an independent contractor and the production operator had agreed to provide the miner training in accordance with the mine's MSHA approved training plan. The miner has not received the required training. A 104(g)(1) order would be issued to the independent contractor and, as appropriate, a 104(a) citation, or a 104(d)(1) citation, or a 104(d)(1) order, or a 104(d)(2) order would be issued to the production operator.

B. Documentation for Section 104(g)(1) Orders

1. Write the violation narrative in Item 8. For a single employee and multiple training violations, follow the first narrative by noting the second cited standard then add a second narrative. If more space is needed, use a Mine Citation/Order Continuation Form. Include separate evaluations for gravity and negligence for

each standard violated. Insert the following statement at the end of the violation narrative in Item 8:

> "The Federal Mine Safety and Health Act of 1977 declares that untrained miner(s) are a hazard to themselves and others."

2. In Item 9C, enter the first standard cited.

3. "S&S" evaluations should be based on the criteria found in Section VI of this Chapter.

4. Enter 104(g)(1) in Item 12.

5. In Item 13 check the "Order" block.

6. In Item 15 "Area or Equipment" indicate the person(s) to be withdrawn. Use a Mine Citation/Order Continuation Form if more room is required to list all the miners.

7. Items 16A and B are not completed.

XII. SECTION 107(a) IMMINENT DANGER ORDERS

Imminent danger is defined in the Mine Act as "the **existence** of any condition or practice in a coal or other mine which could reasonably be expected to cause death or serious physical harm before such condition or practice can be abated." Courts interpreting this provision have stated that that an **imminent danger exists only** when the hazardous condition has a reasonable potential to cause death or serious injury to a miner if normal mining operations were permitted to proceed in the area before the dangerous condition was eliminated or corrected. .

An imminent danger order cannot be issued for an accident which has already occurred unless the imminence still exists. Immediate physical exposure to the imminent danger does not have to be witnessed by the inspector to issue a 107(a) order.

Because the purpose of Section 107(a) orders is to immediately remove miners from exposure to serious hazards and to prevent them from entering such hazardous areas or utilizing hazardous equipment, an imminent danger must be **impending** at the time an order is issued. Therefore, when an imminent danger is observed, the inspector must, as soon as possible and as the imminent danger is being observed, issue an oral Section 107(a) order. An oral order should be documented in writing as soon as practical.

If an oral Section 107(a) order is issued, it should be stated in precise terms such as: "I am issuing you a Section 107(a) imminent danger order." At the least, the inspector must use the words "imminent danger" or "107(a)" at the time the oral order is issued.

A written order, issued after an oral Section 107(a) order was communicated to the operator, must clearly state that it is confirming an oral imminent danger order and identify:

- the individual to whom the oral order was issued;
- the time and date the oral order was issued;
- the location at which the oral order was issued; and
- the reason the oral order was issued. This reason should be in the manner developed for issuance of Section 107(a) orders.

Imminent danger orders shall contain a detailed description of the conditions or practices which cause and constitute the imminent danger and a description of the area of the mine from which persons must be withdrawn and prohibited from entering. Only those persons described in Section 104(c) of the Mine Act may enter the affected area while the order is in place.

An imminent danger withdrawal order often arises because of a violation of the Mine Act and its mandatory health or safety standards. All violations which caused or contributed to the imminent danger are to be addressed as separate citations or orders referring back to the 107(a) Imminent Danger order of withdrawal. The issuance of an imminent danger order does not preclude the issuance of a section 104(d)(1) citation or order or a section 104(d)(2) order

A. Documentation for 107(a) Orders - Mandatory Standard Not Violated

1. In Item 8 describe the condition(s) or practice(s) which contributed to the imminent danger situation. Add the following statement at the end of the Item 8 narrative: "This condition is an imminent danger." Also include a statement concerning when, where, why, and to whom the verbal order was issued. If additional space is needed, a Mine Citation/Order Continuation Form 7000-3a must be used.

2. Leave items 9A, 9B, 9C, 10, and 11 blank.

3. In Item 12 enter "107(a)".

4. In Item 13 check the "Order" block.

5. Leave Item 14 blank.

6. In Item 15 describe the "Area or Equipment" affected.

7. In Item 16 "Termination Due Date and Time" are left blank.

8. Terminate the order when the condition(s) or practice(s) that created the imminent danger is abated.

9. Completion of a Possible Knowing/ Willful Violation Review Form is not required for imminent danger orders issued with no violations of mandatory standards.

B. Documentation - 107(a) Order Issued and Mandatory Standard(s) Violated

1. Complete Item 8 as indicated above and include the statement, "Citation No.\Order No. **xxxxxxx** is being issued in conjunction with this order." Describe the condition(s) or practice(s) which created the imminent danger situation and why the risk of hazard will occur before it can be remedied. Add the following statement in the Item 8 narrative: "This condition is an imminent danger." Also include a statement concerning when, why, where, and to whom the verbal order was issued.

   A Mine Citation/Order Continuation Form 7000-3a will be used if additional space is needed. When one or more violations create an imminent danger, each violation must be described in Item 8. Complete additional Form 7000-3s for each violation. For each additional Form 7000-3, indicate in Item 8 that the violation was a contributing factor in the issuance of the imminent danger order and that an abatement time is not set for 104(a) citations and 104(d)(1) citations issued in conjunction with 107(a) Orders.

2. Leave items 9A, 9B, 9C, 10 and 11 blank.

3. In Item 12 enter "107(a)."

4. In Item 13 check the "Order" block.

5. Leave Item 14 blank for all 104(a) and 104(d) citations issued in conjunction with 107(a) orders of withdrawal. However, Item 14 must be completed for all 104(d) orders issued in conjunction with 107(a) orders of withdrawal by checking Item 14A or 14B, entering either the initial 104(d) citation or 104(d) order number (as appropriate) in Item 14 E, and entering the date in Item 14F.

6. In Item 15 describe the "Area or Equipment" affected.

7. In Item 16 "Termination Due Date and Time" is not entered.

8. Terminate the imminent danger order when **all** conditions or practices creating the imminent danger have been abated.

9. A Possible Knowing/Willful Violation Review Form must be completed for 104(a) citations and 104(d) citations and orders issued in conjunction with a 107(a) imminent danger order regardless of the negligence evaluation.

XIII. SECTION 107(b)(1) NOTICES

Section 107(b) provides unique enforcement procedures and requirements to contend with the unusual circumstances of dangerous conditions that cannot be effectively abated through the use of existing technology. Accordingly, enforcement personnel or District Managers shall not issue orders or take any action under Section 107(b) before consulting with the Administrators for Metal and Nonmetal or Coal Mine and Safety and Health.

Further, Section 107(b) orders are not to be modified, terminated, or vacated by inspectors or district officials without prior consultation with the Administrators for Metal and Nonmetal or Coal Mine Safety and Health.

XIV. SECTION 110(g) NOTICES

A miner shall be issued a notice under Section 110(g) of the Mine Act if he or she is found willfully violating any of the mandatory safety standards relating to smoking or the carrying of smoking materials, matches, or lighters. Mandatory standards applicable to smoking are: 56/57.4100, 57.5041, 56/57.6904, 56/57.7805, 57.22101, 57.22102, 57.22105, 75.1702, and 77.1711.

To find a **willful** violation of the safety standard relating to smoking, the inspector must have evidence that the miner actually smoked in an underground coal mine or smoked in a restricted area in an underground metal or nonmetal mine or surface area. The restricted area on the surface must be posted as being a non-smoking area. Further, for a miner to willfully violate the standards regarding the carrying of smoking materials, the inspector must have proof that the miner actually knew that he or she was carrying the smoking materials into a restricted area or into an underground coal mine.

If the miner who was smoking or carrying materials in restricted areas was an agent of a mine operator, such as a foreman or other supervisor, the miner should not be subject to a Section 110(g) penalty but instead should be subject to a referral under Section 110(c) or Section 110(d) of the Mine Act.

Inspectors should make all reasonable efforts to document the miner’s past training regarding smoking and the carrying of smoking materials, obtain and note the miner's address and rate of pay so the nature of the proposed civil penalty can be accurately assessed and mailed to him or her since the civil penalty for this notice is assessed to the miner and not the mine operator or contractor.

The mine operator or contractor shall be issued a citation and a possible imminent danger order (depending on the circumstances observed) whenever a miner is found to be smoking or found carrying smoking materials, matches, or lighters in prohibited areas.

Scenario: A miner is observed smoking a cigarette in an underground explosives magazine. There are six open cases of dynamite within three feet of the miner. A 110(g) notice shall be issued to the miner. Also, a 104(a) citation or a 104(d) Citation or order and a separate 107(a) order shall be issued, depending on the circumstances, to the mine operator or contractor for a violation of 57.6904 or 75.1702.

Documentation for 110(g) Notice

1. Item 4 of the Mine Citation/Order form is completed with the miner's name. Items 5, 6, and 7 are completed with the operator's name, the mine name, and the Mine ID number.

2. Item 8 is completed with a description of the observed violation. The following statement shall be included at the end of that description:

   "This is notification to the individual that he or she will receive a civil penalty for willfully violating a mandatory safety standard relating to smoking or the carrying of smoking materials, matches, or lighters."

3. Item 9B is completed with "110(g)".

4. Item 9C is completed with one of the standards violated: 56/57.4100, 57.5041, 56/57.6904, 56/57.7805, 57.22101, 57.22102, 57.22105, 75.1702, and 77.1711.

5. Complete Section II, items 10A through D based on the determination made at the time the violation was observed. Section II, item 11 will always be completed with at least “high” negligence checked.

6. Item 16 is not completed.

7. One copy of the completed notice is given to the miner.

8. A copy of the notice will be mailed to the MSHA Office of Assessments in Arlington, Virginia. A cover letter shall be attached explaining the circumstances and any mitigating factors relating to its issuance. The letter shall also provide the miner's address so that the proposed civil penalty can be processed.

XV. MINE OPERATOR IN VIOLATION OF AN ORDER OF WITHDRAWAL

A separate 104(a) citation shall be issued, in all instances, for failure to comply with each order violated citing the applicable section [104(b), 104(d)(1), 104(d)(2), 104(e)(1), 104(e)(2), 104(g)(1), 107(a), 103(j) or 103(k)] when an inspector encounters a mine operator working in violation of an order of withdrawal. In citing this violation,

inspectors should explain to the mine operator what MSHA's rights are under the Mine Act and the penalty for continuing to operate in the face of a withdrawal order.

> **Note:** A 104(a) citation for operating in the face of an order shall not be issued when an order of withdrawal is issued and the "Area or Equipment" in Item 15 is noted as "No Area Affected" because the mine operator was notified that an "Area or Equipment" was not required to be withdrawn. If appropriate, injunctive action can be initiated by the District Manager if the mine operator continues to operate in the face of a withdrawal order.

While these violations are not issued often, civil penalties assessed to mine operators can be substantial; therefore, inspectors must document in detail the activity and statements regarding all the circumstances concerning the issuance of this citation.

> **Note:** In the rare instances these types of violations are issued, inspectors and supervisors should discuss them with the district office and/or regional solicitor prior to their issuance. As these violations are frequently litigated and are often contentious, consultation and coordination with all parties prior to issuance will assure that is knowledgeable regarding the actions being taken.

Since this citation stands alone for assessment purposes, it will be separately evaluated for gravity and negligence. Violations of the Mine Act are always designated as "non S&S." The following guidance applies to these evaluations:

> **Negligence evaluation -** shall be based on existing conditions and circumstances at the time of its issuance and **does not** have to reflect the same negligence as the preceding order of withdrawal since circumstances may have changed since the order's issuance. Evaluations for negligence, however, are usually "high" or "reckless disregard" because the mine operator was previously issued an order of withdrawal.
>
> **Gravity evaluation –** shall be designated as "non significant and substantial" as it is a violation of a section of the Mine Act. Further, these types of violations cannot be evaluated as unwarrantable failure or flagrant.

A Possible Knowing/Willful Violation Review Form will be completed for all citations issued for a mine operator operating in the face of an order of withdrawal.

Documentation for Working in Violation of a Withdrawal Order

1. In Item 9B of the Mine Citation/Order Form enter the section of the Mine Act violated; this entry will be the same as the type of order originally issued.

   Example: If a 104(b) order is not complied with, enter "104(b)" in Item 9B. Enter "107(a)" in Item 9B if the operator is working in violation of a 107(a) order

of withdrawal. Enter 104(d)(1), 104(d)(2), 104(g)(1), 104(e)(1), 104(e)(2), 103(j), or 103(k) in Item 9B if the operator is working in violation of one of these orders.

2. Item 9C is left blank.

3. Items 10 and 11 are completed with gravity and negligence evaluations made dependent on the circumstances present at the time of observation.

4. In Item 14 check the "Order" block, enter the order number and the date it was issued.

5. In Items 16A and B enter the "Termination Due Date" and "Time."

7. Terminate the citation when personnel are withdrawn as required. Terminate the order when the original condition or practice is abated.

8. Prepare and send to the District Office a packet that includes:

   a. the original Possible Knowing/Willful Violation Review Form;
   b. a copy of the Legal Identity Report;
   c. a copy of relevant general field notes;
   d. a copy of the citation/order notes;
   e. appropriate photographs;
   f. a copy of relevant citation(s) or order(s); and
   g. a copy of all modifications.

   This packet shall be mailed to the District Office in a timely manner.

CHAPTER 5 - HEALTH CRITERIA (METAL AND NONMETAL)

I. DOCUMENTATION OF HEALTH VIOLATIONS

Generally, when health sample results indicate that there has been an overexposure to dust, chemical contaminants, etc., the following information will be documented by the inspector:

- type of contaminant
- amount of exposure as compared to what is allowed
- error factor used
- length of the miner's exposure
- personal protective equipment program (or lack of) implemented by the operator
- type of (or lack of) personal protective equipment worn when the overexposure occurred
- training provided to the miner in the use of the personal protective equipment (if appropriate)
- controls used and their condition
- feasible controls available

II. CONTAMINANTS WITH CEILING DESIGNATIONS

When there is an overexposure to a contaminant that has a ceiling designation it is appropriate to issue a 104(a) citation with an abatement time reflecting the time needed to remove miners. Miners shall not reenter the area until the hazardous condition(s) is corrected except for those miners who are working to establish the necessary engineering controls. These miners must wear appropriate personal protective equipment. In this case, standards 56/57.5001(c) and 56/57.5005 should be considered as one standard and should be entered in Item 9C of the Mine Citation/Order Form (e.g., 56.5001(c)/.5005).

The above situation warrants issuance of a 107(a) imminent danger order only if the concentration(s) measured and the work condition(s) create a situation that is immediately dangerous to the exposed miners.

III. IMMINENT DANGER SITUATIONS INVOLVING CHEMICAL HAZARDS

A. IDLH Levels

MSHA considers the atmosphere "immediately harmful to life" whenever a contaminant's Immediate Danger to Life or Health (IDLH) limit is exceeded. The IDLH limits for various contaminants can be found in the "National Institute for Occupational Safety and Health (NIOSH) Pocket Guide to Chemical Hazards." However, imminent danger situations can exist below IDLH levels due to a miner's length of exposure, work activity, or time to escape. The following procedures shall be utilized whenever a contaminant's IDLH limit, plus the sampling factor, is exceeded:

1. A 107(a) order of withdrawal with contributing citations and/or orders shall be issued noting the contaminant levels and the conditions constituting the imminent danger situation.

2. The order of withdrawal shall require that all miners be immediately withdrawn from the contaminated atmosphere. The order should note that only those miners wearing appropriate personal protective equipment, and who are working on establishing engineering controls, are permitted to reenter the affected area.

3. Additionally, as required by 56/57.5005(c), at least one other person with backup equipment and rescue capability shall be present before any unprotected miner may reenter an atmosphere immediately harmful to life.

4. See Chapter 4, Section XVII of this handbook concerning the issuance of an imminent danger order with contributing citations and orders.

B. Other Situations

In some cases an imminent danger may exist even though a contaminant's IDLH limit is not exceeded. Continual exposure at high levels and adsorption through all routes of exposure can result in similar harm to miners. The issuance of an imminent danger order may be warranted if dizziness, headaches, slowed reflexes, lack of coordination, or other serious symptoms are shown by miners and are believed to be caused by exposure, including direct contact, along with consideration of the work environment, and serious physical harm or death may occur. The following procedures are to be implemented whenever there is exposure that may cause serious physical harm or death:

1. A 107(a) order of withdrawal with contributing citations and/or orders shall be issued noting the contaminant levels and the conditions constituting the imminent danger situation.

2. The order of withdrawal shall require that miners be immediately withdrawn from the contaminated atmosphere. It should be noted on the order that only those miners

wearing appropriate personal protective equipment, and who are working to establish engineering controls, are permitted to reenter the affected area.

3. Additionally, as required in metal and nonmetal mines under 56/57.5005(c), at least one other person with backup equipment and rescue capability shall be present before any miner enters an atmosphere immediately harmful to life.

4. See Chapter 4, Section XVII of this handbook concerning the issuance of an imminent danger order with contributing citations and orders.

Scenario: A miner has been exposed to 700 parts per million (ppm) of carbon monoxide. He has been drilling in the same area for the last four hours. The miner complains of dizziness, headache, nausea, is uncoordinated, and exhibits severe mental confusion. The miner's partner indicates that he also has similar symptoms. Further investigation reveals that the drill has fallen on both miners three times within the last hour due to their lack of concentration and inability to coordinate drilling activities. Ventilation in the area is not adequate due to holes and blockages observed in the vent tubing providing air into the area.

Scenario: A cyanide pipe in a mill broke and is spraying the solution everywhere including near miners working in the area. The exposed solution has flowed through the mill and has contacted some acidic material. Hydrogen Cyanide levels are measured at the doorway to the mill at 35 ppm.

In both of the above scenarios, due to the high exposure to a contaminant, the length of exposure time, the noted symptoms of miners, the safety hazards associated with incorrectly operating equipment, and the hazardous workplace environment, an imminent danger situation exists. In these cases, inspectors would issue a 107(a) imminent danger order and withdraw affected miners from their workplace.

IV. NEGLIGENCE AND GRAVITY EVALUATIONS - HEALTH VIOLATIONS

The following instructions apply to Section II of the Mine Citation/Order Form unless otherwise specified.

A. Negligence

The degree of negligence is dependent on what the mine operator did **before** MSHA collected the samples that established the violation. Factors to be considered by the inspector include items such as:

1. whether the mine operator knew or had been told of the high contaminant level(s);

2. the condition of engineering control systems;

3. whether engineering control systems had been provided;

4. whether the operator provided appropriate personal protection, whether it was fit-tested (if appropriate), whether personnel were trained in its use and limitations (if appropriate), and whether it was worn, properly maintained, cleaned.

B. Gravity

1. Likelihood: Consider "Reasonably Likely" or "Highly Likely" if respiratory or hearing protection was not provided; if the respiratory or hearing protection was not adequately maintained; if the individual was not respirator fit-tested; if the person was not trained in the use or limitations of the respirator; or if the protection was not suitable for the hazard. Also, consider "Reasonably Likely" or "Highly Likely" if the respiratory or hearing protection program had deficiencies which caused the personal protection to be inadequate.

   Note: With regard to nuisance particulates and silver metal overexposures between 0.01 mg/m^3 and 0.1 mg/m^3, operators must use engineering controls to reduce exposure to the permissible limit and comply with the respiratory protection requirements of standard 56/57.5005. However, .5001(a)/.5005 citations for overexposure to nuisance particulates and to silver metal in the above concentration range cannot be evaluated as “S&S.” Overexposures to soluble compounds of silver, such as silver nitrate, above 0.01 mg/m^3 can be evaluated as “S&S” if adequate respiratory protection was not worn.

   Occurrence would be marked as "Unlikely" if appropriate respiratory protection was being worn, was appropriate to the hazard, the miner was respirator fit-tested, and the mine operator had an acceptable respiratory protection program.

2. Severity: Overexposure to airborne contaminants and physical agents should be marked according to the severity of the disease they produce.

   Examples: Silica causes silicosis which is permanently disabling and sometimes fatal; radon daughter exposure can cause lung cancer which can be fatal; and excessive noise causes hearing loss which can be permanently disabling.

3. Number of Persons Affected: For most situations, indicate the number of miners sampled. There are situations, however, where more workers should be entered in Item 10D of the Mine Citation/Order Form. If other miners perform the same job on different shifts or if several miners rotate during the same shift and perform the identical job, that number should be entered in this box.

   Example: A day-shift crusher operator is overexposed to respirable silica bearing dust. Two other miners operate the crusher on the evening shift. Item 10D would have the number "3" entered for Persons Affected.

C. Significant and Substantial Violations

The **"Yes"** block in Item 10C must be marked if it is reasonably likely that one or more miners will or could suffer at least "Lost Workdays" or "Restricted Duty" as a result of exposure to the contaminant.

The **"No"** block in Item 10C is to be marked if it is not reasonably likely that one or more miners will or could suffer at least "Lost Workdays" or "Restricted Duty" as result of exposure to the contaminant.

Note: Since all overexposure limits have a likelihood of health impairment, this evaluation is dependent on the use of adequate personal protective equipment.

V. DOCUMENTATION OF AIRBORNE CONTAMINANT VIOLATIONS

Complete the citation form as usual except as follows:

A. "Date and Time of Issue" is the date and time the citation was issued.

B. In Item 8 include the following information: The Threshold Limit Value (TLV) or the exposure limit; the error factor; the contaminant; the concentration; the job title of the person sampled; the equipment and area where the person was working; and the believed reason for the overexposure. Always include information as to whether or not the miner was wearing approved respiratory protection with an adequate training, fit-testing, and maintenance program. Include a statement noting the sample date which is the date entered as the occurrence date in IPAL.

C. When there is an overexposure to airborne contaminants (except asbestos or those having ceiling limits), standards 56/57.5001(a) and 56/57.5005 should be considered as one standard. Enter the standard in Item 9C using the following format: 56.5001(a)/56.5005. When overexposures are for asbestos, inspectors should use 56/57.5001(b) and 56/57.5005 as one standard [e.g., 56.5001(b)/.5005 or 57.5001(b)/.5005].

D. Standard 56/57.5005 can be written alone **only** where MSHA requires a respiratory protection program for compliance and the mine operator fails to follow the program's requirements or the overexposed miner is not wearing a respirator where required. Standard 56/57.5005 can be cited without resampling if:

the area or equipment in question was observed operating without miner(s) complying with the respiratory protection program mandated by an outstanding citation for dust overexposure; or
the mine operator had been allowed to operate because all feasible engineering or administrative controls had been implemented but a respiratory protection program was still required by MSHA to gain compliance.

E. These citations should be evaluated as "S&S" if a respirator was not being worn; if the miner sampled had not been properly fit-tested with the respirator being worn; if the respirator was not properly maintained; or if the respirator was not selected in accordance with American National Standards Institute (ANSI) Z88.2-1969. Additionally, there may be other circumstances where the citation should be evaluated as "S&S." Inspectors should review ANSI requirements and the circumstances of each case to determine if a citation should be evaluated as "S&S."

> **Note:** With regard to nuisance particulates and silver metal overexposures between 0.01 mg/m^3 and 0.1 mg/m^3, operators must use engineering or administrative controls to reduce exposure to the permissible limit and comply with the respiratory protection requirements of standard 56/57.5005. However, .5001(a)/.5005 citations for overexposure to nuisance particulates and to silver metal in the above concentration range cannot be evaluated as “S & S.” Overexposures to soluble compounds of silver, such as silver nitrate, above 0.01 mg/m^3 should be evaluated as “S & S” if adequate respiratory protection was not worn.

F. If approved protection was not being worn, the initial termination due date will be the time necessary for the operator to provide appropriate respirators and develop a respiratory protection program in accordance with ANSI Z88.2-1969.

   Inspectors should also include a statement in citations that when a respiratory protection program was implemented in accordance with ANSI Z88.2-1969, the citation will be extended to allow the mine operator time to implement engineering or administrative controls.

G. When issued, state in extensions what items are required to be accomplished by the abatement due date.

H. If resampling has been done and results have not been received, an extension of time is not needed.

I. When an extension of time is required because MSHA sampling indicated that additional work needs to be completed by the mine operator, inspectors will issue an appropriate extension.

J. When resampling results indicate that contaminant levels are in compliance, enter the date and time the termination was issued in Item 12 of Form 7000-3a.

VI. ORDERS OF WITHDRAWAL - AIRBORNE CONTAMINANT VIOLATIONS

A. If appropriate personal protection is being worn and progress has not been made towards compliance, resampling must be conducted to determine if an overexposure still exists before issuing a Section 104(b) order of withdrawal.

B. If the due date and time has passed, a Section 104(b) order of withdrawal must be issued if the operator or contractor has failed to provide appropriate respiratory

protection, if the miner was not wearing an appropriate respirator, or if the operator has not implemented an appropriate respiratory protection program. Once an appropriate respiratory protection program is implemented or an appropriate respirator has been provided and/or worn, the Section 104(b) order can be modified to allow work to continue until feasible engineering or administrative controls are implemented.

Note: If the operator or contractor can install feasible engineering or administrative controls more quickly than acquiring the respiratory protection, the quicker means of abatement should be required.

A 104(b) order must also be issued if the operator or contractor has failed to implement feasible engineering or administrative controls within the established abatement time and further extension of time is not warranted. Once appropriate
engineering controls have been implemented, the 104(b) order can be modified to allow work to continue until resampling is conducted and the results analyzed to determine compliance. The order can be terminated if resampling indicates that the mine operator is in compliance.

C. When an inspector issues a Section 104(b) order of withdrawal, item 8 of the citation/order form should note, in detail, the reasons for the operator's failure to abate the citation and what must be done to achieve abatement of the condition or practice that caused issuance of the citation. It also should be noted in the 104(b) order, if applicable, that the failure to abate the violation involved a deficiency in the use of personal protective equipment (e.g., respirators).

D. When an operator continues production in violation of a 104(b) order or neglects to abide by the conditions under which the 104(b) order was modified, the inspector must issue a 104(a) citation to the operator for a violation of Section 104(b) of the Mine Act and require, as an abatement condition, that a respiratory protection program be instituted for compliance. See Chapter 4, Section XX of this handbook for procedures to follow when an operator operates in the face of a withdrawal order.

VII. GENERIC WORDING - CHEMICAL CONTAMINANT OR DUST CITATION

"The (job description) (location description) was exposed to a (shift or time weighted average) of (contaminant) on (sampling date). This exceeded the Threshold Limit Value (TLV) times the error factor of (enter factor). The analytical results were received and the citation was issued on (date citation was issued)."

Include language in the citation regarding the possible sources of the contaminant and any obvious deficiencies of the control systems; the type and condition of any personal protective equipment; and, if a respirator was used, whether or not a respirator program consistent with ANSI Z88.2-1969 was in place. When a respiratory protection program is nonexistent or deficient, state that the abatement time will be extended, if necessary, after a respiratory protection program consistent with ANSI Z88.2-1969 is in place so as to allow a reasonable period for the installation of controls.

CHAPTER 6 - HEALTH CRITERIA (COAL)

Information and guidance on the issuance of health citations and orders at coal mines may be found in the Coal Mine Health Inspection Procedures Manual and related Procedure Instruction Letters (PILs). Appendix C of this document contains examples of coal mine health citations and orders.

CHAPTER 7 - GENERAL INFORMATION

I. CITATION/ORDER BOOKS / IPAL CITATION NUMBERS - ACCOUNTABILITY

Citation/Order books are accountable government property and inspectors are required to sign an issuance sheet. Inspectors are also accountable for violation numbers issued through the IPAL system. Upon receipt of the violation numbers, the inspector must sign and date to acknowledge receipt of these numbers.

II. ISSUING CITATIONS AND ORDERS

It is not mandatory to give mine operators the citation or order form at the time the violation is observed. The operator or his designee, however, shall be told that there is a violation and a thorough discussion will ensue as to exposure, negligence, severity, and time permitted for abatement. Citations and orders shall be issued to the mine operator or his or her agent with reasonable promptness.

Note: Some citations or orders, because of the time needed for analysis or for other reasons, might be cited and delivered to the mine operator at a time after the violation has occurred. Examples include, but are not limited to: certain Part 50 violations, certain health violations, violations cited as a result of accident investigations, and violations cited as a result of reviewing accident forms.

III. INSPECTION OR INVESTIGATION CLOSEOUT CONFERENCE

At the conclusion of any enforcement-related inspection or investigation, inspectors shall discuss their general findings and each violation issued during that activity with the mine operator and, if applicable, with contractors and/or miners representatives. During this conference, inspectors will inform operators of citations or orders that have been evaluated as possibly flagrant and/or any that will be recommended for possible special assessment.

All parties will also be informed that they have 10 days in which to request a safety and health conference with the appropriate district manager if they disagree with actions taken by the inspector during the inspection or investigation. Further, all parties should be told that it is within the sole discretion of MSHA to grant requests for a conference and that a request for such conference must be in writing and include a brief statement of the reason(s) why each citation or order should be conferenced.

IV. COMPLIANCE ASSISTANCE VISIT INSPECTION FOLLOW-UP (METAL AND NONMETAL)

If an inspector observes a violation that is not abated which was noted on a previous CAV inspection, a 104(a) citation will be issued without referencing the CAV notice in the narrative or negligence evaluation section of the citation.

Inspectors should remember that a 104(a) citation is not the only action that can be taken for unabated CAV notices. Since the CAV inspection, the hazard observed during that inspection may have worsened or miners' exposure to the hazard might have increased. If an imminent danger situation now exists, a Section 107(a) withdrawal order should be issued with **no reference** made to the CAV notice in the body or negligence evaluation section of the order.

V. FIELD NOTES

For MNM inspectors, the forms provided to document inspectors' observations during enforcement activities are MSHA Forms 4000-49E (Citation/Order Documentation) and 4000-49F (General Field Notes), both 8½" x 11" in size, or Forms 4000-49G (Citation/Order Documentation), 4000-49H (General Field Notes), both 5" x 8" in size, and 4000-31 (Health Field Notes). For Coal inspectors**,** the forms provided to document inspectors' observations during enforcement activities are MSHA Form 7000 series. **Inspectors are not to take notes on other paper and copy them to these forms unless directed otherwise.**

For specific guidance on citation and order documentation, refer to the respective program area's General Inspection Procedures Handbook, as follows:

- Coal Mine Safety and Health General Inspection Procedures Handbook, Handbook No. PH13-V-1, Chapter 2, Section O.2.d. Documentation of Enforcement Actions.
- Metal and Nonmetal General Inspection Procedures Handbook, Handbook No. PH13-IV-1, Chapter 7, Section D Required Documentation for Citations and Orders.

VI. CONTRACTOR CITATIONS AND MSHA ID NUMBERS

Unless a contractor is cited, has a reportable accident, or is engaged in one of the nine types of construction or services listed in the MSHA Program Policy Manual (Volume III), an MSHA contractor ID number is not necessary. Some mine operators, however, require contractors to get numbers as a precondition for contract bidding. MSHA will provide an ID number for any contractor who requests one, but they need not apply except for the reasons specified above.

A contractor without an MSHA ID number can be cited using the mine operator's mine ID number until a contractor number is issued. A modification can then be written to include the new contractor number and to change the company name to the contractor's name when that number is obtained.

> **Note:** The contractor's name entered on the citation must be exactly as it was when the MSHA Contractor ID number was assigned.

Contractor citations cannot be put into the MSHA computer system until the contractor is linked to the mine ID number. The Contractor Form 4000-39 must be submitted to link that contractor number with the mine ID number.

VII. ISSUING CITATIONS OR ORDERS - ACCIDENT INVESTIGATIONS

Inspectors will initiate a separate event and use that event number if citations or orders are issued which are not directly related to an accident. If a regular inspection is not ongoing at the mine at the time of the accident, a new event should be initiated.

> **Note:** Unrelated citations or orders should not be included with the accident report.

VIII. TERMINATION (ABATEMENT) TIMES FOR CITATIONS

Inspectors shall give primary consideration to the health and safety of miners in establishing abatement times for all citations. The termination time for a citation must be specific and provide a reasonable time for mine operators to abate the conditions, practices, or circumstances which caused issuance of the citation. Citation abatement times **shall not** be established for the convenience of the mine operator, or for the inspector, or because the mine operator has filed an appeal with the Federal Mine Safety and Health Review Commission, or because the operator filed a Petition for Modification.

IX. EXTENDING/TERMINATING CITATIONS AT AN MSHA OFFICE

Most citations and orders require an on-site inspection to verify conditions before they can be terminated. Some citations and orders, such as those relating to certain records, may be terminated without conducting an on-site inspection. A field office supervisor should review and approve any citations or orders that are terminated by inspectors without conducting an on-site inspection. A "new" event number should not be initiated when a citation or order is extended, terminated, or vacated from an MSHA office. The appropriate enforcement activity code from the last on-site inspection should be used. Coal Inspectors could also use the T02 activity code for Office Generated Issuances.

X. EXTENDING CITATIONS - OPERATOR HAS APPEALED A CITATION OR ORDER

The filing of an appeal of a citation or order by a mine operator or contractor with the Federal Mine Safety and Health Review Commission (Commission) or the filing of a petition for modification does not relieve the operator or contractor of the responsibility of complying with the cited mandatory standard by its due date. These activities are not a basis to extend any citation unless inspectors are directed otherwise.

The extension of any citation **is** appropriate if primary consideration has been given to whether a safety or health hazard exists or may exist to the miners. An extension of time for the operator or contractor to comply may be appropriate if the hazard can be eliminated or minimized with an interim measure which ensures protection of miners.

XI. MODIFICATIONS TO CITATIONS/ORDERS/SUBSEQUENT ACTIONS

The original Mine Citation/Order Form 7000-3 and 7000-3a and all copies must be exactly alike. Any items written or entered in error on the form must be modified using a Mine Citation/Order Continuation Form 7000-3a. **Inspectors will not make changes on MSHA copies nor ask mine operators to make the same changes on their copies.**

Example: If a subsequent extension action is being changed, state: "The extension dated mm/dd/yy is being modified." If a subsequent termination action is being modified, state: "The termination dated mm/dd/yy is being modified." If a modification is being changed, state: "The modification dated mm/dd/yy is being corrected." If a Mine Citation/Order

Form is being modified or corrected, state: "Citation (or Order) No. **xxxxxxx** is being modified in Section **xx**, Item **xx**, to (the corrected action should be entered)."

XII. TERMINATING CITATIONS AND ORDERS

A. Citations and orders will be terminated on either the Mine Citation/Order Form or a Continuation Form and given to the mine operator or contractor.

Example: Four citations/orders were written and issued to the mine operator on Monday. Three days later all violative conditions were corrected. The four citations/orders shall be individually terminated on a Mine Citation/Order Continuation Form 7000-3a.

B. Citations and orders shall be terminated when a mine is classified by MSHA as permanently abandoned and sealed, or if it moves to a location some distance from the original site (e.g., a portable crusher). Citations and orders shall also be terminated when out of compliance equipment is permanently "removed from service," is permanently retired from service, or is permanently removed from the mine site.

The following procedures shall apply when citations and orders are terminated in the above situations:

1. Mine operation status is changed to "permanently abandoned."

   The inspector shall make every reasonable attempt to determine if the operator complied with the cited standards.

   a. If the operator did comply then:

      Terminate any outstanding citations or orders and hand deliver or mail the operator the terminations. Write on the termination(s) that the violative condition(s) or practice(s) was corrected.

   b. If it is determined that the operator did not correct the violative condition(s) or practice (s) before the mine was abandoned then:

      Terminate any outstanding citations or orders and hand deliver or mail the operator the terminations. Write the following on each termination:

      "The basis for termination of this citation (or order) is the classification of the mine as permanently abandoned. The violative condition(s) or practice(s) was not corrected. The operator is required to comply with the provisions of the cited standard before resuming activities at this location or at another mine.

2. Operation or equipment moves to a new location away from the initial mine site.

a. If the inspector determines that the operator did comply prior to moving then:

   Terminate all outstanding citations or orders and hand deliver or mail the operator all terminations. Note on the termination(s) that the basis for termination is that the violative condition was corrected.

b. If the inspector determines that the operator did not comply prior to moving then:

   Terminate all outstanding citations or orders and hand deliver or mail the operator all terminations. Write the following statement on each termination:

   "The basis for termination of this citation (or order) is the moving of mining operations (or equipment). The violative condition(s) or practice(s) was not corrected prior to moving. The operator is required to comply with the provisions of the standard before resuming any activities at another mine. Failure to correct the cited condition(s) or practice(s) prior to resuming these activities will be considered by MSHA to be aggravated conduct constituting more than ordinary negligence."

XIII. EQUIPMENT REMOVED FROM SERVICE

The term "removed from service" does not mean that the mine operator stopped using and parked a piece of equipment (e.g., front-end loader, truck) or a mining unit (e.g., portable crusher, screening unit) when it could or can be restarted and easily placed back into service in the same condition which caused issuance of the original citation(s) or order(s). Rather, "removed from service" refers to the action(s) taken by the mine operator or contractor to permanently incapacitate or render inoperable the equipment and eliminate the violation. The inspector should note those actions on the termination and refer to any evidence that the equipment was removed from service such as documentation and relevant statements made by the mine operator, or his or her representatives,

Scenario: A loader is cited for not having an audible back-up alarm installed. The mine operator (or contractor) takes the tires off the loader, places it on blocks, removes the battery, and welds the doors closed. Any of these actions could qualify the equipment as being "removed from service" and justify termination of any outstanding citation(s) or order(s).

XIV. MINE OWNERSHIP CHANGES WITH OUTSTANDING CITATIONS OR ORDERS

When ownership of a mine changes after a citation(s) or order(s) is issued, the termination should be issued to the operator of the property at the time of termination. The operator of the mine at the time a citation is issued is the entity that will be assessed the civil penalty even though the mine no longer belongs to that operator.

In all cases, do not modify the outstanding citation(s) to change mine ownership.

When a change in mine operator occurs after a citation is issued but before it is terminated and justification is not found to extend the citation, a Section 104(b) order of withdrawal can be issued to the new mine operator.

Unless conditions that were noted on the original citation have deteriorated and now pose an imminent danger to miners, the new mine operator should generally be given the same amount of time to correct the violative condition as was given the previous mine operator.

Example: On July 1, Jane Doe Sand and Gravel is cited for an unguarded conveyor head pulley and given one week to abate the condition. On July 7, Tom Brown Crushing purchases the mine and begins managing the operation the same day. On July 10, an inspector returns to check on the outstanding guarding citation and finds that a guard had not been installed on the head pulley.

Based on the circumstances noted above:

- an extension would be issued if the inspector found and documented mitigating circumstances (e.g., the new mine operator was unaware of the violation). The extension would be issued to "Tom Brown Crushing" noting in Section II narrative of form 7000-3a that Tom Brown Crushing purchased the operation on July 7 and was the new mine operator; or

- a Section 104(b) order of withdrawal would be issued if the inspector found and documented that there were no mitigating circumstances to issue an extension (e.g., the new mine operator was aware of the violation but chose not to abate the cited condition). The 104(b) order would be issued to "Tom Brown Crushing" noting in the Item 8 narrative that Tom Brown Crushing purchased the operation on July 7 and was the new mine operator.

XV. VACATING CITATIONS/ORDERS

Vacated citations and orders must be included with inspection or investigation reports as they are part of the inspection record. If the inspector is still at the mine, he or she will not reclaim the previous copies and mark the citation or order "Void." Instead, those copies shall be left with the mine operator and inspectors shall issue a "Vacate" action on Form 7000-3a. Inspectors shall state the specific reason for vacating the citation or order on that form. Copies of all vacated citations and orders shall be forwarded to the District Office separate from the inspection report. Vacating an imminent danger order must be authorized by the appropriate District or Assistant District Manager prior to that action occurring.

XVI. VOIDING CITATIONS/ORDERS

A voided citation or order is one which was written or typed on the Mine Citation/Order Form and an error was discovered before it was presented to the mine operator or contractor.

The inspector will mark "Void" on the original citation or order form and all copies. The circumstances which caused the voidance will be noted on all forms. These voided forms will not be included with the inspection report but will be kept with the citation book until it is completed. The inspector should attach the voided forms to the empty book and return it to the field office supervisor when the book is finished.

When using the IPAL system, a citation or order that is issued in error must be vacated or modified by using Form 7000-3a.

XVII. STANDARD SUBSECTIONS - CITATIONS/ORDERS

Unless directed otherwise, specify both the standard **AND** the appropriate subsection when a violation is cited.

Examples: Citations for failure to guard a piece of equipment should be issued under 56/57.14107(a) **and not** 56/57.14107; violations for failure to maintain an audible warning device on self-propelled equipment should be cited as 56/57.14132(a) **and not** 56/57.14132.

XVIII. PART 41 - LEGAL IDENTITY

Each mine operator is required to file notification of legal identity and every change thereto on an MSHA Legal Identity Report Form 2000-7 with the appropriate MSHA office.

Inspectors will check for any change in the mine operator, mine name, company officers, parent company, and the address of record during every inspection. An updated Legal Identity Report Form must be submitted by the mine operator within 30 days if changes have occurred. When applicable, a citation will be issued to the mine operator when corporate, company, partnership, or any other changes have been made without MSHA being notified as required under 30 CFR Part 41.

The operator and the mine name on a Mine Citation/Order Form and Continuation Form must be the same as on the Legal Identity Report Form in effect at the time a citation or order is issued.

XIX. PART 44 - PETITIONS FOR MODIFICATION

Title 30 CFR Part 44.4(c) reads in part: "... Orders granting petitions for modification may contain special terms and conditions to assure adequate protection to miners. The

modification, together with any conditions, shall have the same effect as a mandatory standard."

During each regular inspection, inspectors shall:

- determine that all requested petitions for modification, or a notice of their availability, are posted on the mine bulletin board as required by 30 CFR Part 44.9; and

- determine if a final petition decision or summary of that decision is posted. A copy of the full decision must be kept at the affected mine office and made available to the miners in accordance with 30 CFR 44.5(b).

- review the terms and conditions contained in the decision and order section of all granted petitions for modification.

When a violation of one or more of the conditions specified in granted petitions for modification is found, the inspector shall:

- cite the safety standard for which the petition for modification was granted;

- include the docket number of the granted petition for modification in Item 8 of the Mine Citation/Order Form;

- note the specific condition which was violated in the narrative of the Mine/Citation Order Form; and

- notify his (or her) supervisor after citing this violation.

This citation may be the basis for initiating action to revoke the granted petition depending on the circumstances present at the time of issuance.

XX. PART 50 - ACCIDENT, INJURY AND EMPLOYMENT REPORTING VIOLATIONS

An evaluation of compliance with employee and injury reporting requirements under 30 CFR Part 50 and the MINER Act shall be made during every regular inspection.

Inspectors shall issue a citation for **each separate instance** of:

- failing to immediately notify MSHA of an accident as defined in Part 50.2(h) within 15 minutes (50.10);

- failing to investigate an accident or occupational injury (50.11);

- altering an accident site (50.12);

- failing to report an accident, injury, or illness (50.20);

- failing to report quarterly employment (50.30); and

- reporting employment hours, production (coal), illnesses, or reportable injuries or accidents after the due date and each instance of inaccurate reporting (50.20 or 50.30).

Inspectors shall issue only one citation where mine operators have:

- failed to maintain quarterly employment or accident investigation reports (50.40); and

- failed to allow an MSHA representative to inspect and copy information related to accidents, injuries, or illnesses (50.41).

Violations of 30 CFR Part 50 (excluding 50.10) are violations of regulations as opposed to standards and will always be evaluated as "non-S&S." These violations, however, may be the result of high negligence, depending on circumstances. Violations of 30 CFR 50.10 may be evaluated as “S&S” or “non-S&S” depending on circumstances.

XXI. POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM (7000-20)

A. Inspectors will initiate a Possible Knowing/Willful Violation Review Form for:

- 107(a) orders with 104(a) and 104(d) citations;
- 107(a) orders with 104(d) orders;
- “S&S” 104(d) citations and orders with an evaluation of at least "high" for negligence;
- 104(e) orders of withdrawal with an evaluation of at least “high” for negligence;
- flagrant violations; and
- citations issued for working in violation of an order.

B. The District Office shall be sent a packet that includes:

1. the original Possible Knowing/ Willful Violation Review Form;
2. a copy of the Legal Identity Report;
3. a copy of the relevant general field notes;
4. a copy of the citation/order notes;
5. appropriate photographs; a copy of the relevant citation(s) or order(s); and
6. a copy of all modifications.

This packet shall be mailed to the District Office in a timely manner following the date the citation(s) or order(s) was issued.

Appendix A

Safety Violations

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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
	07	01	08		0800	441016 1

4. Served To
FRED BIRCH, OWNER

5. Operator
F. B. MINING COMPANY

6. Mine
F. B. MINE

7. Mine ID 56-09999- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

Mr. Fred Birch, owner of the F. B. Mining Company, refused to allow an authorized representative to enter the mine. Mr. Birch stated that the MSHA inspector could not enter his mine to conduct any inspection without a search warrant. Mr. Birch was advised that a search warrant was not necessary and that refusal to allow the inspection was a violation of the provisions of Section 103(a) of the Mine Act. This condition has not been designated as "significant and substantial" because the conduct violated a provision of the Mine Act rather than a mandatory safety or health standard.

NOTE: Section I, Item 9B, is completed with 103(a)

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation — A. Health ☐ Safety ☐ Other ☐ — B. Section of Act 103-a — C. Part/Section of Title 30 CFR

Section II -- Inspector's Evaluation

10. Gravity:

A. Injury or Illness (has) (is): No Likelihood [X] Unlikely ☐ Reasonably Likely ☐ Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays [X] Lost Workdays or Restricted Duty ☐ Permanently Disabling ☐ Fatal ☐

C. Significant and Substantial (See Reverse): Yes ☐ No [X] — D. Number of Persons Affected 000

11. Negligence (check one)

A. None ☐ B. Low ☐ C. Moderate ☐ D. High [X] 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 ☐ B. Order ☐ C. Safeguard ☐ D. Written Notice ☐ — E. Citation/Order Number — F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due — Mo 07 Da 01 Yr A. Date 08 — B. Time (24 Hr. Clock) 0830

Section III -- Termination Action

17. Action to Terminate

18. Terminated — Mo Da Yr A. Date — B. Time (24 Hr Clock)

Section IV -- Automated System Data

19. Type of Inspection (activity code) E15

20. Event Number 007350

21. Primary or Mill

22. Signature
JOHN SMITH

23. AR Number 01999

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - DENIAL OF RIGHT OF ENTRY

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	4	1	0	0	0	1
	0 7	0 1	0 8		0	7	0	0									

4. Served To
Joe Doe, Co-owner

5. Operator
Big Lick Coal Company

6. Mine
Big Lick No. 1

7. Mine ID 6 4 - 0 7 1 5 3 - (contractor)

8. Condition or Practice

8a. Written Notice (103g) [ ]

On 7/1/08, Joe Doe, partner and mine foreman, refused to allow Paul Jones, an authorized representative of the Secretary, entry into the Big Lick No. 1 Mine for the purpose of conducting an inspection of the mine pursuant to Section 103(a) of the Act. Mr. Doe stated that the Federal Inspector could not enter the mine to conduct any inspection without a search warrant. Mr. Doe was advised that a search warrant was not necessary. This condition has not been designated as "significant and substantial" because the conduct violated a provision of the Mine Act rather than a mandatory safety or health standard.

See Continuation Form (MSHA Form 7000-3a) [ ]

9. Violation
A. Health [ ] Safety [ ] Other [ ]
B. Section of Act 1 0 3 - a
C. Part/Section of Title 30 CFR

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood [X] Unlikely [ ] Reasonably Likely [ ] Highly Likely [ ] Occurred [ ]

B. Injury or Illness could reasonably be expected to be: No Lost Workdays [X] Lost Workdays or Restricted Duty [ ] Permanently Disabling [ ] Fatal [ ]

C. Significant and Substantial (See Reverse): Yes [ ] No [X]

D. Number of Persons Affected 0 0 0

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

12. Type of Action 1 0 4 - a - , -

13. Type of Issuance (check one)
Citation [X] 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 0 7 Da 0 1 Yr 0 8
B. Time (24 Hr. Clock) 0 7 4 5

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) E 0 1
20. Event Number 0 8 0 8 0 8 0
21. Primary or Mill

22. Signature
Paul Jones

23. AR Number 2 9 3 2 0

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - DENIAL OF RIGHT OF ENTRY

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
	07	01	08	0835	4410162

4. Served To
FRED BIRCH, OWNER

5. Operator
F. B. MINING COMPANY

6. Mine
F. B. MINE

7. Mine ID 56-0999 9- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

Mr. Fred Birch, owner and operator of the F. B. Mining Company, continued to deny an authorized representative of the Secretary the right of entry into the F.B. Mine for the purpose of conducting an inspection of the mine in accordance with the requirements of Section 103(a) of the Federal Mine Safety and Health Act of 1977.

NOTE: Section I, Item 9B, is completed with 103(a). Items 10 and 11 are not completed. Item 15 is completed with the phrase "No Area Affected."

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation — A. Health ☐ Safety ☐ Other ☐ — B. Section of Act 103-a — C. Part/Section of Title 30 CFR .

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 (See Reverse): Yes ☐ No ☐ D. Number of Persons Affected

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

12. Type of Action 104-b-, -

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

14. Initial Action
A. Citation [X] B. Order ☐ C. Safeguard ☐ D. Written Notice ☐ E. Citation/Order Number 4410161 F. Dated Mo 07 Da 01 Yr 08

15. Area or Equipment
NO AREA AFFECTED

16. Termination Due — A. Date Mo Da Yr — B. Time (24 Hr. Clock)

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) E27

20. Event Number 007350

21. Primary or Mill

22. Signature
JOHN SMITH

23. AR Number 01999

MSHA Form 7000-3 Mar 85 (Revised)

104(b) ORDER - DENIAL OF RIGHT OF ENTRY

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
	07	01	08	0800		441002

4. Served To
Joe Doe, Co-owner

5. Operator
Big Lick Coal Company

6. Mine
Big Lick No. 1

7. Mine ID 64-071 53- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

Joe Doe, partner and mine foreman, continued to deny Paul Jones, an authorized representative of the Secretary, the right of entry into the Big Lick No. 1 Mine for the purpose of conducting an inspection of the mine in accordance with the requirements of Section 103(a) of the Act.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation
A. Health ☐ Safety ☐ Other ☐
B. Section of Act 103-a
C. Part/Section of Title 30 CFR .

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 (See Reverse): Yes ☐ No ☐

D. Number of Persons Affected

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

12. Type of Action 104-b-, -

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

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

E. Citation/Order Number 441001

F. Dated Mo 07 Da 01 Yr 08

15. Area or Equipment
No area affected.

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

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 0808080

21. Primary or Mill

22. Signature
Paul Jones

23. AR Number 29320

MSHA Form 7000-3 Mar 85 (Revised)

104(b) ORDER - DENIAL OF RIGHT OF ENTRY

Mine Citation/Order
Continuation

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

Section l -- Subsequent Action/Continuation Data

1. Subsequent Action	1a. Continuation	2. Dated (Original Issue)	Mo	Da	Yr	3. Citation/Order Number
☐	☐					

4. Served To	5. Operator
John Smith, Assistant Foreman	J and S Coal Company, Inc.

6. Mine	7. Mine ID
No. 1	4 4 - 0 3 5 3 6 - (contractor)

Section ll -- Justification for Action

Purpose - This inspection was conducted to investigate a complaint dated 7/22/08 alleging that dangerous loose coal, coal dust, and float coal dust have accumulated throughout the 2 south belt entry.

Negative Findings -The entire 2 south belt entry was examined and accumulations of loose coal, coal dust or float coal dust were not found.

This example reflects only one hazard that was involved in the 103(g) inspection. In those instances where two or more hazards are alleged to exist in a request for a 103(g) inspection, each of the alleged hazards must be addressed by issuing a citation or order or by providing written notification that each alleged hazard did not exist.

See Continuation Form ☐

Section lll -- Subsequent Action Taken

8. Extended To	A. Date	Mo	Da	Yr	B. Time (24 Hr. Clock)	C. Vacated	D. Terminated	E. Modified
						☐	☐	☐

Section lV -- Inspection Data

9. Type of Inspection	10. Event Number
E 0 3	0 8 8 8 8 0 1

11. Signature	AR Number	12. Date	Mo	Da	Yr	13. Time (24 Hr. Clock)
James Lee	2 0 7 7 7		0 7	2 3	0 8	1 0 3 0

MSHA Form 7000-3a, Mar 85 (Revised)

103(g) HAZARD COMPLAINT INSPECTON
NOTICE OF NEGATIVE FINDINGS

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
	07	02	08	1345	4410163

4. Served To
J.R. JOHNSON, SAFETY DIRECTOR

5. Operator
ABC MINING COMPANY

6. Mine
ABC MINE AND MILL

7. Mine ID 75-09133- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

A mine fire occurred at the 2315 level near the power substation. Seven miners are trapped behind a barricade erected on the No. 7 Gangway. This entrapment was confirmed by the mine foreman in a telephone conversation with one of the trapped miners. Contact with the trapped miners was lost just before 0930 hours. All persons are prohibited from entering the mine with the exception of a 6-person rescue team which must coordinate with the Fresh Air Base to determine if the fire area can be entered safely. A 6-person backup mine rescue team must be at the Fresh Air Base while the other team is pursuing the rescue effort.

NOTE: The Gravity and Negligence Sections are not completed.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation
A. Health ☐ Safety ☐ Other ☐
B. Section of Act ___-___
C. Part/Section of Title 30 CFR ___.___

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 (See Reverse): Yes ☐ No ☐
D. Number of Persons Affected

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

12. Type of Action 103-j-__,__-__-__
13. Type of Issuance (check one)
Citation ☐ Order [X] 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
ENTIRE MINE

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

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) E09
20. Event Number 007351 1
21. Primary or Mill

22. Signature
JOHN SMITH

23. AR Number 01999

MSHA Form 7000-3 Mar 85 (Revised)

103 (j) ORDER - CONTROL OF
RESCUE AND RECOVERY OPERATIONS

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action	1a. Continuation	2. Dated (Original Issue)	Mo	Da	Yr	3. Citation/Order Number
[X]	[ ]		0 7	2 5	0 8	4 4 1 0 0 0 6 - 0 1

4. Served To	5. Operator
John Smith, Assistant Foreman	J and S Coal Company, Inc.

6. Mine	7. Mine ID
No. 1	4 4 0 3 5 3 6 - (contractor)

Section II -- Justification for Action

Order No. 4410006 dated 7/25/08 is hereby modified to permit rehabilitation of the 2 south section according to the agreed upon plan dated 7/25.
All items listed on this plan must be strictly adhered to.

See Continuation Form [ ]

Section III -- Subsequent Action Taken

8. Extended To	A. Date	Mo	Da	Yr	B. Time (24 Hr. Clock)	C. Vacated	D. Terminated	E. Modified
						[ ]	[ ]	[X]

Section IV -- Inspection Data

9. Type of Inspection	10. Event Number
E 0 6	0 8 8 8 8 0 8

11. Signature	AR Number	12. Date	Mo	Da	Yr	13. Time (24 Hr. Clock)
James Lee	2 0 7 7 7		0 8	0 5	0 8	0 9 0 0

MSHA Form 7000-3a, Mar 85 (Revised)

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action	1a. Continuation	2. Dated (Original Issue)	Mo	Da	Yr	3. Citation/Order Number
[X]	[ ]		07	25	08	4410006-02

4. Served To	5. Operator
John Smith, Assistant Foreman	J and S Coal Company, Inc.

6. Mine	7. Mine ID
No. 1	440353 - (contractor)

Section II -- Justification for Action

Ventilation has been restored to the No. 2 south section. An examination of the mine was made and samples of the mine atmosphere did not reveal the presence of carbon monoxide.

See Continuation Form [ ]

Section III -- Subsequent Action Taken

8. Extended To	A. Date	Mo	Da	Yr	B. Time (24 Hr. Clock)	C. Vacated	D. Terminated	E. Modified
						[ ]	[X]	[ ]

Section IV -- Inspection Data

9. Type of Inspection	10. Event Number
E01	08888 09

11. Signature	AR Number	12. Date	Mo	Da	Yr	13. Time (24 Hr. Clock)
James Lee	20777		08	05	08	0900

MSHA Form 7000-3a, Mar 85 (Revised)

103(j) ORDER - TERMINATION

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
	07	02	08	0900	4410164

4. Served To
JAMES JOHNSON, MINE SUPERINTENDENT

5. Operator
J.H. MINING COMPANY, INC.

6. Mine
JACKSON HOLE MINE

7. Mine ID 56-0013- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

A fatal accident occurred at this operation on July 2, 2008, when two miners were attempting to blast oversized ore at the No. 4 draw point area. This order is issued to assure the safety of all persons at this operation. It prohibits all activity at the No. 4 draw point area until MSHA has determined that it is safe to resume normal mining operations in the area. The mine operator shall obtain prior approval from an authorized representative for all actions to recover and/or restore operations to the affected area.

NOTE: The gravity and negligence sections are not completed nor is a termination due date established.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation A. Health ☐ Safety ☐ Other ☐ B. Section of Act - C. Part/Section of Title 30 CFR .

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 (See Reverse): Yes ☐ No ☐ D. Number of Persons Affected

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

12. Type of Action 103-k-, -

13. Type of Issuance (check one)
Citation ☐ Order [X] 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
NO. 4 DRAW POINT AREA

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

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) E06 20. Event Number 0007351 2 21. Primary or Mill

22. Signature
JOHN SMITH

23. AR Number 01999

MSHA Form 7000-3 Mar 85 (Revised)

103(k) ORDER - CONTROL AND
CONSULTATION DURING RESCUE AND RECOVERY OPERATIONS

Mine Citation/Order

Continuation

U.S. Department of Labor

Mine Safety and Health Administration

Section l -- Subsequent Action/Continuation Data

1. Subsequent Action	1a. Continuation	2. Dated (Original Issue)	Mo	Da	Yr	3. Citation/Order Number
[X]	[ ]		07	02	08	4410164-01

4. Served To	5. Operator
JAMES JOHNSON, MINE SUPERINTENDENT	J.H. MINING COMPANY, INC.

6. Mine	7. Mine ID
JACKSON HOLE MINE	56-00013- (contractor)

Section ll -- Justification for Action

Order #4410164 is terminated. Conditions that contributed to the accident have been corrected and normal mining operations can resume.

See Continuation Form [ ]

Section lll -- Subsequent Action Taken

8. Extended To	A. Date	Mo	Da	Yr	B. Time (24 Hr. Clock)	C. Vacated	D. Terminated	E. Modified
						[ ]	[X]	[ ]

Section lV -- Inspection Data

9. Type of Inspection	10. Event Number
E06	0073512

11. Signature	AR Number	12. Date	Mo	Da	Yr	13. Time (24 Hr. Clock)
JOHN SMITH	01999		07	03	08	0815

MSHA Form 7000-3a, Mar 85 (Revised)

103(k) ORDER - TERMINATION

Mine Citation/Order

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

Section I -- Violation Data

1. Date: Mo 08 Da 10 Yr 08
2. Time (24 Hr. Clock): 0800
3. Citation/Order Number: 4410007

4. Served To: John Smith, Mine Foreman
5. Operator: J and S Coal Company, Inc.
6. Mine: No. 1
7. Mine ID: 44-035 36- (contractor)

8. Condition or Practice
8a. Written Notice (103g) ☐

The mine has experienced a fatal track haulage accident along the 10 left haulway. This Order is issued to ensure the safety of any person in the coal mine until an examination or investigation is made to determine that the 10 left haulway is safe. Only those persons selected from company officials, state officials, the miners' representative and other persons who are deemed by MSHA to have information relevant to the investigation may enter or remain in the affected area.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation: A. Health ☐ Safety ☐ Other ☐ B. Section of Act - C. Part/Section of Title 30 CFR .

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 (See Reverse): Yes ☐ No ☐
D. Number of Persons Affected

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

12. Type of Action: 103-k-, -
13. Type of Issuance (check one)
Citation ☐ Order [X] 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
Entire 10 left track haulway and equipment involved in the accident.

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

Section III -- Termination Action

17. Action to Terminate
The 10 left track haulway and the equipment involved in the fatal haulage accident has been examined and it has been determined that it is safe to resume normal mining operations in the affected area.

18. Terminated
A. Date Mo 08 Da 10 Yr 08
B. Time (24 Hr Clock) 1600

Section IV -- Automated System Data

19. Type of Inspection (activity code): E06
20. Event Number: 0888811
21. Primary or Mill

22. Signature: James Lee
23. AR Number: 20777

MSHA Form 7000-3 Mar 85 (Revised)

103(k) ORDER - ISSUANCE AND TERMINATION

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
	07	06	08	1300	4410168

4. Served To: SAMUEL ADAMS, LEVEL FOREMAN

5. Operator: ABLE MINING, INC.

6. Mine: THE DOUBLE M MINE

7. Mine ID: 57-06789- (contractor)

8. Condition or Practice

8a. Written Notice (103g) [ ]

Signs warning against smoking and open flames were not posted in the underground shop where flammable solvents were being used. The Safety Director stated that signs had been posted a few days ago. Employees had been instructed not to smoke in areas where there were flammable liquids. Several large multi-purpose fire extinguishers were in the area which reduced the chances of a fire spreading.

See Continuation Form (MSHA Form 7000-3a) [ ]

9. Violation: A. Health [ ] Safety [ ] Other [ ] B. Section of Act - C. Part/Section of Title 30 CFR 57.4101

Section II -- Inspector's Evaluation

10. Gravity:

A. Injury or Illness (has) (is): No Likelihood [ ] Unlikely [X] Reasonably Likely [ ] Highly Likely [ ] Occurred [ ]

B. Injury or Illness could reasonably be expected to be: No Lost Workdays [X] Lost Workdays or Restricted Duty [ ] Permanently Disabling [ ] Fatal [ ]

C. Significant and Substantial (See Reverse): Yes [ ] No [X] D. Number of Persons Affected 005

11. Negligence (check one)

A. None [ ] B. Low [ ] C. Moderate [X] 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 [ ] 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 07 Da 06 Yr 08 B. Time (24 Hr. Clock) 1600

Section III -- Termination Action

17. Action to Terminate

TWO "NO SMOKING" SIGNS WERE POSTED IN APPROPRIATE AREAS OF THE SHOP.

18. Terminated: A. Date Mo 07 Da 06 Yr 01 B. Time (24 Hr Clock) 1535

Section IV -- Automated System Data

19. Type of Inspection (activity code): E01

20. Event Number: 0345678

21. Primary or Mill

22. Signature: BILL WILLIAMS

23. AR Number: 02555

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - "NON-S&S"

Mine Citation/Order

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

Section I -- Violation Data

1. Date: Mo 07, Da 20, Yr 08
2. Time (24 Hr. Clock): 0845
3. Citation/Order Number: 4410003

4. Served To: John Smith, Assistant Foreman
5. Operator: J and S Coal Company, Inc.

6. Mine No. 1
7. Mine ID: 44-0353 6- (contractor)

8. Condition or Practice
8a. Written Notice (103g) ☐

Energized insulated power wires were not passing through insulated bushings where they entered a power control switchbox on the Labour water pump at the northeast pumping station. The wires were resting against the metal frame of the switchbox, and there was no apparent damage to the insulation.

(The wrong section number has been used on purpose in this example. See Example 5 for modification.)

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation
A. Health ☐ Safety ☐ Other ☐
B. Section of Act: -
C. Part/Section of Title 30 CFR: 75.514

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely [X] Reasonably Likely ☐ Highly Likely ☐ Occurred ☐
B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty [X] Permanently Disabling ☐ Fatal ☐
C. Significant and Substantial (See Reverse): Yes ☐ No [X]
D. Number of Persons Affected: 001

11. Negligence (check one)
A. None ☐ B. Low ☐ C. Moderate [X] 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 ☐ 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 07, Da 21, Yr 08
B. Time (24 Hr. Clock): 0800

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: 08888 00
21. Primary or Mill

22. Signature: James Lee
23. AR Number: 20777

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - "NON-S&S"

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action	1a. Continuation	2. Dated (Original Issue)	Mo	Da	Yr	3. Citation/Order Number
X	☐		07	20	08	4410003-01

4. Served To	5. Operator
John Smith, Assistant Foreman	J and S Coal Company, Inc.

6. Mine	7. Mine ID
No. 1	44-03536- (contractor)

Section II -- Justification for Action

The energized power wires entering a power control switchbox on the Labour water pump at the northeast pumping station have not been provided with insulated bushings. A power failure resulted in the mine being idle. Therefore, additional time has been requested and granted.

See Continuation Form ☐

Section III -- Subsequent Action Taken

8. Extended To	A. Date	Mo	Da	Yr	B. Time (24 Hr. Clock)	C. Vacated	D. Terminated	E. Modified
		07	22	08	0800	☐	☐	☐

Section IV -- Inspection Data

9. Type of Inspection	10. Event Number
E01	08888 00

11. Signature	AR Number	12. Date	Mo	Da	Yr	13. Time (24 Hr. Clock)
James Lee	20777		07	21	08	0830

MSHA Form 7000-3a, Mar 85 (Revised)

104(a) CITATION - EXTENSION

Mine Citation/Order
Continuation

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

Section l -- Subsequent Action/Continuation Data

1. Subsequent Action	1a. Continuation	2. Dated (Original Issue)	Mo	Da	Yr	3. Citation/Order Number
[X]	[ ]		07	20	08	4410003-02

4. Served To	5. Operator
John Smith, Assistant Foreman	J and S Coal Company, Inc.

6. Mine	7. Mine ID
No. 1	44-0353 6- (contractor)

Section ll -- Justification for Action

The power wires were entered through insulated bushings into the power control switches on the Labour water pump at the northeast pumping station.

See Continuation Form [ ]

Section lll -- Subsequent Action Taken

8. Extended To	A. Date	Mo	Da	Yr	B. Time (24 Hr. Clock)	C. Vacated	D. Terminated	E. Modified
						[ ]	[X]	[ ]

Section lV -- Inspection Data

9. Type of Inspection	10. Event Number
E01	08888 00

11. Signature	AR Number	12. Date	Mo	Da	Yr	13. Time (24 Hr. Clock)
James Lee	20777		07	23	08	0800

MSHA Form 7000-3a, Mar 85 (Revised)

104(a) CITATION - TERMINATION

Mine Citation/Order
Continuation

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

Section l -- Subsequent Action/Continuation Data

1. Subsequent Action	1a. Continuation	2. Dated (Original Issue)	Mo	Da	Yr	3. Citation/Order Number
[X]	[ ]		07	20	08	4410003-03

4. Served To	5. Operator
John Smith, Assistant Foreman	J and S Coal Company, Inc.

6. Mine	7. Mine ID
No. 1	44-0353 6- (contractor)

Section ll -- Justification for Action

Citation No. 4410003, issued for a violation of 30 CFR 75.514 is modified in Item 9 C to show the correct section number 30 CFR 75.515.

(Modification to correct wrongly cited section number of the regulations.)

See Continuation Form [ ]

Section lll -- Subsequent Action Taken

8. Extended To	A. Date	Mo	Da	Yr	B. Time (24 Hr. Clock)	C. Vacated	D. Terminated	E. Modified
						[ ]	[ ]	[X]

Section lV -- Inspection Data

9. Type of Inspection	10. Event Number
E01	08888 00

11. Signature	AR Number	12. Date	Mo	Da	Yr	13. Time (24 Hr. Clock)
James Lee	20777		07	23	08	1000

MSHA Form 7000-3a, Mar 85 (Revised)

104(a) CITATION - MODIFICATION

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
	07	06	08	1330	4410167

4. Served To
SAMUEL ADAMS, LEVEL FOREMAN

5. Operator
MUDDY MINING, INC.

6. Mine
THE DOUBLE M MINE

7. Mine ID 57-06789- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

A written record of workplace examinations was not available for review by MSHA. Examinations had been conducted every shift of each working place and appropriate action had been taken to correct hazardous conditions. However, the operator had failed to record those examinations.

NOTE: Do not issue this citation in conjunction with, or in addition to, a citation for failing to conduct the workplace examination required under 56/57.18002(a).

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation A. Health ☐ Safety ☐ Other ☐ B. Section of Act - C. Part/Section of Title 30 CFR 57.18002b

Section II -- Inspector's Evaluation

10. Gravity:

A. Injury or Illness (has) (is): No Likelihood [X] Unlikely ☐ Reasonably Likely ☐ Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays [X] Lost Workdays or Restricted Duty ☐ Permanently Disabling ☐ Fatal ☐

C. Significant and Substantial (See Reverse): Yes ☐ No [X]

D. Number of Persons Affected 000

11. Negligence (check one)
A. None ☐ B. Low ☐ C. Moderate [X] 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 ☐ B. Order ☐ C. Safeguard ☐ D. Written Notice ☐

E. Citation/Order Number

F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due Mo 07 Da 06 Yr 08 A. Date B. Time (24 Hr. Clock) 1600

Section III -- Termination Action

17. Action to Terminate
A RECORD OF EXAMINATIONS WAS NOW BEING KEPT AND WAS AVAILABLE FOR REVIEW BY MSHA.

18. Terminated Mo 07 Da 06 Yr 08 A. Date B. Time (24 Hr Clock) 1535

Section IV -- Automated System Data

19. Type of Inspection (activity code) E01

20. Event Number 034567 8

21. Primary or Mill

22. Signature
BILL WILLIAMS

23. AR Number 02555

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - NON-"S&S"

Mine Citation/Order

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

Section I -- Violation Data

1. Date: Mo 07 Da 08 Yr 08
2. Time (24 Hr. Clock): 0800
3. Citation/Order Number: 4410170

4. Served To: LEFTY JONES, SAFETY DIRECTOR
5. Operator: WHEAT MINING COMPANY
6. Mine: WMC MINE AND MILL
7. Mine ID: 56-00333- (contractor)
8. Condition or Practice
8a. Written Notice (103g) [ ]

The cab window of the front-end loader was cracked on the driver's side creating a line of vision problem for the operator.
The loader was being operated in the stockpile area. According to the operator, the loader does not work in any other areas of the mine.
Other traffic or employees were not in the immediate vicinity. The windshield cracks extend two feet vertically by two feet horizontally, with numerous smaller cracks radiating from the larger cracks.

Equipment: 988 Caterpillar front-end loader, #10, Serial Number 234567

See Continuation Form (MSHA Form 7000-3a) [ ]

9. Violatio
A. Health [ ] Safety [ ] Other [ ]
B. Section of Act -
C. Part/Section of Title 30 CFR 56.14103b

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood [ ] Unlikely [X] 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 [X] Fatal [ ]
C. Significant and Substantial (See Reverse): Yes [ ] No [X]
D. Number of Persons Affected: 001

11. Negligenc (check one)
A. None [ ] B. Low [ ] C. Moderate [X] 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 [ ] 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 07 Da 22 Yr 08
B. Time (24 Hr. Clock) 1600

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: 045678 9
21. Primary or Mill

22. Signature: PAULA FIELDS
23. AR Number: 03111

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - "NON-S&S"

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action	1a. Continuation	2. Dated (Original Issue)	Mo	Da	Yr	3. Citation/Order Number
[X]	[ ]		07	08	08	4410170-01

4. Served To	5. Operator
LEFTY JONES, SAFETY DIRECTOR	WHEAT MINING COMPANY

6. Mine	7. Mine ID
WMC MINE AND MILL	56-00333- (contractor)

Section II -- Justification for Action

The loader was removed from the mine site and the violation is terminated. Prior to its removal, the loader's windshield had not been replaced by the operator. The mine operator was notified that, prior to resuming mining activities at another site, he is required to comply with the cited standard. If the operator does not comply, MSHA will consider his actions to be aggravated conduct constituting more than ordinary negligence.

See Continuation Form [ ]

Section III -- Subsequent Action Taken

8. Extended To	A. Date	Mo	Da	Yr	B. Time (24 Hr. Clock)	C. Vacated	D. Terminated	E. Modified
						[ ]	[X]	[ ]

Section IV -- Inspection Data

9. Type of Inspection	10. Event Number
E15	0357910

11. Signature	AR Number	12. Date	Mo	Da	Yr	13. Time (24 Hr. Clock)
JOHN SMITH	01999		07	18	08	0830

MSHA Form 7000-3a, Mar 85 (Revised)

104(a) CITATION - TERMINATION
EQUIPMENT REMOVED FROM MINE SITE

Mine Citation/Order

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

Section l -- Violation Data

1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number
	07	03	08	0800	4410165

4. Served To
RICHARD MORE

5. Operator
CB ENTERPRISES

6. Mine
CRUSHED AND BROKEN MINE

7. Mine ID 56-03112- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

The self-cleaning tail pulley of the No. 2 conveyor belt was not guarded. The conveyor was not operating at the time of the inspection but had operated the day before. The guard was lying on the ground. Several feet of dust had accumulated around the guard indicating that it had not been in place for an extended period of time. Employees were required to work in this area when the conveyor was operating. The unguarded conveyor tail pulley was within two feet of an active workplace and was visible to anyone in the area. Miners would be seriously injured if they came in contact with the unguarded pulley.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation
A. Health ☐ Safety ☐ Other ☐
B. Section of Act -
C. Part/Section of Title 30 CFR 56.14112b

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely [X] Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty ☐ Permanently Disabling [X] Fatal ☐

C. Significant and Substantial (See Reverse): Yes [X] No ☐

D. Number of Persons Affected 001

11. Negligence (check one)
A. None ☐ B. Low ☐ C. Moderate [X] 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 ☐ 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 07 Da 03 Yr 08
B. Time (24 Hr. Clock) 1200

Section III -- Termination Action

17. Action to Terminate
THE GUARD WAS REINSTALLED ON THE TAIL PULLEY.

18. Terminated
A. Date Mo 07 Da 03 Yr 08
B. Time (24 Hr Clock) 1330

Section IV -- Automated System Data

19. Type of Inspection (activity code) E01

20. Event Number 008966 9

21. Primary or Mill

22. Signature
JANE JONES

23. AR Number 02136

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - "S&S"

Mine Citation/Order

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

Section l -- Violation Data

1. Date	Mo Da Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number
	07 03 08	1100	4410166

4. Served To	5. Operator
RICHARD MORE	CB ENTERPRISES

6. Mine	7. Mine ID
CRUSHED AND BROKEN MINE	56-03112- (contractor)

8. Condition or Practice — 8a. Written Notice (103g) ☐

A competent person designated by the mine operator was not examining each working place at least once every shift for conditions which could adversely affect safety or health. This was evidenced by the two citations issued this inspection for failure to install machinery guards, one citation issued for failure to repair broken emergency stop cords on conveyors, and one citation issued for failure to replace electrical motor junction box covers.

NOTE: Do not issue a second citation for failing to record the examination [56/57.18002(b)] if a citation is issued, as in this case, for failing to conduct the examination.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violatio A. Health ☐ Safety ☐ Other ☐ — B. Section of Act - — C. Part/Section of Title 30 CFR 56.1800 2a

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely [X] Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty ☐ Permanently Disabling [X] Fatal ☐

C. Significant and Substantial (See Reverse): Yes [X] No ☐ — D. Number of Persons Affected 001

11. Negligenc (check one)
A. None ☐ B. Low ☐ C. Moderate [X] 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 ☐ 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 07 Da 04 Yr 08 — B. Time (24 Hr. Clock) 0800

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 008966 9 — 21. Primary or Mill

22. Signature
JANE JONES

23. AR Number 02136

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - "S&S"

Mine Citation/Order
Continuation

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

Section l -- Subsequent Action/Continuation Data

1. Subsequent Action	1a. Continuation	2. Dated (Original Issue)	Mo	Da	Yr	3. Citation/Order Number
[X]	[ ]		07	06	08	4410169-01

4. Served To	5. Operator
SAMUEL ADAMS, LEVEL FOREMAN	MUDDY MINING, INC.

6. Mine	7. Mine ID
THE DOUBLE M MINE	57-06789- (contractor)

Section ll -- Justification for Action

This action is to modify Citation #4410169 based on information presented at an MSHA Health and Safety Conference. Information received included: the loose slab was located one foot from the right rib and a ditch was located directly beneath the slab. Persons in this area walk approximately five feet to the side of the ditch and are not likely to be hit by the slab. Based on this information the citation is modified to "Non-S&S". Item 10A is modified to "unlikely" and Item 10C is changed to "No".

See Continuation Form [ ]

Section lll -- Subsequent Action Taken

8. Extended To	A. Date	Mo	Da	Yr	B. Time (24 Hr. Clock)	C. Vacated	D. Terminated	E. Modified
						[ ]	[ ]	[X]

Section lV -- Inspection Data

9. Type of Inspection	10. Event Number
E01	0345678

11. Signature	AR Number	12. Date	Mo	Da	Yr	13. Time (24 Hr. Clock)
PAUL SMITH	01654		07	21	08	1300

MSHA Form 7000-3a, Mar 85 (Revised)

104(a) CITATION - "S&S"
MODIFIED TO "NON-S&S"

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
	07	24	08	0800	4410171

4. Served To
LEFTY JONES, SAFETY DIRECTOR

5. Operator
WHEAT MINING COMPANY

6. Mine
WMC MINE AND MILL

7. Mine ID 56-00333- (contractor)

8. Condition or Practice 8a. Written Notice (103g) ☐

No apparent effort was made to replace the cracked cab window on the driver's side of the front-end loader which was being operated in the stockpile area. The loader is hereby ordered withdrawn from service until the cab window is replaced and an MSHA inspector can observe the windshield in the loader.
Equipment: 988 Caterpillar front-end loader, #10, Serial Number 234567

NOTE: Section II, Items 10, 11, 16A and 16B are not completed. If equipment is ordered withdrawn from service enter the equipment's name, model, and serial number (if known) in Section II, Item 15.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation A. Health ☐ Safety ☐ Other ☐ B. Section of Act - C. Part/Section of Title 30 CFR 56.1410 3b

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 (See Reverse): Yes ☐ No ☐ D. Number of Persons Affected

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

12. Type of Action 104-b-, -

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

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

E. Citation/Order Number	F. Dated	Mo	Da	Yr
4410170		07	08	08

15. Area or Equipment
CATERPILLAR FRONT-END LOADER (MODEL 988, SERIAL #234567)

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

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)	20. Event Number	21. Primary or Mill
E15	0357913	

22. Signature
JOHN SMITH

23. AR Number 01999

MSHA Form 7000-3 Mar 85 (Revised)

104(b) - ORDER OF WITHDRAWAL

Mine Citation/Order

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

Section l -- Violation Data

1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number
	07	27	08	0900	4410188

4. Served To
LEFTY JONES, SAFETY DIRECTOR

5. Operator
WHEAT MINING COMPANY

6. Mine
WMC MINE AND MILL

7. Mine ID 56-00333- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

The mine operator is continuing to operate the Caterpillar 988 front-end loader even though a 104(b) order #4410171 for non-compliance was issued by MSHA on July 24, 2008. This order required the loader to be removed from service until a cracked cab window was repaired. The loader was loading trucks in the plant on July 27, 2008. The foreman stated that they had production to worry about and did not have time to shut the loader down and replace the window. This condition has not been designated as "significant and substantial" because the conduct violated a provision of the Mine Act rather than a mandatory safety or health standard.
NOTE: Section I, Item 9B, is completed with the section of the mine act violated. Item 9C is not completed. A 104(a), not a 104(d), citation is to be issued regardless of the negligence evaluation.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation
A. Health ☐ Safety ☐ Other ☐
B. Section of Act 104-b
C. Part/Section of Title 30 CFR .

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood [X] Unlikely ☐ Reasonably Likely ☐ Highly Likel ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays [X] Lost Workdays or Restricted Duty ☐ Permanently Disabling ☐ Fatal ☐

C. Significant and Substantial (See Reverse): Yes ☐ No [X]
D. Number of Persons Affected 001

11. Negligence (check one)
A. None ☐ B. Low ☐ C. Moderate ☐ D. High [X] 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 ☐ B. Order [X] C. Safeguard ☐ D. Written Notice ☐
E. Citation/Order Number 4410171
F. Dated Mo 07 Da 24 Yr 08

15. Area or Equipment

16. Termination Due
A. Date Mo 07 Da 27 Yr 08
B. Time (24 Hr. Clock) 0930

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) E15
20. Event Number 0385193
21. Primary or Mill

22. Signature
TED JOHNSON

23. AR Number 04789

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - WORKING IN VIOLATION OF A
104(b) ORDER OF WITHDRAWAL

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							
	0 7	2 1	0 8		0	8	3	0		4	4	1	0	0	0	4

4. Served To
John Smith, Assistant Foreman

5. Operator
J and S Coal Company, Inc.

6. Mine
No. 1

7. Mine ID 4 4 - 0 3 5 3 6 - (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

No apparent effort was made by the operator to install a proper bushing where the energized power wires go through the metal frame into the switches of the Labour water pump in the northeast pumping station.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation A. Health ☐ Safety ☐ Other ☐ B. Section of Act - C. Part/Section of Title 30 CFR 7 5 . 5 1 5

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 (See Reverse): Yes ☐ No ☐ D. Number of Persons Affected

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

12. Type of Action 1 0 4 - b - , -

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

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

E. Citation/Order Number 4 4 1 0 0 0 3 F. Dated Mo 0 7 Da 2 0 Yr 0 8

15. Area or Equipment
The Labour water pump located at the northeast pumping station

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

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) E 0 1 20. Event Number 0 8 8 8 8 0 0 21. Primary or Mill

22. Signature
James Lee

23. AR Number 2 0 7 7 7

MSHA Form 7000-3 Mar 85 (Revised)

104(b) ORDER OF WITHDRAWAL - FAILURE TO ABATE

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
	07	21	08	1100	4410005

4. Served To
John Smith, Assistant Foreman

5. Operator
J and S Coal Company, Inc.

6. Mine
No. 1

7. Mine ID 44-03536- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

The Labour pump was not removed from operation as required by Order of Withdrawal No. 4410004 dated 7/21/08 at 0830 hours. The Order has not been modified, vacated, or terminated. This condition has not been designated as "significant and substantial" because the conduct violated a provision of the Mine Act rather than a mandatory safety or health standard.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation
A. Health ☐ Safety ☐ Other ☐
B. Section of Act 104-b
C. Part/Section of Title 30 CFR .

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood [X] Unlikely ☐ Reasonably Likely ☐ Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays [X] Lost Workdays or Restricted Duty ☐ Permanently Disabling ☐ Fatal ☐

C. Significant and Substantial (See Reverse): Yes ☐ No [X]

D. Number of Persons Affected 001

11. Negligence (check one)
A. None ☐ B. Low ☐ C. Moderate ☐ D. High [X] 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 ☐ B. Order [X] C. Safeguard ☐ D. Written Notice ☐

E. Citation/Order Number 4410004

F. Dated 07 21 08

15. Area or Equipment

16. Termination Due ☐ Mo 07 Da 21 Yr 08 A. Date B. Time (24 Hr. Clock) 1115

Section III -- Termination Action

17. Action to Terminate

The pump was removed from service.

18. Terminated ☐ Mo 07 Da 21 Yr 08 A. Date B. Time (24 Hr Clock) 1105

Section IV -- Automated System Data

19. Type of Inspection (activity code) E01

20. Event Number 08888 00

21. Primary or Mill

22. Signature
James Lee

23. AR Number 2077 7

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - WORKING IN VIOLATION OF A 104(b) ORDER OF WITHDRAWAL

Mine Citation/Order
Continuation

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

Section l -- Subsequent Action/Continuation Data

1. Subsequent Action	1a. Continuation	2. Dated (Original Issue)	Mo	Da	Yr	3. Citation/Order Number
[X]	[ ]		07	21	08	4410004-01

4. Served To	5. Operator
John Smith, Assistant Foreman	J and S Coal Company, Inc.

6. Mine	7. Mine ID
No. 1	44-0353 6- (contractor)

Section ll -- Justification for Action

A suitable bushing was provided and properly installed at the point where the energized power wires entered the power control switchbox on the Labour pump located at the northeast pumping station.

See Continuation Form [ ]

Section lll -- Subsequent Action Taken

8. Extended To	A. Date	Mo	Da	Yr	B. Time (24 Hr. Clock)	C. Vacated	D. Terminated	E. Modified
						[ ]	[X]	[ ]

Section lV -- Inspection Data

9. Type of Inspection	10. Event Number
E01	08888 00

11. Signature	AR Number	12. Date	Mo	Da	Yr	13. Time (24 Hr. Clock)
James Lee	2077 7		07	21	08	1200

MSHA Form 7000-3a, Mar 85 (Revised)

104(b) ORDER OF WITHDRAWAL - TERMINATION

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
	07	08	08		0800	4410172

4. Served To	5. Operator
PETER JONES, SAFETY DIRECTOR	XYZ MINING, INC.

6. Mine	7. Mine ID
XYZ MINE	56-01008- (contractor)

8. Condition or Practice — 8a. Written Notice (103g) ☐

The headpulley guard was removed and not replaced on the primary crusher discharge conveyor belt on July 6, 2008. According to a maintenance employee, Foreman Chester Coombs ordered the guard taken off because it was binding the headpulley. The unguarded pulley was three feet off ground level, was highly visible, and was turning at a high rate of speed. A laborer usually shovels spilled material onto the conveyor belt immediately adjacent to the headpulley. Leaving machinery guards off is a violation of the company's safety policy. Coombs stated he had read and was aware of this policy but that if an employee was careful an injury would not occur. Foreman Coombs engaged in aggravated conduct constituting more than ordinary negligence in that he was aware that the headpulley guard was off and that employees worked in the area when the machinery was in motion. This violation is an unwarrantable failure to comply with a mandatory standard.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violatio — A. Health ☐ Safety ☐ Other ☐ — B. Section of Act - — C. Part/Section of Title 30 CFR 56.14112b

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely [X] Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty ☐ Permanently Disabling ☐ Fatal [X]

C. Significant and Substantial (See Reverse): Yes [X] No ☐ — D. Number of Persons Affected 001

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

12. Type of Action 104-d-1, - -

13. Type of Issuance (check one) Citation [X] 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 — Mo 07 Da 08 Yr 08 — A. Date — B. Time (24 Hr. Clock) 1000

Section III -- Termination Action

17. Action to Terminate
THE GUARD WAS REPLACED OVER THE PRIMARY CRUSHER DISCHARGE HEADPULLEY. ALSO, FOREMAN COOMBS WAS REINSTRUCTED ON COMPANY GUARDING POLICY BY THE PLANT MANAGER.

18. Terminated — Mo 07 Da 08 Yr 08 — A. Date — B. Time (24 Hr Clock) 1015

Section IV -- Automated System Data

19. Type of Inspection (activity code)	20. Event Number	21. Primary or Mill
E01	0123456	

22. Signature	23. AR Number
TED SMITH	02933

MSHA Form 7000-3 Mar 85 (Revised)

104(d)(1) CITATION - UNWARRANTABLE FAILURE WITH TERMINATION

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
	08	19	08	1330	4410015

4. Served To
John Smith, Mine Foreman

J and S Coal Company, Inc.

6. Mine
No. 1

7. Mine ID 44-03536-

8. Condition or Practice

8a. Written Notice (103g) ☐

The methane and dust control plan is not being complied with on 1 left section. Line brattice (or other approved device) was not installed for a distance of 40 feet, from the last open crosscut to the face of No. 3 entry , where the continuous miner was cutting coal. The plan requires the curtain to be maintained to within 30 feet of the point of deepest penetration of the face. The air at the face contained 0.9 per centum of methane as indicated by a permissible methane detector. The foreman, Ray Smith, was directing mining operations in the face and knew that line brattice was available on the section. Foreman Smith engaged in aggravated conduct by ordering work to be performed in a working face having no positive ventilation. The mine has had previous ignitions. This violation is an unwarrantable failure to comply with a mandatory standard.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violatio A. Health ☐ Safety ☐ Other ☐ B. Section of Act - C. Part/Section of Title 30 CFR 75.330b2

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 (See Reverse): Yes ☒ No ☐ D. Number of Persons Affected 002

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

12. Type of Action 104-d-1, - -

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 Mo 08 Da 19 Yr 08 A. Date B. Time (24 Hr. Clock) 1340

Section III -- Termination Action

17. Action to Terminate
Line brattice was installed to within 10 feet of the face. Methane could not be detected immediately after the brattice was installed.

18. Terminated Mo 08 Da 19 Yr 08 A. Date B. Time (24 Hr Clock) 1345

Section IV -- Automated System Data

19. Type of Inspection (activity code) E15 20. Event Number 0888830 21. Primary or Mill

22. Signature
James Lee

23. AR Number 20777

MSHA Form 7000-3 Mar 85 (Revised)

104(d)(1) CITATION - UNWARRANTABLE FAILURE WITH TERMINATION

Mine Safety and Health Administration

Section I -- Violation Data

1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number
	08	10	08	0800	4410173

4. Served To
LEFTY JONES, SAFETY DIRECTOR

5. Operator
WHEAT MINING COMPANY

6. Mine
WMC PORTABLE CRUSHER

7. Mine ID 56-01975- (contractor)

8. Condition or Practice

8a. Written Notice (103g) [ ]

The window of the front-end loader was cracked on the driver's side creating a line of vision problem for the operator. The loader was operating in the stockpile area. Because of the broken windshield the loader operator did not have clear vision to avoid hitting other vehicular traffic and employees in the area. The windshield cracks extended two feet vertically by two feet horizontally. This loader and condition was cited (#4410168) on July 8, 2008, at another mine (Mine ID #56-00333) owned by the operator. When the citation was terminated, the operator was informed in writing that the violation still existed but was being terminated because of the equipment's removal from that mine site. Further, the operator was informed that they were required to repair the broken windshield prior to working the machine at another mine site. The Safety Director stated that there wasn't time to repair the windshield at the new site because they were behind on production. The mine operator has engaged in aggravated conduct constituting more than ordinary negligence. This violation is an unwarrantable failure to comply with a mandatory standard.

Equipment: 988 Caterpillar front-end loader (Serial #234567)

See Continuation Form (MSHA Form 7000-3a) [ ]

9. Violation
A. Health [ ] Safety [ ] Other [ ]
B. Section of Act
C. Part/Section of Title 30 CFR 56.14103b

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood [ ] Unlikely [ ] Reasonably Likely [X] Highly Likely [ ] Occurred [ ]

B. Injury or Illness could reasonably be expected to be: No Lost Workdays [ ] Lost Workdays or Restricted Duty [ ] Permanently Disabling [ ] Fatal [X]

C. Significant and Substantial (See Reverse): Yes [X] No [ ]

D. Number of Persons Affected 001

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

12. Type of Action 104-d-1,--

13. Type of Issuance (check one)
Citation [X] 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 08 Da 10 Yr 08
B. Time (24 Hr. Clock) 1630

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 045661 9

21. Primary or Mill

22. Signature
JOHN SMITH

23. AR Number 01999

MSHA Form 7000-3 Mar 85 (Revised)

104(d)(1) CITATION - UNWARRANTABLE FAILURE - CITING MINE OPERATOR FOR PREVIOUSLY TERMINATED VIOLATION

Mine Citation/Order

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

Section l -- Violation Data

1. Date	Mo 07	Da 09	Yr 08	2. Time (24 Hr. Clock) 0810	3. Citation/Order Number 4410174

4. Served To
PETER JONES, SAFETY DIRECTOR

5. Operator
XYZ MINING, INC.

6. Mine
XYZ MINE

7. Mine ID 56-01008- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

A six-foot section of handrail on the elevated walkway by the coarse gravel bins was missing, exposing employees daily to falling hazards. The fall to ground was estimated to be 18 feet. Mine Foreman, Chester Coombs, was walking along the walkway, his regular daily route of travel. The missing handrail had been reported to Foreman Coombs on June 27, 2008, in a written report from the plant loader operator. Coombs stated he had more important things to worry about than a missing handrail. Foreman Coombs engaged in aggravated conduct constituting more than ordinary negligence in that he knew the handrail was missing and employees were exposed to falling hazards. This violation is an unwarrantable failure to comply with a mandatory standard.

NOTE: Section II, Items 14A, 14E, and 14F are completed with the initial 104(d)(1) citation number and it's issue date.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violatio A. Health ☐ Safety ☐ Other ☐ B. Section of Act - C. Part/Section of Title 30 CFR 56.1100.2

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely [X] Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty ☐ Permanently Disabling ☐ Fatal [X]

C. Significant and Substantial (See Reverse): Yes [X] No ☐ D. Number of Persons Affected 001

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

12. Type of Action 104-d-1, - -

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

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

E. Citation/Order Number 4410160 F. Dated Mo 07 Da 08 Yr 08

15. Area or Equipment
WALKWAY AT THE NO. 7 COARSE GRAVEL BINS

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

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 0123456 21. Primary or Mill

22. Signature
TED SMITH

23. AR Number 02933

MSHA Form 7000-3 Mar 85 (Revised)

104(d)(1) - "S&S" UNWARRANTABLE FAILURE ORDER

Mine Citation/Order

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

Section l -- Violation Data

1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number
	08	30	08	1000	4410016

4. Served To	5. Operator
John Smith, Mine Foreman	J and S Coal Company, Inc.

6. Mine	7. Mine ID
No. 1	44-03536- (contractor)

8. Condition or Practice — 8a. Written Notice (103g) ☐

The trailing cable to the No. 2 shuttle car on 1st left section contained five poorly made temporary splices; three of the splices had exposed, uninsulated conductors. The condition of the temporary splices contributes substantially to a fire or electrical shock hazard. The mine floor is wet. Persons without gloves handle trailing cables. The condition of the cable was reported in the preshift examiner's book on 8/28/08 and 8/29/08. and was countersigned by the mine foreman. The mine operator was engaged in aggravated conduct by acknowledging a safety hazard and not taking corrective action. This violation is an unwarrantable failure to comply with a mandatory standard.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation — A. Health ☐ Safety ☐ Other ☐ — B. Section of Act ___-___ — C. Part/Section of Title 30 CFR 75.603

Section II -- Inspector's Evaluation

10. Gravity:

A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely [X] Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty ☐ Permanently Disabling ☐ Fatal [X]

C. Significant and Substantial (See Reverse): Yes [X] No ☐ — D. Number of Persons Affected 001

11. Negligence (check one)

A. None ☐ B. Low ☐ C. Moderate ☐ D. High ☐ E. Reckless Disregard [X]

12. Type of Action 104-d-1, -

13. Type of Issuance (check one)

Citation ☐ Order [X] Safeguard ☐ Written Notice ☐

14. Initial Action

A. Citation [X] B. Order ☐ C. Safeguard ☐ D. Written Notice ☐ — E. Citation/Order Number 4410015 — F. Dated Mo 08 Da 18 Yr 08

15. Area or Equipment

No. 2 shuttle car, 1st left section

16. Termination Due — A. Date Mo Da Yr — B. Time (24 Hr. Clock)

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)	20. Event Number	21. Primary or Mill
E01	08881	

22. Signature: James Lee — 23. AR Number 20777

MSHA Form 7000-3 Mar 85 (Revised)

104(d)(1) - S&S" UNWARRANTABLE FAILURE ORDER

Mine Citation/Order

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

Section l -- Violation Data

1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number
	08	31	08	1000	441007

4. Served To
John Smith, Mine Foreman

5. Operator
J and S Coal Company, Inc.

6. Mine
No. 1

7. Mine ID 44-035 36- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

Positive-acting stop controls are not installed along the belt conveyor in 2 south section. The belt has been extended a distance of 600 feet. This condition has been reported in the pre-shift and on-shift examination books for the dates of 8/20 through 8/30/08. The controls are required by Notice to Provide Safeguard No. 1 ABC, dated 9/16/76. The mine operator has engaged in aggravated conduct by failure to correct a known safety violation. This violation is an unwarrantable failure to comply with a mandatory standard.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation A. Health ☐ Safety ☐ Other ☐ B. Section of Act - C. Part/Section of Title 30 CFR 75.1403

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely [X] Reasonably Likely ☐ Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty [X] Permanently Disabling ☐ Fatal ☐

C. Significant and Substantial (See Reverse): Yes ☐ No [X] D. Number of Persons Affected 001

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

12. Type of Action 104-d-1, -

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

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

E. Citation/Order Number 441005

F. Dated Mo 08 Da 19 Yr 08

15. Area or Equipment
Belt conveyor in 2 south section

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

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 08888331

21. Primary or Mill

22. Signature
James Lee

23. AR Number 20777

MSHA Form 7000-3 Mar 85 (Revised)

104(d)(1) UNWARRANTABLE FAILURE ORDER - BASED ON NOTICE TO PROVIDE SAFEGUARDS

Mine Citation/Order

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

Section I -- Violation Data

1. Date: Mo 07, Da 10, Yr 08
2. Time (24 Hr. Clock): 0800
3. Citation/Order Number: 4410175

4. Served To: J.R. JOHNSON, SAFETY DIRECTOR
5. Operator: ABC MINING COMPANY
6. Mine: ABC MINE
7. Mine ID: 75-091 33- (contractor)

8. Condition or Practice
8a. Written Notice (103g) [ ]

The underground water truck driver did not have on his person a positive means of identification. The driver stated that he had not been issued any identification in the three months he had worked underground. The safety director stated "we just haven't issued dog tags to the new man because we've got production to think about." This mine has been issued fourteen previous violations for this standard in the last three months. Management engaged in aggravated conduct constituting more than ordinary negligence in that production was deemed more important than issuing ID tags to an employee. This violation is an unwarrantable failure to comply with a mandatory standard.

NOTE: For 104(d)(2) orders, Section II, Item 14 is completed with the initial 104(d)(1) order and not the 104(d)(1) citation. Also note that 104(D) orders can be either "S&S" or "Non-S&S".

See Continuation Form (MSHA Form 7000-3a) [ ]

9. Violation
A. Health [ ] Safety [ ] Other [ ]
B. Section of Act: -
C. Part/Section of Title 30 CFR: 57.11058

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood [X] Unlikely [ ] Reasonably Likely [ ] Highly Likely [ ] Occurred [ ]
B. Injury or Illness could reasonably be expected to be: No Lost Workdays [X] Lost Workdays or Restricted Duty [ ] Permanently Disabling [ ] Fatal [ ]
C. Significant and Substantial (See Reverse): Yes [ ] No [X]
D. Number of Persons Affected: 001

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

12. Type of Action: 104-d-2, -
13. Type of Issuance (check one)
Citation [ ] Order [X] Safeguard [ ] Written Notice [ ]

14. Initial Action
A. Citation [ ] B. Order [X] C. Safeguard [ ] D. Written Notice [ ]
E. Citation/Order Number: 441015 9
F. Dated: Mo 07 Da 03 Yr 08

15. Area or Equipment
WATER TRUCK DRIVER - BENNY FRANKLIN

16. Termination Due
A. Date: Mo Da Yr
B. Time (24 Hr. Clock)

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: 056789 0
21. Primary or Mill

22. Signature
JANE JONES
23. AR Number: 02136

MSHA Form 7000-3 Mar 85 (Revised)

104(d)(2) ORDER
"NON-S&S" UNWARRANTABLE FAILURE

Mine Citation/Order

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

Section l -- Violation Data

1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)		3. Citation/Order Number
	11	01	08	0900		4410019

4. Served To
John Smith, Mine Foreman

5. Operator
J and S Coal Company, Inc.

6. Mine
No. 1

7. Mine ID 44-035 36- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

No. 1 entry of 1 right section had been driven 22 to 27 feet in width for a distance of 125 feet inby spad No. 100. Additional roof support had not been installed. A maximum width of 20 feet was permitted by the approved roof control plan, which was revised 4/15/08, because of fragile roof conditions. Sam Jones is the section foreman and one of the preshift examiners for the section, and he did not record the condition. The condition has existed for approximately 5 working shifts. This section has a history of unintentional roof falls. Three citations have been issued at this mine for violations of 75.203(e) in the past 6 months. Sam Jones engaged in aggravated conduct by his failure to record and take action on a known hazard. This violation is an unwarrantable failure to comply with a mandatory standard.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation A. Health ☐ Safety ☐ Other ☐ B. Section of Act - C. Part/Section of Title 30 CFR 75.203e

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely [X] Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty ☐ Permanently Disabling ☐ Fatal [X]

C. Significant and Substantial (See Reverse): Yes [X] No ☐ D. Number of Persons Affected 001

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

12. Type of Action 104-d-2, - -

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

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

E. Citation/Order Number 4410016 F. Dated Mo 08 Da 30 Yr 08

15. Area or Equipment
No. 1 entry of 1 right section beginning at spad No. 100 and extending inby for a distance of 125 feet.

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

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 0888835 21. Primary or Mill

22. Signature
James Lee

23. AR Number 2077 7

MSHA Form 7000-3 Mar 85 (Revised)

104(d)(2) UNWARRANTABLE FAILURE ORDER - SUBSEQUENT INSPECTION

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
	07	12	08	0900	4410177

4. Served To
JANE SMITHSON, OWNER

5. Operator
BEDROCK MINING COMPANY

6. Mine
BEDROCK MINE

7. Mine ID 56-0789 1- (contractor)

8. Condition or Practice

8a. Written Notice (103g) [ ]

A laborer was not wearing safety glasses, goggles, face shields, or other protective devices while standing approximately ten feet from a hydraulic rock breaker. The breaker was being used to break a large quartz boulder. Chips from this breakage were being propelled directly into the area where the laborer was standing and could have easily struck his unprotected eyes.

A written Notice of Pattern of Violations, No. 8765931, was issued by MSHA on 06/13/08.

NOTE: Leave Section II, Item 14, blank for 104(e)(1) orders. Also, 104(e) orders are required to be evaluated as "S&S".

See Continuation Form (MSHA Form 7000-3a) [ ]

9. Violation
A. Health [ ] Safety [ ] Other [ ]
B. Section of Act -
C. Part/Section of Title 30 CFR 56.1500 4

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood [ ] Unlikely [ ] Reasonably Likely [X] Highly Likely [ ] Occurred [ ]

B. Injury or Illness could reasonably be expected to be: No Lost Workdays [ ] Lost Workdays or Restricted Duty [ ] Permanently Disabling [X] Fatal [ ]

C. Significant and Substantial (See Reverse): Yes [X] No [ ]
D. Number of Persons Affected 001

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

12. Type of Action 104-e-1,-- -
13. Type of Issuance (check one)
Citation [ ] Order [X] 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
TOM SMITH, LABORER

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

Section III -- Termination Action

17. Action to Terminate
THE LABORER REMOVED THE SAFETY GLASSES FROM HIS POCKET AND PUT THEM ON.

18. Terminated
A. Date Mo 07 Da 12 Yr 08
B. Time (24 Hr Clock) 0905

Section IV -- Automated System Data

19. Type of Inspection (activity code) E01
20. Event Number 0876543
21. Primary or Mill

22. Signature
JANE JONES

23. AR Number 02136

MSHA Form 7000-3 Mar 85 (Revised)

104(e)(1) PATTERN OF VIOLATIONS ORDER - ISSUANCE AND TERMINATION

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
	08	13	08	0900	4410178

4. Served To	5. Operator
JANE SMITHSON, OWNER	BEDROCK MINING COMPANY

6. Mine	7. Mine ID
BEDROCK MINE	56-078 91- (contractor)

8. Condition or Practice — 8a. Written Notice (103g) ☐

The driver of haul truck (Number H-35) did not sound an audible warning or use other means to warn persons in the area prior to moving the vehicle. The haul truck, with its engine running, was parked in the shop area. Two mechanics walked in front of the haul truck and had to jump clear to avoid being hit when it unexpectedly moved into their path.

A Notice of Pattern of Violations, No. 8765931, was issued by MSHA on 06/13/08.

NOTE: Complete Section II, Item 14, with the number of the first 104(e) order. Also, 104(e) orders are required to be evaluated as "S&S". 104(e)(2) orders are written for all "S&S" violations observed on any subsequent inspection after a 104(e)(1) order has been issued.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation — A. Health ☐ Safety ☐ Other ☐ — B. Section of Act ___-___ — C. Part/Section of Title 30 CFR 56.1420 0

Section II -- Inspector's Evaluation

10. Gravity:

A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely [X] Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty ☐ Permanently Disabling ☐ Fatal [X]

C. Significant and Substantial (See Reverse): Yes [X] No ☐ — D. Number of Persons Affected 002

11. Negligence (check one)

A. None ☐ B. Low ☐ C. Moderate [X] D. High ☐ E. Reckless Disregard ☐

12. Type of Action 104-e-2, - - — 13. Type of Issuance (check one) Citation ☐ Order [X] Safeguard ☐ Written Notice ☐

14. Initial Action — A. Citation ☐ B. Order [X] C. Safeguard ☐ D. Written Notice ☐ — E. Citation/Order Number 4410177 — F. Dated Mo 07 Da 12 Yr 08

15. Area or Equipment

Haul Truck H-35

16. Termination Due — A. Date Mo Da Yr — B. Time (24 Hr. Clock)

Section III -- Termination Action

17. Action to Terminate

THE WARNING HORN WAS FOUND TO BE OPERABLE AND COULD BE HEARD ABOVE THE SURROUNDING NOISE. THE TRUCK DR WAS REINSTRUCTED TO SOUND THE HORN WHENEVER THE VEHICLE WAS MOVED.

18. Terminated — A. Date Mo 08 Da 13 Yr 08 — B. Time (24 Hr Clock) 0905

Section IV -- Automated System Data

19. Type of Inspection (activity code) E15 — 20. Event Number 097531 9 — 21. Primary or Mill

22. Signature — JANE JONES — 23. AR Number 02136

MSHA Form 7000-3 Mar 85 (Revised)

104(e)(2) PATTERN OF VIOLATIONS ORDER - ISSUANCE AND TERMINATION

Mine Citation/Order

Continuation

U.S. Department of Labor

Mine Safety and Health Administration

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action	1a. Continuation	2. Dated (Original Issue)	Mo	Da	Yr	3. Citation/Order Number
[X]	[ ]		06	13	08	8834567-01

4. Served To	5. Operator
JANE SMITHSON, OWNER	BEDROCK MINING COMPANY

6. Mine	7. Mine ID
BEDROCK MINE	56-0789 1- (contractor)

Section II -- Justification for Action

Bedrock Mine has gone 90 days from the issuance of a Notice of Pattern of Violations without being cited for a violation which could significantly and substantially contribute to the cause and effect of a mine safety or health hazard. Given this action, the mine is no longer subject to orders of withdrawal issued pursuant to Section 104(e) of the Federal Mine Safety and Health Act of 1977. Accordingly, the Notice of Pattern of Violations is terminated.

NOTE: This termination of a 104(e) Notice of Pattern of Violations was issued after the mine operator went 90 days without any "S&S" violations issued.

See Continuation Form [ ]

Section III -- Subsequent Action Taken

8. Extended To	A. Date	Mo	Da	Yr	B. Time (24 Hr. Clock)	C. Vacated	D. Terminated	E. Modified
						[ ]	[X]	[ ]

Section IV -- Inspection Data

9. Type of Inspection	10. Event Number
E01	013591

11. Signature	AR Number	12. Date	Mo	Da	Yr	13. Time (24 Hr. Clock)
JANE JONES	02136		09	13	08	1000

MSHA Form 7000-3a, Mar 85 (Revised)

104(e) TERMINATION OF
NOTICE OF PATTERN OF VIOLATIONS

Mine Citation/Order

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

Section l -- Violation Data

1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)					3. Citation/Order Number						
	0 7	1 0	0 8		0	7	2	0		4	4	1	0	1	8 3

4. Served To
RICHARD JONES, SAFETY DIRECTOR

5. Operator
INTER CEMENT CORPORATION

6. Mine
ICC MILL

7. Mine ID 7 5 - 0 0 0 2 4 - (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

Cement dust accumulations on the roof of the No. 2 kiln building and a loss of structural integrity caused the roof to fail on the north side at 0630 hours on this date. Structural steel and debris were being cleaned up to allow the installation of temporary support at the remaining north side. The buildup of cement dust on the roof of the No. 2 kiln must be removed and a structural integrity survey must be completed and given to MSHA prior to allowing personnel into the area under the roof. An oral 107(a) imminent danger order was issued to James Town, Mill Foreman, on the mill floor at 0720 hours this date.

NOTE: Do not complete Section I, Item 9C and Section II, Items 10 and 11.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation A. Health ☐ Safety ☐ Other ☐ B. Section of Act - C. Part/Section of Title 30 CFR .

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 (See Reverse): Yes ☐ No ☐ D. Number of Persons Affected

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

12. Type of Action 1 0 7 - a - , -

13. Type of Issuance (check one)
Citation ☐ Order [X] 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
NUMBER 2 KILN BUILDING

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

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) E 0 1

20. Event Number 0 0 8 8 3 0 1

21. Primary or Mill

22. Signature
JOHN REDWOOD

23. AR Number 0 3 3 3 3

MSHA Form 7000-3 Mar 85 (Revised)

107(a) ORDER - IMMINENT DANGER
NO VIOLATION OF A MANDATORY STANDARD

Mine Citation/Order

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

Section l -- Violation Data

1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)		3. Citation/Order Number
	07	10	08	0900		4410184

4. Served To	5. Operator
RICHARD JONES, SAFETY DIRECTOR	INTER CEMENT CORPORATION
6. Mine	**7. Mine ID**
ICC MILL	75-0002 4- (contractor)

8. Condition or Practice — 8a. Written Notice (103g) ☐

Two mechanics were not wearing life jackets when repairing a broken six-inch dredge discharge line approximately 100 yards offshore. The discharge line was located atop flotation barrels positioned between the dredge and the shore. The water depth was estimated to be 32 feet. At the broken spot, one mechanic was sitting on a flotation barrel. The other mechanic was adjacent to the first miner in a wooden boat. The second mechanic was bending over the side trying to repair the line. Neither employee knew how to swim. Life jackets were available and the foreman had instructed the employees to use them.
An oral 107(a) imminent danger order was issued to Bob Smith, Foreman, at 0900 hours on this date.

Citation No. 4410185 is being issued in conjunction with this order.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation — A. Health ☐ Safety ☐ Other ☐ — B. Section of Act ___ - ___ — C. Part/Section of Title 30 CFR

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 (See Reverse): Yes ☐ No ☐ — D. Number of Persons Affected

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

12. Type of Action: 107-a-
13. Type of Issuance (check one): Citation ☐ Order [X] 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
JOHN JONES, TOM SMITH - MECHANICS

16. Termination Due — A. Date Mo Da Yr — B. Time (24 Hr. Clock)

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)	20. Event Number	21. Primary or Mill
E01	008830 1	

22. Signature: JOHN REDWOOD — 23. AR Number: 03333

MSHA Form 7000-3 Mar 85 (Revised)

107(a) ORDER - IMMINENT DANGER
VIOLATON OF A MANDATORY STANDARD

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
	07	10	08	0900	441018 5

4. Served To
RICHARD JONES, SAFETY DIRECTOR

5. Operator
INTER CEMENT CORPORATION

6. Mine
ICC MILL

7. Mine ID 75 - 000 24 - (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

Two mechanics were not wearing life jackets when repairing a broken six-inch dredge discharge line approximately 100 yards offshore. The discharge line was located atop flotation barrels positioned between the dredge and the shore. The water depth was estimated to be 32 feet. At the broken spot, one mechanic was sitting on a flotation barrel. The other mechanic was adjacent to the first miner in a wooden boat. The second mechanic was bending over the side trying to repair the line. Neither employee knew how to swim. Life jackets were available and the foreman had instructed the employees to use them.

This condition was a factor that contributed to the issuance of imminent danger order N0. 4410184 dated 7/10/01. Therefore, no abatement time was set.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violatio A. Health ☐ Safety ☐ Other ☐ B. Section of Act - C. Part/Section of Title 30 CFR 56.15020

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely ☐ Highly Like [X] Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty ☐ Permanently Disabling ☐ Fatal [X]

C. Significant and Substantial (See Reverse): Yes [X] No ☐ D. Number of Persons Affected 002

11. Negligenc (check one)
A. None ☐ B. Low ☐ C. Moderate [X] 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 ☐ 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)

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 008830 1

21. Primary or Mill

22. Signature
JOHN REDWOOD

23. AR Number 03333

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION ISSUED FOR A CONDITION
IN 107(a) IMMINENT DANGER ORDER

Mine Citation/Order

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

Section l -- Violation Data

1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number
	0 8	1 7	0 8	0 9 1 5	4 4 1 0 0 1 1

4. Served To	5. Operator
John Smith, Mine Foreman	J and S Coal Company, Inc.

6. Mine	7. Mine ID
No. 1	4 4 - 0 3 5 3 6 - (contractor)

8. Condition or Practice 8a. Written Notice (103g) ☐

Safe seating facilities were not provided for repairmen who were riding on top of a 6-ton track locomotive with their legs hanging over the front end. One man was approximately 8 inches from the bare trolley wire. To reach its destination, the locomotive had to pass through a low area (14 inches from the top of the locomotive to the roof) 300 feet ahead of a steep grade. Tom Davis, Chief Electrician, was operating the locomotive (No. 29) near the mouth of the 2 east section. This is an imminent danger. An oral imminent danger order was issued to Tom Davis at 0915 hours. This hazard has been cited on other occasions. The underlying cause was that management was not enforcing its written rule nor the safeguard Notice No. 4011337 dated 4/7/08 which requires that all personnel be safely seated prior to operating or being transported on mobile equipment. A separate citation for a violation of 75.1403 (#4410012) is being issued in conjunction with this order.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation A. Health ☐ Safety ☐ Other ☐ B. Section of Act - C. Part/Section of Title 30 CFR

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 (See Reverse): Yes ☐ No ☐ D. Number of Persons Affected

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

12. Type of Action 1 0 7 - a - , -

13. Type of Issuance (check one)
Citation ☐ Order [X] 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
The transportation system used by the maintenance crews.

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

Section III -- Termination Action

17. Action to Terminate
Suitable transportation was provided for the two repairmen. All the repairmen and supervisory personnel were instructed in safe operating procedures for operating and riding transportation equipment.

18. Terminated A. Date Mo 0 8 Da 1 8 Yr 0 8 B. Time (24 Hr Clock) 0 7 3 0

Section IV -- Automated System Data

19. Type of Inspection (activity code) E 0 1 20. Event Number 0 8 8 8 8 2 5 21. Primary or Mill

22. Signature James Lee 23. AR Number 2 0 7 7 7

MSHA Form 7000-3 Mar 85 (Revised)

107(a) ORDER - IMMINENT DANGER WITH UNDERLYING CAUSES

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
	08	17	08	0930	4410012

4. Served To	5. Operator
John Smith, Mine Foreman	J and S Coal Company, Inc.

6. Mine	7. Mine ID
No. 1	44-0353 6- (contractor)

8. Condition or Practice — 8a. Written Notice (103g) ☐

Safe seating facilities were not provided for the two repairmen who were riding on top of a 6-ton locomotive being operated by Tom Davis, Chief Electrician. This condition was one of the factors that contributed to the issuance of Imminent Danger Order No. 4410011 dated 8/17/08. Therefore, no abatement time was set.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation — A. Health ☐ Safety ☐ Other ☐ — B. Section of Act - — C. Part/Section of Title 30 CFR 75.1403

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely ☐ Highly Likely [X] Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty ☐ Permanently Disabling [X] Fatal ☐

C. Significant and Substantial (See Reverse): Yes [X] No ☐ — D. Number of Persons Affected 002

11. Negligence (check one)
A. None ☐ B. Low ☐ C. Moderate ☐ D. High [X] 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 ☐ B. Order ☐ C. Safeguard [X] D. Written Notice ☐ — E. Citation/Order Number 401133 7 — F. Dated Mo 04 Da 07 Yr 08

15. Area or Equipment

16. Termination Due — A. Date Mo Da Yr — B. Time (24 Hr. Clock)

Section III -- Termination Action

17. Action to Terminate
Suitable transportation with adequate seating facilities was provided for the two repairmen.

18. Terminated — A. Date Mo 08 Da 18 Yr 08 — B. Time (24 Hr Clock) 0730

Section IV -- Automated System Data

19. Type of Inspection (activity code)	20. Event Number	21. Primary or Mill
E01	088825	

22. Signature
James Lee

23. AR Number 20777

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - CONTRIBUTING FACTOR IN IMMINENT DANGER ORDER
BASED ON NOTICE TO PROVIDE SAFEGUARDS

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
	08	19	08	0930	4410013

4. Served To	5. Operator
John Smith, Mine Foreman	J and S Coal Company, Inc.

6. Mine	7. Mine ID
No. 1	44-0353 6- (contractor)

8. Condition or Practice — 8a. Written Notice (103g) ☐

The following conditions, which collectively constitute an imminent danger, existed on 2 left mains section:

1. Only 120 cubic feet of air a minute was reaching the working face of No. 2 entry where coal was being mined with a continuous mining machine. [30CFR 75.325(a)(1)]
2. The air at the face of the No. 2 entry contained 2.75 per centum of methane. [30CFR 75.323(b)(ii)]
3. The permissible methane detector carried by the section foreman was inoperative. [30 CFR 75.320]
4. The methane monitor on the continuous mining machine (serial number 26290 SJ) was inoperative. [CFR 75.342]

An oral imminent danger order was issued to John Smith at 0930 hours. Separate citations and/or orders will be issued for all violations included in this Order of Withdrawal.

(See Example No. 18 for an example of one citation issued for a violation included in this Order of Withdrawal.)

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation — A. Health ☐ Safety ☐ Other ☐ — B. Section of Act ___ - ___ — C. Part/Section of Title 30 CFR

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 (See Reverse): Yes ☐ No ☐ — D. Number of Persons Affected

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

12. Type of Action: 107-a-, ___ - ___

13. Type of Issuance (check one)
Citation ☐ Order [X] 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
The 2 left mains section from the dumping point inby to the working faces.

16. Termination Due — A. Date Mo Da Yr — B. Time (24 Hr. Clock)

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)	20. Event Number	21. Primary or Mill
E15	088883 0	

22. Signature: James Lee — 23. AR Number: 20777

MSHA Form 7000-3 Mar 85 (Revised)

107(a) WITHDRAWAL ORDER - IMMINENT DANGER AND MULTIPLE MANDATORY STANDARDS VIOLATED

Mine Citation/Order

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

Section l -- Violation Data

1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number
	08	19	08	0930	4410014

4. Served To
John Smith, Mine Foreman

5. Operator
J and S Coal Company, Inc.

6. Mine
No. 1

7. Mine ID 44-035 36- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

The only permissible methane detector available on the 2 left mains section was inoperable. According to Billy Bow, Section Foreman, he reported the condition of the detector to his immediate supervisor (John Smith, Mine Foreman) 2 days earlier.
This citation was one of the factors that contributed to the issuance of Imminent Danger Order No. 4410013 dated 8/19/08. Therefore, no abatement time was set.

Note: Appropriate action must be taken for all violations contained in a 107(a) Order.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation A. Health ☐ Safety ☐ Other ☐ B. Section of Act - C. Part/Section of Title 30 CFR 75.320

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely ☐ Highly Likely [X] Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty [X] Permanently Disabling ☐ Fatal ☐

C. Significant and Substantial (See Reverse): Yes [X] No ☐ D. Number of Persons Affected 007

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

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) E15

20. Event Number 0888830

21. Primary or Mill

22. Signature
James Lee

23. AR Number 2077 7

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - ISSUED FOR A CONDITION IN 107(a) ORDER NO. 4410013

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
	08	23	08	1000	4411110

4. Served To
JOSEPH COMBS, FOREMAN

5. Operator
SENTINEL AGGREGATES

6. Mine
SINTENEL MINE

7. Mine ID 47-00082- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

Two employees were not wearing life jackets while working from a platform in about 20 feet of water. The platform was constructed of four barrels, about 24" in diameter and 36" long, tied together with pieces of hemp rope. The employees were using the platform to provide access to the dewatering pump. The foreman stated that he and the employees always use the platform access to prime the pump or perform maintenance work on it. The foreman engaged in an aggravated conduct constituting more than ordinary negligence. This violation is an unwarrantable failure to comply with a mandatory standard. This violation is one of the factors cited in imminent danger order No. 4411109 dated 8/23/08. Therefore, no abatement time was set.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation A. Health ☐ Safety ☐ Other ☐ B. Section of Act - C. Part/Section of Title 30 CFR 56.1502 0

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely ☐ Highly Likel ☒ 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 (See Reverse): Yes ☒ No ☐ D. Number of Persons Affected 002

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

12. Type of Action 104-d-1, -

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)

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 099557 6 21. Primary or Mill

22. Signature
JOHN REDWOOD

23. AR Number 03333

MSHA Form 7000-3 Mar 85 (Revised)

104(d)(1) CITATION ISSUED AS PART OF A
107(a) IMMINENT DANGER ORDER

Mine Citation/Order

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

Section I -- Violation Data

1. Date: Mo 07 Da 10 Yr 08
2. Time (24 Hr. Clock): 1000
3. Citation/Order Number: 4410187

4. Served To: RICHARD JONES, SAFETY DIRECTOR
5. Operator: INTER CEMENT CORPORATION
6. Mine: ICC MILL
7. Mine ID: 75-00024- (contractor)

8. Condition or Practice
8a. Written Notice (103g) ☐

Two mechanics were not wearing life jackets when repairing a broken dredge discharge line approximately 100 yards offshore. The discharge line was located on top of barrels located between the dredge and the shore. The water depth was estimated to be 32 feet. At the broken spot, one mechanic was sitting on a barrel and the other mechanic was next to the first mechanic in a wooden boat. The second mechanic was bending over the side of the boat trying to repair the line. Neither mechanic knew how to swim. Reportedly, Foreman Smith discouraged them from taking the life jackets from the store room. Foreman Smith engaged in aggravated conduct constituting more than ordinary negligence by not allowing the two employees to use the life jackets. This violation is an unwarrantable failure to comply with a mandatory standard. This violation is a factor cited in imminent danger order No. 4410184 issued 7/10/08.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation
A. Health ☐ Safety ☐ Other ☐
B. Section of Act -
C. Part/Section of Title 30 CFR 56.15020

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely ☐ Highly Likely [X] Occurred ☐
B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty ☐ Permanently Disabling ☐ Fatal [X]
C. Significant and Substantial (See Reverse): Yes [X] No ☐
D. Number of Persons Affected: 002

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

12. Type of Action: 104-d-1
13. Type of Issuance (check one)
Citation ☐ Order [X] Safeguard ☐ Written Notice ☐

14. Initial Action
A. Citation [X] B. Order ☐ C. Safeguard ☐ D. Written Notice ☐
E. Citation/Order Number: 4410145
F. Dated: Mo 06 Da 10 Yr 08

15. Area or Equipment
JOHN JONES, TOM SMITH - MECHANICS

16. Termination Due
A. Date: Mo Da Yr
B. Time (24 Hr. Clock)

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: 0088301
21. Primary or Mill

22. Signature
JOHN REDWOOD
23. AR Number: 03333

MSHA Form 7000-3 Mar 85 (Revised)

104(d)(1) UNWARRANTABLE FAILURE ORDER
ISSUED AS PART OF 107(a) ORDER

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
	08	31	08	0945	4410018

4. Served To
John Smith, Mine Foreman

5. Operator
J and S Coal Company, Inc.

6. Mine
No. 1

7. Mine ID 44-03536- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

The trailing cable to the No. 2 shuttle car on 1st left section contained five poorly made temporary splices. Three of the splices had exposed, uninsulated conductors. The condition of the temporary splices contributes substantially to a fire or electrical shock hazard. The condition of the cable was reported in the preshift examiner's book on 8/28/01 and 8/29/01. The mine operator was engaged in aggravated conduct by acknowledging a safety hazard and not taking corrective action. This violation is an unwarrantable failure to comply with a mandatory standard. This violation is one of the factors cited in Imminent Danger Order No. 4410028 issued 8/31/01.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation
A. Health ☐ Safety ☐ Other ☐
B. Section of Act -
C. Part/Section of Title 30 CFR 75.603

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely ☐ Highly Likely [X] Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty ☐ Permanently Disabling ☐ Fatal [X]

C. Significant and Substantial (See Reverse): Yes [X] No ☐

D. Number of Persons Affected 001

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

12. Type of Action 104-d-1, - -

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

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

E. Citation/Order Number 44100015

F. Dated Mo 08 Da 19 Yr 01

15. Area or Equipment
No. 2 shuttle car on 1st left section

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

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 0888831

21. Primary or Mill

22. Signature
James Lee

23. AR Number 20777

MSHA Form 7000-3 Mar 85 (Revised)

104(d)(1) ORDER ISSUED AS PART OF A 107(a) IMMINENT DANGER ORDER

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
	0 8	3 0	0 8	0 9 0 0	4 4 1 0 1 8 9

4. Served To	5. Operator
JOHN BANKS, MINER	BOGGY MINING COMPANY
6. Mine	**7. Mine ID**
CLAIM NUMBER 3	9 3 - 0 1 2 3 4 - (contractor)

8. Condition or Practice — 8a. Written Notice (103g) ☐

A miner (John Banks) was smoking a cigarette at the underground explosives magazine. Six open boxes of explosives were within three feet of the miner. Mr. Banks also had one opened pack of cigarettes and a lighter on his person. Company personnel were aware that Mr. Banks routinely smoked in and around the magazine.

This is to inform Mr. Banks that he will receive a Notification of Proposed Civil Penalty for violating a mandatory standard relating to smoking near explosives as required by Section 110(g) of the Mine Act.

NOTE: The inspector should attempt to obtain the individual's address so that the proposed civil penalty may be mailed to him. A letter (with the miner's address) is attached to the violation and the package is mailed to the Office of Assessments in Wilkes-Barre, Pennsylvania. In this case, a 107(a) imminent danger order and a 104(a) citation for violation of 57.6904 would also be issued to the mine operator.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation	A. Health / Safety / Other	B. Section of Act	C. Part/Section of Title 30 CFR
	☐ ☐ ☐	1 1 0 - g	5 7 . 6 9 0 4

Section II -- Inspector's Evaluation

10. Gravity:

A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely [X] Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty ☐ Permanently Disabling ☐ Fatal [X]

C. Significant and Substantial (See Reverse): Yes [X] No ☐ — D. Number of Persons Affected: 0 0 1

11. Negligence (check one)

A. None ☐ B. Low ☐ C. Moderate ☐ D. High [X] E. Reckless Disregard ☐

12. Type of Action: - - , - -

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)

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)	20. Event Number	21. Primary or Mill
E 0 1	0 0 7 6 3 8 9	

22. Signature	23. AR Number
TED JOHNSON	0 4 7 8 9

MSHA Form 7000-3 Mar 85 (Revised)

110(g) NOTICE - MINER SMOKING IN PROHIBITED AREA

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
	08	22	08	0930	4410023

4. Served To
Edgar Simms, Locomotive Operator

5. Operator
J and S Coal Company, Inc.

6. Mine
No. 1

7. Mine ID 44-0353 6- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

Edgar Simms was holding a lighted cigar while operating a track locomotive near the 2 North switch. The switch is located approximately one mile underground. A subsequent search of Simms, by the Mine Foreman, revealed a butane lighter and one other cigar. This is notification that Mr. Simms will receive a civil penalty for violating a mandatory safety standard related to smoking. Mr. Simms address is: PO Box 317, Anytown, USA, 99999.

(A violation will be issued to the mine operator for the same standard.)

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation A. Health ☐ Safety ☐ Other ☐ B. Section of Act 110-g C. Part/Section of Title 30 CFR 75.1702

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely [X] Highly Likel ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty ☐ Permanently Disabling ☐ Fatal [X]

C. Significant and Substantial (See Reverse): Yes [X] No ☐ D. Number of Persons Affected 001

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

12. Type of Action - - , -

13. Type of Issuance (check one)
Citation ☐ ☐ 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)

Section III -- Termination Action

17. Action to Terminate

The Mine Foreman removed Edgar Simms and the smoking materials from the mine.

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 08888 31 21. Primary or Mill

22. Signature
James Lee

23. AR Number 20777

MSHA Form 7000-3 Mar 85 (Revised)

110(g) NOTICE - MINER SMOKING IN PROHIBITED AREA

Mine Citation/Order

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

Section l -- Violation Data

1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)		3. Citation/Order Number
	07	11	08	0830		4410190

4. Served To	5. Operator
SYDNEY JONES, PRESIDENT	TMC MINING COMPANY
6. Mine	**7. Mine ID**
TRIANGLE MINE	72-0001 2- (contractor)

8. Condition or Practice — 8a. Written Notice (103g) ☐

There were no speed limit signs posted along the unbermed portion of the main service road. This is a violation of Condition No. 3 of the Granted Modification of Mandatory Standard 56.9300 (Docket #M-90-20-M), which specifically requires signs to be posted along the unbermed portion. The Assistant Safety Manager stated that signs had been posted but must have been stolen.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation — A. Health ☐ Safety ☐ Other ☐ — B. Section of Act - — C. Part/Section of Title 30 CFR 56.9300d4

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely [X] Reasonably Likely ☐ Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays [X] Lost Workdays or Restricted Duty ☐ Permanently Disabling ☐ Fatal ☐

C. Significant and Substantial (See Reverse): Yes ☐ No [X] — D. Number of Persons Affected 001

11. Negligence (check one)
A. None ☐ B. Low ☐ C. Moderate [X] 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 ☐ 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 07 Da 12 Yr 08 — B. Time (24 Hr. Clock) 0900

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 0768987 — 21. Primary or Mill

22. Signature: TED JOHNSON — 23. AR Number 04789

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - VIOLATION OF A
GRANTED PETITION FOR MODIFICATION

Mine Citation/Order

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

Section l -- Violation Data

1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)		3. Citation/Order Number
	11	11	08	0700		1234575

4. Served To	5. Operator
Mike McGregor, Safety Director	Black Rock Coal Company

6. Mine	7. Mine ID
No. 1	15-035 36- (contractor)

8. Condition or Practice — 8a. Written Notice (103g) [ ]

The North Mains section (MMU 001-0) was not provided two communication systems routed through two separate entries to the surface as required in the Emergency Response Plan in accordance with the Mine Improvement and New Emergency response Act of 2006 (Miner Act). The emergency notification telephone for the North Mains working section was not operational. The telephone could not send or receive a message in the page or talk mode from the responsible person located on the surface.

See Continuation Form (MSHA Form 7000-3a) [ ]

9. Violation	A. Health / Safety / Other	B. Section of Act	C. Part/Section of Title 30 CFR
	Health [ ] Safety [x] Other [ ]	316-b	

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood [ ] Unlikely [ ] Reasonably Likely [x] Highly Likely [ ] Occurred [ ]

B. Injury or Illness could reasonably be expected to be: No Lost Workdays [ ] Lost Workdays or Restricted Duty [ ] Permanently Disabling [ ] [x] Fatal [ ]

C. Significant and Substantial (See Reverse): Yes [X] No [ ] D. Number of Persons Affected 016

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

12. Type of Action 104-a-, -, -

13. Type of Issuance (check one)
Citation [X] Order [ ] 0 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 11 Da 23 Yr 08
B. Time (24 Hr. Clock) 0700

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)	20. Event Number	21. Primary or Mill
E01	7654321	

22. Signature

23. AR Number 23190

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - 316(B) VIOLATION (EMERGENCY RESPONSE PLANS)

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
	07	11	08	0900	4410191

4. Served To: SYDNEY JONES, PRESIDENT

5. Operator: TMC MINING COMPANY

6. Mine: TRIANGLE MINE

7. Mine ID: 72-000 12- (contractor)

8. Condition or Practice

8a. Written Notice (103g) [ ]

A miner (Payroll #9876) was injured on 04/06/08. This resulted in three lost work days. The company failed to complete and submit an MSHA #7000-1 (Mine, Accident, Injury, and Illness Report) for the injury. This company has received four previous Part 50 violations during the past twelve months for failing to report on-the-job injuries to MSHA and two violations for failure to submit quarterly employment reports (MSHA #7000-2 forms). Additionally, company personnel have been repeatedly instructed in Part 50 rules on completing and submitting the required forms to MSHA.

See Continuation Form (MSHA Form 7000-3a) [ ]

9. Violation — A. Health [ ] Safety [ ] Other [ ] — B. Section of Act — C. Part/Section of Title 30 CFR: 50.20a

Section II -- Inspector's Evaluation

10. Gravity:

A. Injury or Illness (has) (is): No Likelihood [X] Unlikely [ ] Reasonably Likely [ ] Highly Likely [ ] Occurred [ ]

B. Injury or Illness could reasonably be expected to be: No Lost Workdays [X] Lost Workdays or Restricted Duty [ ] Permanently Disabling [ ] Fatal [ ]

C. Significant and Substantial (See Reverse): Yes [ ] No [X] — D. Number of Persons Affected: 000

11. Negligence (check one)

A. None [ ] B. Low [ ] C. Moderate [ ] D. High [X] 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 [ ] 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 07 Da 12 Yr 08 — B. Time (24 Hr. Clock): 0800

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: 0768987

21. Primary or Mill

22. Signature: TED JOHNSON

23. AR Number: 04789

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - FAILURE TO PREPARE AND SUBMIT AN MSHA 7000-1 FORM

Mine Citation/Order

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

Section l -- Violation Data

1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number
	07	11	08	0905	4410192

4. Served To
SYDNEY JONES, PRESIDENT

5. Operator
TMC MINING COMPANY

6. Mine
TRIANGLE MINE

7. Mine ID 72-0001 2- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

An MSHA #7000-2 (Quarterly Employment Report) for the 4th Quarter 2000 (October, November, December) was not completed nor mailed to MSHA's Health and Safety Analysis Center prior to January 15, 2001. This company has received four Part 50 violations during the past twelve months for failing to report on-the-job injuries to MSHA and two violations for failing to submit quarterly employment reports. Additionally, company personnel have been repeatedly instructed in Part 50 regulations on completing and submitting the required forms to MSHA.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation
A. Health ☐ Safety ☐ Other ☐
B. Section of Act
C. Part/Section of Title 30 CFR 50.30a

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood [X] Unlikely ☐ Reasonably Likely ☐ Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays [X] Lost Workdays or Restricted Duty ☐ Permanently Disabling ☐ Fatal ☐

C. Significant and Substantial (See Reverse): Yes ☐ No [X]

D. Number of Persons Affected 000

11. Negligence (check one)
A. None ☐ B. Low ☐ C. Moderate ☐ D. High [X] 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 ☐ 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 07 Da 12 Yr 08
B. Time (24 Hr. Clock) 0800

Section III -- Termination Action

17. Action to Terminate
THE QUARTERLY REPORT WAS FILLED OUT AND SUBMITTED TO MSHA.

18. Terminated
A. Date Mo 07 Da 12 Yr 08
B. Time (24 Hr Clock) 0800

Section IV -- Automated System Data

19. Type of Inspection (activity code) E01
20. Event Number 0767897
21. Primary or Mill

22. Signature
TED JOHNSON

23. AR Number 04789

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - FAILURE TO PREPARE
AND SUBMIT AN MSHA 7000-2 FORM

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
	07	11	08	0910	4410193

4. Served To	5. Operator
SYDNEY JONES, PRESIDENT	TMC MINING COMPANY

6. Mine	7. Mine ID
TRIANGLE MINE	72-000012- (contractor)

8. Condition or Practice — 8a. Written Notice (103g) ☐

A copy of MSHA Form #7000-1 (Mine Accident, Injury, and Illness Report) for a reported lost-time injury that occurred to a miner (Payroll #45678) on May 4, 2008, was not at the mine office for review by MSHA. This company has received four previous Part 50 violations during the past twelve months for failing to report on-the-job injuries to MSHA and two violations for failing to submit quarterly employment reports. Additionally, company personnel have been repeatedly instructed in Part 50 rules on completing and submitting required forms to MSHA. Those instructions also included keeping copies of the forms at the mine office for review by MSHA.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation	A. Health / Safety / Other	B. Section of Act	C. Part/Section of Title 30 CFR
	☐		50.40b

Section II -- Inspector's Evaluation

10. Gravity:

A. Injury or Illness (has) (is): No Likelihood [X] Unlikely ☐ Reasonably Likely ☐ Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays [X] Lost Workdays or Restricted Duty ☐ Permanently Disabling ☐ Fatal ☐

C. Significant and Substantial (See Reverse): Yes ☐ No [X] — D. Number of Persons Affected: 000

11. Negligence (check one)

A. None ☐ B. Low ☐ C. Moderate ☐ D. High [X] 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 ☐ 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 07 Da 12 Yr 08 — B. Time (24 Hr. Clock): 0800

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)	20. Event Number	21. Primary or Mill
E01	0768987	

22. Signature	23. AR Number
TED JOHNSON	04789

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - FAILURE TO MAINTAIN PART 50 RECORDS

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
	08	21	08	1330	4410021

4. Served To	5. Operator
John Smith, Mine Foreman	J and S Coal Company, Inc.

6. Mine	7. Mine ID
No. 1	44-03536- (contractor)

8. Condition or Practice — 8a. Written Notice (103g) ☐

The No. 17 track-mounted self-propelled personnel carrier was not provided with sand-rigging. This mine has wet track, steep grades, and "S" curves. This presents the hazard of derailment and associated injuries. The personnel carrier was transporting 6 miners to an idle section.
This is a Notice to Provide Safeguard(s) requiring No. 17 personnel carrier and all other personnel carriers at this mine to be equipped with operable sand rigging when transporting 6 or more miners.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation — A. Health ☐ Safety ☐ Other ☐ — B. Section of Act ___-___ — C. Part/Section of Title 30 CFR 75.1403 6b 3

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 (See Reverse): Yes ☐ No ☐ — D. Number of Persons Affected

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

12. Type of Action: 314-b-, -- 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 08 Da 21 Yr 08 — B. Time (24 Hr. Clock): 1500

Section III -- Termination Action

17. Action to Terminate
New linkage was properly installed and the sand-rigging was working satisfactorily on the No. 17 personnel carrier.

18. Terminated — A. Date: Mo 08 Da 21 Yr 08 — B. Time (24 Hr Clock): 1445

Section IV -- Automated System Data

19. Type of Inspection (activity code): E01 — 20. Event Number: 08883 1 — 21. Primary or Mill

22. Signature: James Lee — 23. AR Number: 20777

MSHA Form 7000-3 Mar 85 (Revised)

NOTICE TO PROVIDE SAFEGUARD AND TERMINATION

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
	08	22	08	0800	4410022

4. Served To	5. Operator
John Smith, Mine Foreman	J and S Coal Company, Inc.

6. Mine	7. Mine ID
No. 1	44-0353 6- (contractor)

8. Condition or Practice — 8a. Written Notice (103g) ☐

Citations issued during the inspections conducted on August 19 and 21, 2008, had not been posted on the mine bulletin board.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation — A. Health ☐ Safety ☐ Other ☐ — B. Section of Act: 109-a — C. Part/Section of Title 30 CFR: .

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood [X] Unlikely ☐ Reasonably Likely ☐ Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays [X] Lost Workdays or Restricted Duty ☐ Permanently Disabling ☐ Fatal ☐

C. Significant and Substantial (See Reverse): Yes ☐ No [X] — D. Number of Persons Affected: 000

11. Negligence (check one)
A. None ☐ B. Low ☐ C. Moderate [X] 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 ☐ 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 08 Da 22 Yr 08 — B. Time (24 Hr. Clock): 0830

Section III -- Termination Action

17. Action to Terminate

Copies of the citations and orders were posted on the bulletin board.

18. Terminated — A. Date: Mo 08 Da 22 Yr 08 — B. Time (24 Hr Clock): 0830

Section IV -- Automated System Data

19. Type of Inspection (activity code)	20. Event Number	21. Primary or Mill
E01	0888831	

22. Signature	23. AR Number
James Lee	2077 7

MSHA Form 7000-3 Mar 85 (Revised)

109(a) VIOLATION OF THE MINE ACT WITH TERMINATION

Appendix B

Training Violations

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Mine Citation/Order

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

Section l -- Violation Data

1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)					3. Citation/Order Number						
	0 7	0 2	0 8		0	8	0	0		4	4	1	0	1	7	9

4. Served To
TIMOTHY DAWSON, PRESIDENT

5. Operator
ABCD MINING COMPANY, INC.

6. Mine
ABCD MINE

7. Mine ID 7 3 - 0 1 2 3 5 - (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

Michael Martin (Payroll Number 123456), a temporary summer employee, had not received the required MSHA 40-hour new miner training prior to performing maintenance duties underground. The mine operator was aware of the Part 48 training requirements, but believed it was unnecessary for a temporary employee. Mr. Martin had no previous mining experience. The operator is hereby ordered to withdraw Michael Martin from the mine until he has received the required training. The Federal Mine Safety and Health Act of 1977 declares that an untrained miner is a hazard to himself and to others.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation
A. Health ☐ Safety ☐ Other ☐
B. Section of Act -
C. Part/Section of Title 30 CFR 4 8 . 5 a

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely [X] Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty ☐ Permanently Disabling ☐ Fatal [X]

C. Significant and Substantial (See Reverse): Yes [X] No ☐
D. Number of Persons Affected 0 0 1

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

12. Type of Action 1 0 4 - g - 1 , - -
13. Type of Issuance (check one)
Citation ☐ Order [X] 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
MICHAEL MARTIN (PAYROLL NUMBER 123456)

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

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) E 0 1
20. Event Number 0 9 7 7 5 5 3
21. Primary or Mill

22. Signature
JOHN REDWOOD

23. AR Number 0 3 3 3 3

MSHA Form 7000-3 Mar 85 (Revised)

104(g)(1) ORDER - PART 48
SINGLE MINER AND A SINGLE VIOLATION

Mine Citation/Order

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

Section l -- Violation Data

1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number
	0 8	2 1	0 8	0 8 0 0	4 4 1 0 0 2 0

4. Served To
John Smith, Mine Foreman

5. Operator
J and S Coal Company, Inc.

6. Mine
No. 1

7. Mine ID 4 4 - 0 3 5 3 6 - (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

John Jones was performing laborer duties in the mains section conveyor belt entry in the underground portion of the mine. He has not received the safety training as required by Section 115 of the Act. Mr. Jones is a new miner, hired by this company on 8/13/08. He has received none of the required 40 hours of new miner training. In the absence of such training, John Jones is declared a hazard to himself and others, and is to be withdrawn immediately from the mine until he has received the required training, as determined by an Authorized Representative.

(If a miner has not received training in violation of 2 or more of the training regulations, a single Order is issued; however, each additional violation is given an inspector's evaluation on a Form 7000-3a.)

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation — A. Health ☐ Safety ☐ Other ☐ — B. Section of Act — C. Part/Section of Title 30 CFR: 4 8 . 5 a

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely [X] Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty ☐ Permanently Disabling ☐ Fatal [X]

C. Significant and Substantial (See Reverse): Yes [X] No ☐ — D. Number of Persons Affected: 0 0 1

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

12. Type of Action: 1 0 4 - g - 1 , - -

13. Type of Issuance (check one)
Citation ☐ Order [X] 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
John Jones is withdrawn from the mine

16. Termination Due — A. Date Mo Da Yr — B. Time (24 Hr. Clock)

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): E 0 1

20. Event Number: 0 8 8 8 8 3 1

21. Primary or Mill

22. Signature
James Lee

23. AR Number: 2 0 7 7 7

MSHA Form 7000-3 Mar 85 (Revised)

104(g)(1) ORDER - PART 48
UNTRAINED MINER

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							
	0 7	0 3	0 8		0	8	0	0			4	4	1	0	1	8	0

4. Served To
TIMOTHY DAWSON, PRESIDENT

5. Operator
ABCD MINING COMPANY, INC.

6. Mine
ABCD MINE

7. Mine ID 7 3 - 0 1 2 3 5 - (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

Fifty-six miners working in the mine and mill have not received annual refresher training within the last twelve months. Refresher training was last given to these miners on February 10, 2007. The mine operator was aware of the training requirements. The safety director said "the production schedule has been too tight to work in the training." The operator is hereby ordered to withdraw the 56 miners from the mine or mill until they have received the required training. The Federal Mine Safety and Health Act of 1977 declares that an untrained miner is a hazard to himself and to others.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation
A. Health ☐ Safety ☐ Other ☐
B. Section of Act -
C. Part/Section of Title 30 CFR 4 8 . 8

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely [X] Reasonably Likely ☐ Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty [X] Permanently Disabling ☐ Fatal ☐

C. Significant and Substantial (See Reverse): Yes ☐ No [X]

D. Number of Persons Affected 0 5 6

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

12. Type of Action 1 0 4 - g - 1 , - -

13. Type of Issuance (check one)
Citation ☐ Order [X] 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
Ben Hopper, Lois Smith, Tom Jones, Ezra D. Light; Billy Kidd; Mina Byrd; Jack Hammer; Justin Hustin; Manny Keys; et. al.

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

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) E 0 1

20. Event Number 0 9 7 7 5 5 3

21. Primary or Mill

22. Signature
JOHN REDWOOD

23. AR Number 0 3 3 3 3

MSHA Form 7000-3 Mar 85 (Revised)

104(g)(1) ORDER - PART 48
MULTIPLE MINERS AND A SINGLE VIOLATION

Mine Citation/Order

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

Section l -- Violation Data

1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number
	07	03	08	1000	4410181

4. Served To
JEFF CRIBS, PRESIDENT

5. Operator
XYZ MINING COMPANY, INC.

6. Mine
XYZ MINE

7. Mine ID 73-0123-6- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

Jim Jones, an underground driller working in the mine, had not received task training on the jackleg drill he was operating prior to assuming work duties on June 16, 2008. (48.8) Mr. Jones had started the drill only two hours prior to this order being written. He indicated that he had not received any training. Jim Jones had also not received annual refresher training within the last twelve months. Mr. Jones' last MSHA training was received on 1/13/08. Mr. Jones had no previous mining experience prior to beginning work at this mine on January 8, 2008. The mine operator was aware of the training requirements. The safety director said "the production schedule has been too tight to work in the training." The Federal Mine Safety and Health Act of 1977 declares an untrained miner a hazard to himself and others.

NOTE: The second standard is evaluated for "S&S" on a mine citation/order continuation form.

See Continuation Form (MSHA Form 7000-3a) X

9. Violation
A. Health ☐ Safety ☐ Other ☐
B. Section of Act -
C. Part/Section of Title 30 CFR 48.7

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely [X] Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty ☐ Permanently Disabling [X] Fatal ☐

C. Significant and Substantial (See Reverse): Yes [X] No ☐
D. Number of Persons Affected 001

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

12. Type of Action 104-g-1,--

13. Type of Issuance (check one)
Citation ☐ Order [X] 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
JIM JONES (PAYROLL NO. 31234567)

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

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 097754
21. Primary or Mill

22. Signature
JOHN SMITHE

23. AR Number 03334

MSHA Form 7000-3 Mar 85 (Revised)

104(g)(1) ORDER - PART 48
SINGLE MINER AND MULTIPLE VIOLATIONS

Mine Citation/Order
Continuation

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

Section l -- Subsequent Action/Continuation Data

1. Subsequent Action	1a. Continuation	2. Dated (Original Issue)	Mo	Da	Yr	3. Citation/Order Number
☐	X		07	03	08	441018 1-

4. Served To	5. Operator
JEFF CRIBS, PRESIDENT	XYZ MINING COMPANY, INC.

6. Mine	7. Mine ID
XYZ Mine	73-0123 6- (contractor)

Section ll -- Justification for Action

Continuation of Section II, Inspector's Evaluation, to evaluate 30 CFR 48.8

ITEM 10A - Reasonably Likely
ITEM 10B - Lost Workdays
ITEM 10C - Significant and Substantial - Yes
ITEM 10D - Number of Persons Affected - 001
ITEM 11 - Negligence - High

See Continuation Form ☐

Section lll -- Subsequent Action Taken

8. Extended To — A. Date Mo Da Yr — B. Time (24 Hr. Clock) — C. Vacated ☐ D. Terminated ☐ E. Modified ☐

Section lV -- Inspection Data

9. Type of Inspection	10. Event Number
E01	0977554

11. Signature	AR Number	12. Date	Mo	Da	Yr	13. Time (24 Hr. Clock)
JOHN SMYTHED	03334		07	03	08	1000

MSHA Form 7000-3a, Mar 85 (Revised)

104(g)(1) ORDER - PART 48 CONTINUATION SHEET
SINGLE MINER AND MULTIPLE VIOLATIONS

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
	0 8	2 0	0 8	0 8 0 0		8 8 8 3 4 5 6

4. Served To
KEN SWIFT, QUARRY FOREMAN

5. Operator
NORTHEAST AGGREGATES

6. Mine
NORTHEAST

7. Mine ID 4 7 - 9 9 1 2 3 - (contractor)

8. Condition or Practice

8a. Written Notice (103g) [ ]

The training plan did not include the minimum information specified in 30 CFR Part 46.3(b)(1) through 46.3(b)(5), nor has the plan been submitted to MSHA for approval.
The following items contribute to the ineffectiveness of the plan:
There was not a general description of the teaching methods to be used.
No approximate time range was given for the subject areas to be covered.
No evaluation procedures were included to determine the effectiveness of the training.
No course material was provided for training new miners in recognizing and avoiding electrical and other hazards at the mine.

See Continuation Form (MSHA Form 7000-3a) [ ]

9. Violation
A. Health [ ] Safety [ ] Other [ ]
B. Section of Act
C. Part/Section of Title 30 CFR 4 6 . 3 a

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood [ ] Unlikely [X] Reasonably Likely [ ] Highly Likely [ ] Occurred [ ]

B. Injury or Illness could reasonably be expected to be: No Lost Workdays [ ] Lost Workdays or Restricted Duty [X] Permanently Disabling [ ] Fatal [ ]

C. Significant and Substantial (See Reverse): Yes [ ] No [X]
D. Number of Persons Affected 0 1 2

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

12. Type of Action 1 0 4 - a , -

13. Type of Issuance (check one)
Citation [X] 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 0 8 Da 2 7 Yr 0 8
B. Time (24 Hr. Clock) 0 8 0 0

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) E 0 1
20. Event Number 0 9 8 9 3 4 1
21. Primary or Mill

22. Signature
Jay Lowe

23. AR Number 0 3 3 3 2

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - PART 46
INADEQUATE TRAINING PLAN

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
	0 8	2 1	0 8	0 9 0 0		8 8 8 3 4 5 7

4. Served To
KEN SWIFT, QUARRY FOREMAN

5. Operator
NORTHEAST AGGREGATES

6. Mine
NORTHEAST

7. Mine ID 4 7 - 9 9 1 2 3 - (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

Miners were not provided a copy of a certified training record upon completion of their new miner training.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation
A. Health ☐
Safety ☐
Other ☐
B. Section of Act
C. Part/Section of Title 30 CFR 4 6 . 9 d 1

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely [X] Reasonably Likely ☐ Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays [X] Lost Workdays or Restricted Duty ☐ Permanently Disabling ☐ Fatal ☐

C. Significant and Substantial (See Reverse): Yes ☐ No [X]
D. Number of Persons Affected 0 0 0

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

12. Type of Action 1 0 4 - a , - -

13. Type of Issuance (check one)
Citation [X] 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 0 8 Da 2 8 Yr 0 8
B. Time (24 Hr. Clock) 0 8 0 0

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) E 0 1
20. Event Number 0 9 8 9 3 4 1
21. Primary or Mill

22. Signature
Jay Lowe

23. AR Number 0 3 3 3 2

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - PART 46
TRAINING CERTIFICATES NOT PROVIDED

Mine Citation/Order

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

Section I -- Violation Data

1. Date: Mo 08 Da 21 Yr 08
2. Time (24 Hr. Clock): 0930
3. Citation/Order Number: 8888345 8

4. Served To: KEN SWIFT, QUARRY FOREMAN
5. Operator: NORTHEAST AGGREGATES

6. Mine: NORTHEAST
7. Mine ID: 47-991 23- (contractor)

8. Condition or Practice
8a. Written Notice (103g) ☐

The mine operator was not completing or generating the required records of training which was being completed in segments [30 CFR 46.9b(1-4)].

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation
A. Health ☐ Safety ☐ Other ☐
B. Section of Act
C. Part/Section of Title 30 CFR: 46.9b

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely [X] Reasonably Likely ☐ Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays [X] Lost Workdays or Restricted Duty ☐ Permanently Disabling ☐ Fatal ☐

C. Significant and Substantial (See Reverse): Yes ☐ No [X]
D. Number of Persons Affected: 000

11. Negligence (check one)
A. None ☐ B. Low ☐ C. Moderate [X] 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 ☐ 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 08 Da 28 Yr 08
B. Time (24 Hr. Clock): 0800

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: 0983341
21. Primary or Mill

22. Signature: Jay Lowe
23. AR Number: 03332

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - PART 46
INCOMPLETE TRAINING RECORDS

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
	08	21	08	1000	8883459

4. Served To
KEN SWIFT, QUARRY FOREMAN

5. Operator
NORTHEAST AGGREGATES

6. Mine
NORTHEAST

7. Mine ID 47-991 23- (contractor)

8. Condition or Practice

8a. Written Notice (103g) [ ]

The mine operator failed to record and certify that each miner had received the required training.

See Continuation Form (MSHA Form 7000-3a) [ ]

9. Violation
A. Health [ ] Safety [ ] Other [ ]
B. Section of Act
C. Part/Section of Title 30 CFR 46.9a

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood [ ] Unlikely [X] Reasonably Likely [ ] Highly Likely [ ] Occurred [ ]

B. Injury or Illness could reasonably be expected to be: No Lost Workdays [X] Lost Workdays or Restricted Duty [ ] Permanently Disabling [ ] Fatal [ ]

C. Significant and Substantial (See Reverse): Yes [ ] No [X]
D. Number of Persons Affected 000

11. Negligence (check one)
A. None [ ] B. Low [ ] C. Moderate [X] 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 [ ] 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 08 Da 28 Yr 08
B. Time (24 Hr. Clock) 0800

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 098934 1
21. Primary or Mill

22. Signature
Jay Lowe

23. AR Number 03332

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - PART 46
TRAINING RECORDS NOT PROVIDED

Mine Citation/Order

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

Section l -- Violation Data

1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number
	08	20	08	0800	4410189

4. Served To
JAMES DOBSON, PRESIDENT

5. Operator
QRS MINING COMPANY

6. Mine
WMC MINE AND MILL

7. Mine ID 73-012 36- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

Chad Scott (payroll number 98342), truck driver, had not received the MSHA-required 24-hour new miner training within 90 days after beginning work at the mine. Mr. Scott had no previous mining experience, and he was only provided with 8 hours of training. The mine operator was aware of the Part 46 training requirements. The mine operator must withdraw Chad Scott from the mine until he receives the required training. The Federal Mine Safety and Health Act of 1977 states that an untrained miner is a hazard to himself and to others.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation
A. Health ☐
Safety ☐
Other ☐
B. Section of Act
C. Part/Section of Title 30 CFR 46.5a

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely [X] Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty ☐ Permanently Disabling ☐ Fatal [X]

C. Significant and Substantial (See Reverse): Yes [X] No ☐

D. Number of Persons Affected 001

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

12. Type of Action 104-g-1,

13. Type of Issuance (check one)
Citation ☐ Order [X] 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
Chad Scott (payroll number 98342)

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

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 0977555
21. Primary or Mill

22. Signature
John Redwood

23. AR Number 03333

MSHA Form 7000-3 Mar 85 (Revised)

104(g)(1) ORDER - PART 46
SINGLE MINER AND A SINGLE VIOLATION

Section l -- Violation Data

1. Date	Mo 08	Da 20	Yr 08	2. Time (24 Hr. Clock) 0800	3. Citation/Order Number 4410089

4. Served To: JAMES DOBSON, PRESIDENT

5. Operator: QRS MINING COMPANY

6. Mine: QRS MINE

7. Mine ID: 73-0123 6- (contractor)

8. Condition or Practice

8a. Written Notice (103g) [ ]

Twenty-two miners working at the mine have not received annual refresher training within the last twelve months. Refresher training was last provided to these miners on April 11, 2007. The mine operator was aware of the training requirements. The mine operator must withdraw the 22 miners from the mine until they have received the required training. The Federal Mine Safety and Health Act of 1977 states that an untrained miner is a hazard to himself and to others.

See Continuation Form (MSHA Form 7000-3a) [ ]

9. Violation: A. Health [ ] Safety [ ] Other [ ] B. Section of Act C. Part/Section of Title 30 CFR 46.8a

Section II -- Inspector's Evaluation

10. Gravity:

A. Injury or Illness (has) (is): No Likelihood [ ] Unlikely [X] Reasonably Likely [ ] Highly Likely [ ] Occurred [ ]

B. Injury or Illness could reasonably be expected to be: No Lost Workdays [ ] Lost Workdays or Restricted Duty [X] Permanently Disabling [ ] Fatal [ ]

C. Significant and Substantial (See Reverse): Yes [ ] No [X] D. Number of Persons Affected 022

11. Negligence (check one)

A. None [ ] B. Low [ ] C. Moderate [ ] D. High [X] E. Reckless Disregard [ ]

12. Type of Action: 104-g-1, - -

13. Type of Issuance (check one): Citation [ ] Order [X] 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

Joseph Johns, Harry Tee, Mike Mott, Mark Hank, Sam Wright, Harold Moody, et. al.

16. Termination Due: A. Date Mo Da Yr B. Time (24 Hr. Clock)

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: 097755 5

21. Primary or Mill

22. Signature: John Redwood

23. AR Number: 03333

MSHA Form 7000-3 Mar 85 (Revised)

104(g)(1) ORDER - PART 46
MULTIPLE MINERS AND A SINGLE VIOLATION

Mine Citation/Order

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

Section I -- Violation Data

1. Date	Mo 08	Da 20	Yr 08	2. Time (24 Hr. Clock) 0930	3. Citation/Order Number 4410190
4. Served To JAMES DOBSON, PRESIDENT				5. Operator QRS MINING COMPANY	
6. Mine QRS MINE				7. Mine ID 73-0123-6- (contractor)	

8. Condition or Practice — 8a. Written Notice (103g) [ ]

Bill Porter (payroll number 98340), haul truck driver, had not received the MSHA required task training on the haul truck he was operating prior to assuming his duties on July 6, 2008. [30 CFR Part 46.7a] Mr. Porter indicated that he had not operated any haulage trucks prior to operating this one.

Bill Porter last received annual refresher training on February 14, 2007. This is not within MSHA's requirements for annual refresher training. [30 CFR 46.8]

The mine operator was aware of the Part 46 training requirements. The Federal Mine Safety and Health Act of 1977 states that an untrained miner is a hazard to himself and to others.

Note: The second standard is evaluated for S&S on a mine citation/order continuation form.

See Continuation Form (MSHA Form 7000-3a) [X]

9. Violation — A. Health [ ] Safety [ ] Other [ ] — B. Section of Act — C. Part/Section of Title 30 CFR 46.7a

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood [ ] Unlikely [ ] Reasonably Likely [X] Highly Likely [ ] Occurred [ ]

B. Injury or Illness could reasonably be expected to be: No Lost Workdays [ ] Lost Workdays or Restricted Duty [ ] Permanently Disabling [ ] Fatal [X]

C. Significant and Substantial (See Reverse): Yes [X] No [ ] — D. Number of Persons Affected 001

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

12. Type of Action 104-g-1,-- — 13. Type of Issuance (check one) Citation [ ] Order [X] 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
Bill Porter (payroll number 98340)

16. Termination Due — A. Date Mo Da Yr — B. Time (24 Hr. Clock)

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 097755	21. Primary or Mill
22. Signature John Redwood			23. AR Number 03333

MSHA Form 7000-3 Mar 85 (Revised)

104(g)(1) ORDER - PART 46
SINGLE MINER AND MULTIPLE VIOLATIONS

Mine Citation/Order

Continuation

U.S. Department of Labor

Mine Safety and Health Administration

Section l -- Subsequent Action/Continuation Data

1. Subsequent Action	1a. Continuation	2. Dated (Original Issue)	Mo	Da	Yr	3. Citation/Order Number
☐	X		08	20	08	4410089-

4. Served To	5. Operator
JAMES DOBSON, PRESIDENT	QRS MINING

6. Mine	7. Mine ID
QRS Mine	73-0123 6- (contractor)

Section ll -- Justification for Action

Continuation of Section II, Inspector's Evaluation, to evaluate 30 CFR 46.8a

ITEM 10A - Unlikely
ITEM 10B - Lost Workdays
ITEM 10C - Significant and Substantial - No
ITEM 10D - Number of Persons Affected - 001
ITEM 11 - Negligence - High

See Continuation Form ☐

Section lll -- Subsequent Action Taken

8. Extended To	A. Date	Mo	Da	Yr	B. Time (24 Hr. Clock)	C. Vacated	D. Terminated	E. Modified
						☐	☐	☐

Section lV -- Inspection Data

9. Type of Inspection	10. Event Number
E01	0977555

11. Signature	AR Number	12. Date	13. Time (24 Hr. Clock)
JOHN REDWOOD	03333	Mo 08 Da 20 Yr 08	0930

MSHA Form 7000-3a, Mar 85 (Revised)

104(g)(1) ORDER - PART 46 CONTINUATION SHEET
SINGLE MINER AND MULTIPLE VIOLATIONS

Appendix C
Coal Health Violations

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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
	07	15	08	1030	1234571

4. Served To: Alice McGregor, Safety Director

5. Operator: Beautiful Vista Coal Company

6. Mine: No. 1

7. Mine ID: 15-1352 6- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

The dust collection system provided on the Ingersoll Rand highwall drill (S/N IR-124356) was not effective in controlling the dust produced during the drilling process. Visible dust was observed being emitted from beneath the drill table and a visible dust cloud was observed passing over the blaster, hole loader nearby, and blast foreman. An examination of the collection system revealed that the skirting material provided on the drill table was torn in several places and the bushing material between the drill steel and drill table needed replacement. This highwall drill was observed drilling holes along the #6 highwall bench. The Note: The highwall drill is, typically, only in operation on the day shift.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation — A. Health [X] Safety [ ] Other [ ] — B. Section of Act - — C. Part/Section of Title 30 CFR 72.620

Section II -- Inspector's Evaluation

10. Gravity:

A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely [X] 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 [X] Fatal ☐

C. Significant and Substantial (See Reverse): Yes ☐ No [X] — D. Number of Persons Affected 003

11. Negligence (check one)

A. None ☐ B. Low ☐ C. Moderate [X] D. High ☐ E. Reckless Disregard ☐

12. Type of Action: 104-a- , -

13. Type of Issuance (check one): Citation [X] Order ☐ 0 Safeguard ☐

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 07 15 08 — B. Time (24 Hr. Clock) 1300

Section III -- Termination Action

17. Action to Terminate

The drill was removed from service and the skirting material replaced. The drill steel bushing was also replaced

18. Terminated — A. Date 07 15 08 — B. Time (24 Hr Clock) 1401

Section IV -- Automated System Data

19. Type of Inspection (activity code): E01

20. Event Number: 7654322

21. Primary or Mill

22. Signature

23. AR Number: 23190

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - 30 CFR 72.620

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
	09	15	08	1030	1234571

4. Served To: Alice McGregor, Safety Director

5. Operator: Beautiful Vista Coal Company

6. Mine: No. 1

7. Mine ID: 15-13526- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

The results of five valid samples collected by MSHA Inspector(s) from August 6, 2008, through August 27, 2008, indicate that the #3 Ingersol Rand Highwall Drill operator (Designated Work Position 002-0-384) is exposed to an average respirable dust concentration of 2.7 mg/m3 which exceeds the allowable exposure of 2.0 mg/m3. These samples were collected on the #3 Ingersol Rand Highwall Drill (S/N 04-12345) which is normally operated on both the day and afternoon shifts. The mine operator must take immediate action to lower the exposure in the environment of the #3 Ingersol Rand Highwall Drill operator to 2.0 mg/m3 or less and then sample each production shift until five valid sample have been collected and submitted to the Pittsburgh Dust Processing Laboratory. A copy of the sample results is attached to this citation.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation — A. Health [X] Safety [ ] Other [ ] — B. Section of Act: - — C. Part/Section of Title 30 CFR: 71.100

Section II -- Inspector's Evaluation

10. Gravity:

A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely [X] Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty ☐ Permanently Disabling ☐ [X] Fatal ☐

C. Significant and Substantial (See Reverse): Yes [X] No ☐ — D. Number of Persons Affected: 002

11. Negligence (check one)

A. None ☐ B. Low ☐ C. Moderate [X] D. High ☐ E. Reckless Disregard ☐

12. Type of Action: 104-a-, -- 13. Type of Issuance (check one): Citation [X] Order ☐ 0 Safeguard ☐

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: 09/25/08 — B. Time (24 Hr. Clock): 1300

Section III -- Termination Action

17. Action to Terminate

18. Terminated — A. Date: 10/15/08 — B. Time (24 Hr Clock): 1401

Section IV -- Automated System Data

19. Type of Inspection (activity code): E01 — 20. Event Number: 7654322 — 21. Primary or Mill:

22. Signature — 23. AR Number: 23190

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - 30 CFR 71.100 for DWP

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
	07	15	08	1030	1234571

4. Served To	5. Operator
Mike McGregor, Safety Director	Black Rock Coal Company

6. Mine	7. Mine ID
No. 1	15-1352 6- (contractor)

8. Condition or Practice — 8a. Written Notice (103g) ☐

The mine operator did not collect the required bimonthly respirable dust samples in the Designated Area 201-0 as identified in Advisory Number 0001 dated July 3, 2008. The bimonthly cycle missed was April - June. Two miners are normally exposed during each production shift - a belt examiner and a belt shoveler. This belt is in operation during both the day and afternoon shifts.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation — A. Health [X] Safety [ ] Other [ ] — B. Section of Act - — C. Part/Section of Title 30 CFR 70.208(a)

Section II -- Inspector's Evaluation

10. Gravity:

A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely [X] Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty ☐ Permanently Disabling [X] Fatal ☐

C. Significant and Substantial (See Reverse): Yes [X] No ☐ — D. Number of Persons Affected 004

11. Negligence (check one)

A. None ☐ B. Low ☐ C. Moderate [X] D. High ☐ E. Reckless Disregard ☐

12. Type of Action 104-a-, - -

13. Type of Issuance (check one) Citation [X] Order ☐ 0 Safeguard ☐

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 07 15 08 — B. Time (24 Hr. Clock) 1300

Section III -- Termination Action

17. Action to Terminate

The drill was removed from service and the skirting material replaced. The drill steel bushing was also replaced

18. Terminated — A. Date 07 15 08 — B. Time (24 Hr Clock) 1401

Section IV -- Automated System Data

19. Type of Inspection (activity code) E01 — 20. Event Number 7654322 — 21. Primary or Mill

22. Signature — 23. AR Number 23190

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - 30 CFR 70.208(a)

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
	07	11	08	1030	12345678

4. Served To: Mike McGregor, Safety Director

5. Operator: Black Rock Coal Company

6. Mine: No. 1

7. Mine ID: 15-03536- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

During the on-shift examination for MMU 001-0 the certified person (section foreman) failed to adequately determine the concentrations of carbon monoxide (CO) and nitrogen dioxide (NO_2) in the return at a location representing the contribution of all diesel equipment on this section and at the section loading point. The handheld detector the foreman used during this on-shift examination was not equipped with sensors to measure these contaminants and no equivalent means of sampling/evaluation were available at the mine. The handheld detector normally used by the foreman had been returned to the manufacturer for repair two weeks prior to this date. This unit uses 1 EIMCO diesel scoop for clean up and 3 EIMCO diesel ramcars for section haulage in the production process. Eight miners work on this section.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation — A. Health [X] Safety [ ] Other [ ] — B. Section of Act: - — C. Part/Section of Title 30 CFR: 70.1900(a)(1)

Section II -- Inspector's Evaluation

10. Gravity:

A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely [X] Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty [X] Permanently Disabling ☐ Fatal ☐

C. Significant and Substantial (See Reverse): Yes [X] No ☐ — D. Number of Persons Affected: 008

11. Negligence (check one)

A. None ☐ B. Low ☐ C. Moderate [X] D. High ☐ E. Reckless Disregard ☐

12. Type of Action: 104-a-, -- 13. Type of Issuance (check one): Citation [X] Order ☐ 0 Safeguard ☐

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 07 Da 12 Yr 08 — B. Time (24 Hr. Clock): 0900

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: 7654321 — 21. Primary or Mill:

22. Signature — 23. AR Number: 23190

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - 30 CFR 70.1900(a)(1)

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
	07	11	08	1030	1234567

4. Served To: Mike McGregor, Safety Director

5. Operator: Black Rock Coal Company

6. Mine: No. 1

7. Mine ID: 15-03536- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

During the on-shift examination for MMU 002-0 the certified person (section foreman) failed to adequately determine the concentrations of carbon monoxide (CO) and nitrogen dioxide (NO_2) in the return at a location representing the contribution of all diesel equipment on this section and at the section loading point. The section foreman failed to take readings at the section loading point as required by 30 CFR 70.1900(a)(2) This unit uses 1 EIMCO diesel scoop for clean up and 3 EIMCO diesel ramcars for section haulage in the production process. There are 5 miners that regularly work or travel in the affected area: unit foreman, scoop operator, and 3 ramcar operators.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation — A. Health [X] Safety [ ] Other [ ] — B. Section of Act: - — C. Part/Section of Title 30 CFR: 70.1900(a)(2)

Section II -- Inspector's Evaluation

10. Gravity:

A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely [X] Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty [X] Permanently Disabling ☐ Fatal ☐

C. Significant and Substantial (See Reverse): Yes [X] No ☐ — D. Number of Persons Affected: 005

11. Negligence (check one)

A. None ☐ B. Low ☐ C. Moderate [X] D. High ☐ E. Reckless Disregard ☐

12. Type of Action: 104-a-, -- 13. Type of Issuance (check one): Citation [X] Order ☐ 0 Safeguard ☐

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: 07 11 08 — B. Time (24 Hr. Clock): 1100

Section III -- Termination Action

17. Action to Terminate

The section foreman took readings at the section loading point and found 16 ppm of carbon monoxide and 1.0 ppm of nitrogen dioxide.

18. Terminated — A. Date: 07 11 08 — B. Time (24 Hr Clock): 1052

Section IV -- Automated System Data

19. Type of Inspection (activity code): E01 — 20. Event Number: 7654321 — 21. Primary or Mill:

22. Signature — 23. AR Number: 23190

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - 30 CFR 70.1900(a)(2)

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
	07	11	08	1940	1234570

4. Served To: Mike McGregor, Safety Director

5. Operator: Black Rock Coal Company

6. Mine: No. 1

7. Mine ID: 15-03536- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

During the on-shift examination for MMU 001-0 the certified person (section foreman) failed to adequately determine the concentrations of carbon monoxide (CO) and nitrogen dioxide (NO2) in the return at a location representing the contribution of all diesel equipment on this section and at the section loading point. This unit uses 1 EIMCO diesel scoop for clean up and 3 EIMCO diesel ramcars for section haulage in the production process. The handheld detector the foreman used during this on-shift examination was a Solaris multigas detector (S/N 54231). When the detector was check on this inspection date it was found that the instrument had not been calibrated during the previous 30 days. Manufacturer's literature indicates the unit should be calibrated every 30 days and bump tested before each shift used. Interviews with the calibration technician confirmed this finding. Eight miners work on this section.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation — A. Health [X] Safety [ ] Other [ ] — B. Section of Act: - — C. Part/Section of Title 30 CFR: 70.1900(b)(2)

Section II -- Inspector's Evaluation

10. Gravity:

A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely [X] Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty [X] Permanently Disabling ☐ Fatal ☐

C. Significant and Substantial (See Reverse): Yes [X] No ☐ — D. Number of Persons Affected: 008

11. Negligence (check one)

A. None ☐ B. Low ☐ C. Moderate [X] D. High ☐ E. Reckless Disregard ☐

12. Type of Action: 104-a-, -- 13. Type of Issuance (check one): Citation [X] Order ☐ 0 Safeguard ☐

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 07 Da 12 Yr 08 — B. Time (24 Hr. Clock): 1000

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: 7654321 — 21. Primary or Mill:

22. Signature — 23. AR Number: 23190

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - 30 CFR 70.1900(b)(2)

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
	07	11	08	1140	1234569

4. Served To: Mike McGregor, Safety Director

5. Operator: Black Rock Coal Company

6. Mine: No. 1

7. Mine ID: 15-03536- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

During the on-shift examination for MMU 003-0 the certified person (section foreman) failed to adequately determine the concentrations of carbon monoxide (CO) and nitrogen dioxide (NO_2) in the return at a location representing the contribution of all diesel equipment on this section and at the section loading point. This unit uses 1 EIMCO diesel scoop for clean up and 3 EIMCO diesel ramcars for section haulage in the production process. The on-shift examination was performed at 11:30. At this time the diesel scoop and the #2 diesel ramcar were idle during the mid-day lunch break. Title 30 CFR 70.1900(b)(3) requires that the samples be collected during periods of normal operations. Eight miners work on this section.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation — A. Health [X] Safety [ ] Other [ ] — B. Section of Act - — C. Part/Section of Title 30 CFR 70.1900(b)(3)

Section II -- Inspector's Evaluation

10. Gravity:

A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely [X] Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty [X] Permanently Disabling ☐ Fatal ☐

C. Significant and Substantial (See Reverse): Yes [X] No ☐ — D. Number of Persons Affected 008

11. Negligence (check one)

A. None ☐ B. Low ☐ C. Moderate [X] D. High ☐ E. Reckless Disregard ☐

12. Type of Action: 104-a-, --

13. Type of Issuance (check one): Citation [X] Order ☐ 0 Safeguard ☐

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 07 Da 11 Yr 08 — B. Time (24 Hr. Clock) 1230

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: 7654321

21. Primary or Mill

22. Signature

23. AR Number: 23190

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - 30 CFR 70.1900(b)(3)

Mine Citation/Order

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

Section I -- Violation Data

1. Date: Mo 07 Da 21 Yr 08	2. Time (24 Hr. Clock): 1430		3. Citation/Order Number: 1234573
4. Served To: Mike McGregor, Safety Director		5. Operator: Black Rock Coal Company	
6. Mine: No. 1		7. Mine ID: 15-03536- (contractor)	

8. Condition or Practice — 8a. Written Notice (103g) ☐

The dust collection system provided on the J. H. Fletcher, dual-boom, roof bolting machine (S/N DDR-20456) was not maintained as approved. Fine dust was observed coming from the exhaust mufflers during drilling. Upon examination of the dust collection boxes fine dust was found on the clean side of the filter media on each side of the roof bolting machine. Examination of the filters revealed small holes and tears in the media resulting from overloading and/or attempts to clean the filters by "tapping" them against the machine. This roof bolting machine installs roof supports on MMU 003-0 and is normally operated on day, afternoon, and midnight shifts. MSHA established this machine as a Designated Area (903-0) on July 3, 2007.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation — A. Health [X] Safety [ ] Other [ ] — B. Section of Act: - — C. Part/Section of Title 30 CFR: 72.630(b)

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely [X] Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty ☐ Permanently Disabling [X] Fatal ☐

C. Significant and Substantial (See Reverse): Yes [X] No ☐ — D. Number of Persons Affected: 006

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

12. Type of Action: 104-a-, -- — 13. Type of Issuance (check one): Citation [X] Order ☐ 0 Safeguard ☐

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 07 Da 21 Yr 08 — B. Time (24 Hr. Clock): 2000

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: 7654321 — 21. Primary or Mill:

22. Signature — 23. AR Number: 23190

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - 30 CFR 72.630(b) Example 1

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
	07	21	07	1430	1234573

4. Served To: Mike McGregor, Safety Director

5. Operator: Black Rock Coal Company

6. Mine: No. 1

7. Mine ID: 15-03536- (contractor)

8. Condition or Practice

8a. Written Notice (103g) [ ]

The dust collection system provided on the J. H. Fletcher, dual-boom, roof bolting machine (S/N DDR-40265) was not maintained as approved. An examination of the dust collection boxes revealed that the rubber door latches on the left (operator's) side of the machine were broken. This condition allows leakage along the door seal compromising the collection efficiency of the dust collector. This roof bolting machine installs roof supports on MMU 003-0. MSHA established this machine as a Designated Area (903-0) on July 3, 2008.

See Continuation Form (MSHA Form 7000-3a) [ ]

9. Violation — A. Health [X] Safety [ ] Other [ ] — B. Section of Act: - — C. Part/Section of Title 30 CFR: 72.630(b)

Section II -- Inspector's Evaluation

10. Gravity:

A. Injury or Illness (has) (is): No Likelihood [ ] Unlikely [X] 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 [ ] [X] Fatal [ ]

C. Significant and Substantial (See Reverse): Yes [X] No [ ] — D. Number of Persons Affected: 002

11. Negligence (check one)

A. None [ ] B. Low [ ] C. Moderate [X] D. High [ ] E. Reckless Disregard [ ]

12. Type of Action: 104-a-, --

13. Type of Issuance (check one): Citation [X] Order [ ] 0 Safeguard [ ]

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 07 Da 21 Yr 08 — B. Time (24 Hr. Clock): 1530

Section III -- Termination Action

17. Action to Terminate

The rubber door latches were replaced.

18. Terminated — A. Date: Mo 72 Da 10 Yr 08 — B. Time (24 Hr Clock): 1451

Section IV -- Automated System Data

19. Type of Inspection (activity code): E01 — 20. Event Number: 7654321 — 21. Primary or Mill:

22. Signature — 23. AR Number: 23190

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - 30 CFR 72.630(b) Example 2

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
	07	21	08	1530	1234574

4. Served To: Mike McGregor, Safety Director

5. Operator: Black Rock Coal Company

6. Mine: No. 1

7. Mine ID: 15-03536- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

The dust collection system provided on the J. H. Fletcher, dual-boom, roof bolting machine (S/N DDR-65420) was not maintained as approved. An examination of the dust collection boxes on each side of the machine revealed that the door gaskets provided to separate the coarse and fine dust compartments of the boxes were missing or damaged compromising the collection efficiency of the dust collector. This roof bolting machine installs roof supports on MMU 003-0. MSHA established this machine as a Designated Area (903-0) on July 3, 2008.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation — A. Health [X] Safety [ ] Other [ ] — B. Section of Act - — C. Part/Section of Title 30 CFR 72.630(b)

Section II -- Inspector's Evaluation

10. Gravity:

A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely [X] 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 [X] Fatal ☐

C. Significant and Substantial (See Reverse): Yes [X] No ☐ — D. Number of Persons Affected 002

11. Negligence (check one)

A. None ☐ B. Low ☐ C. Moderate [X] D. High ☐ E. Reckless Disregard ☐

12. Type of Action: 104-a-, -- 13. Type of Issuance (check one): Citation [X] Order ☐ 0 Safeguard ☐

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 07 21 08 — B. Time (24 Hr. Clock) 1730

Section III -- Termination Action

17. Action to Terminate

The gaskets werereplaced.

18. Terminated — A. Date 72 10 08 — B. Time (24 Hr Clock) 1721

Section IV -- Automated System Data

19. Type of Inspection (activity code): E01 — 20. Event Number 7654321 — 21. Primary or Mill

22. Signature — 23. AR Number 23190

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - 30 CFR 72.630(b)

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
	07	20	08	1030	1234572

4. Served To: Mike McGregor, Safety Director

5. Operator: Black Rock Coal Company

6. Mine: No. 1

7. Mine ID: 15-03536- (contractor)

8. Condition or Practice

8a. Written Notice (103g) [ ]

The dust collection system provided on the J. H. Fletcher, dual-boom, roof bolting machine (S/N DDR-02465) was not maintained as approved. The static vacuum pressure at the left (operator's) side drill pot indicated 6 inches (Hg). The dust collection system approval plate located in the operators' compartment specifies a minimum static vacuum pressure of 15 inches (Hg). This condition indicates possible leakage somewhere in the collection system or other system defect compromising the collection efficiency of the dust collector. This roof bolting machine installs roof supports on MMU 003-0. MSHA established this machine as a Designated Area (903-0) on July 3, 2008.

See Continuation Form (MSHA Form 7000-3a) [ ]

9. Violation — A. Health [X] Safety [ ] Other [ ] — B. Section of Act - — C. Part/Section of Title 30 CFR 72.630(b)

Section II -- Inspector's Evaluation

10. Gravity:

A. Injury or Illness (has) (is): No Likelihood [ ] Unlikely [ ] Reasonably Likely [X] Highly Likely [ ] Occurred [ ]

B. Injury or Illness could reasonably be expected to be: No Lost Workdays [ ] Lost Workdays or Restricted Duty [ ] Permanently Disabling [ ] Fatal [X]

C. Significant and Substantial (See Reverse): Yes [X] No [ ]

D. Number of Persons Affected: 002

11. Negligence (check one)

A. None [ ] B. Low [ ] C. Moderate [X] D. High [ ] E. Reckless Disregard [ ]

12. Type of Action: 104-a-, -

13. Type of Issuance (check one): Citation [X] Order [ ] 0 Safeguard [ ]

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: 07 21 08 — B. Time (24 Hr. Clock): 0700

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: 7654321

21. Primary or Mill

22. Signature

23. AR Number: 23190

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - 30 CFR 72.630(b) Example 4

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
	09	04	07	0700	1234575

4. Served To: Mike McGregor, Safety Director

5. Operator: Black Rock Coal Company

6. Mine: No. 1

7. Mine ID: 15-03536- (contractor)

8. Condition or Practice

8a. Written Notice (103g) [ ]

The results of five valid samples collected by MSHA Inspector(s) from August 6, 2008, through August 27, 2008, indicate that the #5 Joy shuttle car operator (Occupation Code 050) is exposed to an average respirable dust concentration of 2.7 mg/m^3 which exceeds the allowable exposure of 2.0 mg/m^3. These samples were collected on the #5 Joy shuttle car (S/N ET-12345) used to haul coal on MMU 001-0. Three shuttle cars are used for coal haulage on this unit,which produces coal on both the day and afternoon shifts The mine operator must take immediate action to lower the exposure in the environments shuttle car operators to 2.0 mg/m^3 or less and then sample the #5 Joy shuttle car operator each production shift until five valid sample have been collected and submitted to the Pittsburgh Dust Processing Laboratory. A copy of the sample results is attached to this citation. Information to be coded on the dust data card: Type of Sample = 2, MMU/DA/SA = 001-1, Occupation Code = 050

See Continuation Form (MSHA Form 7000-3a) [ ]

9. Violation
A. Health [X] Safety [ ] Other [ ]
B. Section of Act
C. Part/Section of Title 30 CFR: 070.100(a)

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood [ ] Unlikely [ ] Reasonably Likely [X] Highly Likely [ ] Occurred [ ]

B. Injury or Illness could reasonably be expected to be: No Lost Workdays [ ] Lost Workdays or Restricted Duty [ ] Permanently Disabling [ ] Fatal [X]

C. Significant and Substantial (See Reverse): Yes [X] No [ ]

D. Number of Persons Affected: 006

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

12. Type of Action: 104-a-, -

13. Type of Issuance (check one)
Citation [X] Order [ ] 0 Safeguard [ ]

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 09 Da 12 Yr 08
B. Time (24 Hr. Clock): 0700

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: 7654321

21. Primary or Mill

22. Signature

23. AR Number: 23190

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - 30 CFR 70.100(a) for NDO

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action	1a. Continuation	2. Dated (Original Issue)	Mo	Da	Yr	3. Citation/Order Number
X			09	04	08	1234575-01

4. Served To	5. Operator
Mike McGregor, Safety Director	Black Rock Coal Company

6. Mine	7. Mine ID
No. 1	15-03536- (contractor)

Section II -- Justification for Action

The results of 5 valid samples collected by the operator from September 5, 2008, through September 7, 2008, indicate that the average concentration of respirable dust that the #5 Joy Shuttle Car Operator is now exposed is 0.9 mg/m^3 which is in compliance with the current applicable standard of 2.0 mg/m^3 for this occupation. This citation is terminated.

See Continuation Form ☐

Section III -- Subsequent Action Taken

8. Extended To	A. Date	Mo	Da	Yr	B. Time (24 Hr. Clock)	C. Vacated	D. Terminated	E. Modified
						☐	☐	X

Section IV -- Inspection Data

9. Type of Inspection	10. Event Number
E01	7654321

11. Signature	AR Number	12. Date	Mo	Da	Yr	13. Time (24 Hr. Clock)
Thomas Morris	23190		09	14	08	0800

MSHA Form 7000-3a, Mar 85 (Revised)

70.100(a) NDO Termination

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
	09	04	08	0700	1234575

4. Served To: Mike McGregor, Safety Director

5. Operator: Black Rock Coal Company

6. Mine: No. 1

7. Mine ID: 15-03536- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

The results of five valid samples collected by an MSHA Inspector on August 6, 2008, on Northeast Mains (MMU 001-0) indicate that the average respirable dust conentration in the environments of the miners working on this unis is 3.5 mg/m^3 which exceeds the allowable concentration of 2.0 mg/m^3. The highest concentration (4.0 mg/m^3) of respirable dust was measured in the environment of the #5 Joy shuttle car operator (Occupation Code 050). The mine operator must take immediate action to lower the exposure in the section environment to 2.0 mg/m3 or less and then sample the #5 Joy shuttle car operator each production shift until five valid sample have been collected and submitted to the Pittsburgh Dust Processing Laboratory. A copy of the sample results is attached to this citation. Information to be coded on the dust data card:
Type of Sample = 2, MMU/DA/SA = 001-1, Occupation Code = 050

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation — A. Health [X] Safety [ ] Other [ ] — B. Section of Act: - — C. Part/Section of Title 30 CFR: 70.100(a)

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely [X] Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty ☐ Permanently Disabling [X] Fatal ☐

C. Significant and Substantial (See Reverse): Yes [X] No ☐ — D. Number of Persons Affected: 008

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

12. Type of Action: 104-a-, -- 13. Type of Issuance (check one): Citation [X] Order ☐ 0 Safeguard ☐

14. Initial Action
A. Citation ☐ B. Order ☐ C. Safeguard ☐ D. Written Notice [0] — E. Citation/Order Number — F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due — A. Date: Mo 09 Da 12 Yr 08 — B. Time (24 Hr. Clock): 0700

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: 7654321 — 21. Primary or Mill

22. Signature — 23. AR Number: 23190

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - 30 CFR 70.100(a) for NDO Example 2

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
	11	11	08	0700	1234575

4. Served To: Mike McGregor, Safety Director

5. Operator: Black Rock Coal Company

6. Mine: No. 1

7. Mine ID: 15-03536- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

The results of five valid samples collected by MSHA Inspector(s) from October 15, 2008, through October 30, 2008, indicate that the #1 Joy Continuous Mining Machine 0perator (Occupation Code 036) is exposed to an average respirable dust concentration of 3.7 mg/m^3 which exceeds the the allowable exposure of 2.0 mg/m^3. These samples were collected on the #1 Joy Continuous Mining Machine (S/N JM 1234) used to cut coal on MMU 001-0. Eight miners work on this section each production shift. This unit produces coal on both the day and afternoon shifts The mine operator must take immediate action to lower the respirable dust concentration in the environment of the miners on MMU 001-0 to 2.0 mg/m^3 or less and then sample each production shift until five valid samples have been collected and submitted to the Pittsburgh Dust Processing Laboratory. A copy of the sample results is attaced to this citation.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation — A. Health [X] Safety [ ] Other [ ] — B. Section of Act - — C. Part/Section of Title 30 CFR 70.100(a)

Section II -- Inspector's Evaluation

10. Gravity:

A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely [X] Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty ☐ Permanently Disabling [X] Fatal ☐

C. Significant and Substantial (See Reverse): Yes [X] No ☐ — D. Number of Persons Affected 016

11. Negligence (check one)

A. None ☐ B. Low ☐ C. Moderate [X] D. High ☐ E. Reckless Disregard ☐

12. Type of Action: 104-a- , -

13. Type of Issuance (check one): Citation [X] Order ☐ 0 Safeguard ☐

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 11 Da 23 Yr 08 — B. Time (24 Hr. Clock) 0700

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: 7654321

21. Primary or Mill

22. Signature

23. AR Number: 23190

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - 30 CFR 70.100(a) for DO

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
	11	11	08	0700	1234575

4. Served To	5. Operator
Mike McGregor, Safety Director	Black Rock Coal Company

6. Mine	7. Mine ID
No. 1	15-03536- (contractor)

8. Condition or Practice — 8a. Written Notice (103g) ☐

The Part 90 Miner identified in Advisory Number 0012, dated November 8, 2008, was exposed to an average respirable dust concentration of 1.5 mg/m^3. This finding is based upon the results of five valid samples collected by the operator [or MSHA Insector]. Mine management must take corrective action to lower the respirable dust concentration in the environemt of the affected Part 90 Miner to 1.0 mg/m^3 or less as required by 30 CFR 90.201(d) and collect and submit five valid samples to the Pittsburgh Dust Processing Laboratory by the termination date specified below.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation — A. Health [X] Safety [ ] Other [ ] — B. Section of Act - — C. Part/Section of Title 30 CFR 90.100

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely [X] Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty ☐ Permanently Disabling [X] Fatal ☐

C. Significant and Substantial (See Reverse): Yes [X] No ☐ — D. Number of Persons Affected 001

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

12. Type of Action 104-a-, - -

13. Type of Issuance (check one) Citation [X] Order ☐ 0 Safeguard ☐

14. Initial Action
A. Citation [0] B. Order [0] C. Safeguard [0] D. Written Notice [0] — E. Citation/Order Number — F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due — A. Date Mo 12 Da 23 Yr 08 — B. Time (24 Hr. Clock) 0700

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 7654321 — 21. Primary or Mill

22. Signature — 23. AR Number 23190

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - 30 CFR 90.100 for Part 90 Miner

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
	06	15	08	1030	1234559

4. Served To	5. Operator
Alice McGregor, Safety Director	Beautiful Vista Coal Company

6. Mine	7. Mine ID
No. 1	15-1352 6- (contractor)

8. Condition or Practice — 8a. Written Notice (103g) ☐

The mine operator failed to comply with the requirements of the approved respirable dust control plan provide for the Caterpillar bulldozer (S/N 12W3081). The air conditioning unit used to pressurize and maintain the comfort of the operators' cab was not maintained in operating condition as required by the approved plan. This piece of equipment was observed moving material in the #2 pit and was being operated with the doors and windows open. This bulldozer is used on both the day and afternoon production shifts. This piece of equipment was established as a Designated Work Position and cited for non-compliance with the respirable dust standard on May 1, 2008.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation — A. Health [X] Safety [ ] Other [ ] — B. Section of Act ___-___ — C. Part/Section of Title 30 CFR 71.301(c)

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely [X] Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty ☐ Permanently Disabling [X] Fatal ☐

C. Significant and Substantial (See Reverse): Yes [X] No ☐ — D. Number of Persons Affected 002

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

12. Type of Action 104-a-__,__-__ — 13. Type of Issuance (check one) Citation [X] Order ☐ 0 Safeguard ☐

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 06 Da 15 Yr 08 — B. Time (24 Hr. Clock) 1400

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)	20. Event Number	21. Primary or Mill
E01	7654322	

22. Signature — 23. AR Number 23190

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - 30 CFR 71.301(c)

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
	09	15	08	0730	1234580

4. Served To: Mike McGregor, Safety Director

5. Operator: Beautiful Vista Coal Company

6. Mine: No. 1

7. Mine ID: 15-03536- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

The air quantity provided for the J. H. Fletcher, dual boom, roof bolting machine to control respirable was not in compliance with the approved ventilation plan. Only 1,950 CFM of air was measured with a properly calibrated anemometer at the inby end of the line curtain. The approved ventilation plan requires a minimum air quantity of 3,600 CFM at the inby end of the line curtain where roof bolts are being installed. This condition was observed on MMU 007-0 in the #5 entry where the roof bolting machine operators were installing their 3rd row of permanent supports. This machine was established as a roof bolting machine designated area (907-0) on January 15, 2008, and is currently on a reduced standard of 0.7 mg/m^3 due to quartz. Insufficient air quantity for this particular machine was also found during this inspection event on September 4, 2008.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation — A. Health [X] Safety [ ] Other [ ] — B. Section of Act: - — C. Part/Section of Title 30 CFR: 75.370(a)(1)

Section II -- Inspector's Evaluation

10. Gravity:

A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely [X] Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty ☐ Permanently Disabling [X] Fatal ☐

C. Significant and Substantial (See Reverse): Yes [X] No ☐ — D. Number of Persons Affected: 002

11. Negligence (check one)

A. None ☐ B. Low ☐ C. Moderate [X] D. High ☐ E. Reckless Disregard ☐

12. Type of Action: 104-a- , - -

13. Type of Issuance (check one): Citation [X] Order ☐ 0 Safeguard ☐

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 09 Da 15 Yr 08 — B. Time (24 Hr. Clock): 0745

Section III -- Termination Action

17. Action to Terminate

The line curtain and box check curtains were tightened. The foreman measured 3,927 CFM at the inby end of the line curtain.

18. Terminated — A. Date: Mo 09 Da 15 Yr 08 — B. Time (24 Hr Clock): 0740

Section IV -- Automated System Data

19. Type of Inspection (activity code): E01 — 20. Event Number: 7654322 — 21. Primary or Mill:

22. Signature — 23. AR Number: 23190

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - 30 CFR 75.370(a)(1)

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
	09	25	08	0830	1234782

4. Served To: Mike McGregor, Safety Director

5. Operator: Beautiful Vista Coal Company

6. Mine: No. 1

7. Mine ID: 15-03536- (contractor)

8. Condition or Practice

8a. Written Notice (103g) [ ]

The mine operator failed to replace missing labels on five 55-gallon drums of perchloroethylene stored on the ground floor of the preparation plant. The material data safety sheet (MSDS) provided by the manufacturer indicates that perchloroethlyene is a health hazard. The drums were sealed, stored in a protected area, and there was no evidence of material leakage. This violation was observed during a normal production shift when 5 miners are frequently working or traveling in the area. The plant normally operates two 10-hour production shifts per day.

See Continuation Form (MSHA Form 7000-3a) [ ]

9. Violation — A. Health [X] Safety [ ] Other [ ] — B. Section of Act: - — C. Part/Section of Title 30 CFR: 47.41(a)(1)

Section II -- Inspector's Evaluation

10. Gravity:

A. Injury or Illness (has) (is): No Likelihood [ ] Unlikely [ ] Reasonably Likely [X] Highly Likely [ ] Occurred [ ]

B. Injury or Illness could reasonably be expected to be: No Lost Workdays [ ] Lost Workdays or Restricted Duty [ ] Permanently Disabling [ ] Fatal [X]

C. Significant and Substantial (See Reverse): Yes [ ] No [X] — D. Number of Persons Affected: 010

11. Negligence (check one)

A. None [ ] B. Low [ ] C. Moderate [X] D. High [ ] E. Reckless Disregard [ ]

12. Type of Action: 104-a-, -

13. Type of Issuance (check one): Citation [X] Order [ ] 0 Safeguard [ ]

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 09 Da 26 Yr 08 — B. Time (24 Hr. Clock): 0700

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: 7654322

21. Primary or Mill:

22. Signature

23. AR Number: 23190

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - HazCom

Mine Citation/Order

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

Section I -- Violation Data

1. Date: Mo 07 Da 21 Yr 08
2. Time (24 Hr. Clock): 0845
3. Citation/Order: 4410227

4. Served To: John Smith, Assistant Foreman
5. Operator: J & S Coal Company
6. Mine: No. 1
7. Mine ID: 44-03536- (contractor)
8. Condition or Practice
8a. Written Notice (103g) ☐

The highwall drill operator was not protected from the inhalation of respirable drill dust. Visual observation indicated an excessive amount of dust was being generated during drilling. The highwall drill does not have an environmental cab, and the water-holding tank was empty. DWP is on a reduced dust standard of 1.0 mg/m3. The drill operator was not wearing a respirator, and his clothing was covered with dust.

Drill operator: DWP 001-0, occupational code 384

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation
A. Health ☐ Safety ☐ Other ☐
B. Section of Act -
C. Part/Section of Title 30 CFR 72.620

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely [X] Highly Likely ☐ Occurred ☐
B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty ☐ Permanently Disabling [X] Fatal ☐
C. Significant and Substantial (See Reverse): Yes [X] No ☐
D. Number of Persons Affected 001

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

12. Type of Action 104-a-, -
13. Type of Issuance (check one) Citation [X] Order ☐ Safeguard ☐

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 07 Da 22 Yr 08
B. Time (24 Hr. Clock) 0800

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 08888 00
21. Primary or Mill

22. Signature: James Lee
23. AR Number 20775

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - DRILL DUST VIOLATION

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
	08	28	08	1200	9071006

4. Served To
Ralph Bunny, Safety Director

5. Operator
Bambu Company

6. Mine
No. 300

7. Mine ID 45-00020- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

The operator failed to submit for approval a written respirable dust contol plan for the Part 90 miner identified in Advisory No. 0012, dated 07/15/08. Citation No. 9071004, based on this Advisory, was issued on 7/15/08.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation
A. Health ☐ Safety ☐ Other ☐
B. Section of Act -
C. Part/Section of Title 30 CFR 90.300-a

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely [X] Reasonably Likely ☐ Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty [X] Permanently Disabling ☐ Fatal ☐

C. Significant and Substantial (See Reverse): Yes ☐ No [X]
D. Number of Persons Affected

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

12. Type of Action 104-a-, -
13. Type of Issuance (check one)
Citation [X] Order ☐ Safeguard ☐

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

15. Area of Equipment

16. Termination Due
A. Date Mo 09 Da 04 Yr 08
B. Time (24 Hr. Clock) 0800

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) E22
20. Event Number 5032426
21. Primary or Mill

22. Signature
Thomas Morris

23. AR Number 02420

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - FAILURE TO SUBMIT RESPIRABLE DUST CONTROL PLAN

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
	08	05	08	1400	9071005

4. Served To
Ralph Bunny, Safety Director

5. Operator
Bambu Company

6. Mine
No. 300

7. Mine ID 45-00020- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

The Part 90 miner identified in Advisory No. 0012, dated 07/15/08, was exposed to an average respirable dust concentration of 1.4 mg/m^3. This finding was based on the results of five valid dust samples collected by the operator [or inspector]. 30 CFR 90.201(d) requires management to take corrective action, and to collect five valid respirable dust samples in the Part 90 miner's work position. These samples must be submitted to the Pittsburgh Respirable Dust Processing Laboratory by the date of termination.

The operator failed to take corrective actions, and also failed to submit additional samples.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation
A. Health ☐ Safety ☐ Other ☐
B. Section of Act -
C. Part/Section of Title 30 CFR 90.100

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 (See Reverse): Yes ☐ No ☐ D. Number of Persons Affected

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

12. Type of Action 104-b-, -

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

14. Initial Action
A. Citation [X] B. Order ☐ C. Safeguard ☐ D. Written Notice ☐
E. Citation/Order Number 9071004
F. Dated Mo 07 Da 15 Yr 08

15. Area or Equipment
The Part 90 miner identified in the attached Advisory No. 11

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

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) E22

20. Event Number 5032425

21. Primary or Mill

22. Signature
Thomas Morris

23. AR Number 02420

MSHA Form 7000-3 Mar 85 (Revised)

104(b) ORDER - FAILURE TO COMPLY WITH PART 90 RESPIRABLE DUST STANDARD

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
	07	15	08	0920		9071004

4. Served To	5. Operator
Ralph Bunny, Safety Director	Bambu Company

6. Mine	7. Mine ID
No. 300	45-00020- (contractor)

8. Condition or Practice — 8a. Written Notice (103g) ☐

The Part 90 miner identified in Advisory No. 0012, dated 07/15/08, was exposed to an average respirable dust concentration of 1.4 mg/m^3. This finding was based on the results of five valid dust samples collected by the operator [or inspector]. 30 CFR 90.201(d) requires management to take corrective action, and to collect five valid respirable dust samples in the Part 90 miner's work position. These samples must be submitted to the Pittsburgh Respirable Dust Processing Laboratory by the date of termination.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation — A. Health ☐ Safety ☐ Other ☐ — B. Section of Act - — C. Part/Section of Title 30 CFR 90.100

Section II -- Inspector's Evaluation

10. Gravity:

A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely ☐ Highly Likely [X] Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty ☐ Permanently Disabling [X] Fatal ☐

C. Significant and Substantial (See Reverse): Yes [X] No ☐ — D. Number of Persons Affected 001

11. Negligence (check one)

A. None ☐ B. Low ☐ C. Moderate [X] D. High ☐ E. Reckless Disregard ☐

12. Type of Action 104-a- , - - — 13. Type of Issuance (check one) Citation [X] Order ☐ Safeguard ☐

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 08 Da 05 Yr 08 — B. Time (24 Hr. Clock) 0800

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) E26 — 20. Event Number 503242 4 — 21. Primary or Mill

22. Signature: Thomas Morris — 23. AR Number 02420

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - PART 90 RESPIRABLE DUST STANDARD

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
	07	07	08	1600	2071001

4. Served To
John Brown, Superintendent

5. Operator
XYZ Company

6. Mine
No. 2

7. Mine ID 44-01701- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

The average concentration of respirable dust in the working environment of the designated work position was 13.0 mg/m^3, which exceeds the 2.0 mg/m^3 standard. This finding was based on the results of five valid dust samples collected by the operator [or inspector]. Management must take corrective action to lower the respirable dust, and then sample each production shift until five valid samples are taken. The samples must be submitted to the Pittsburgh Respirable Dust Processing Laboratory.

Designated work position: 001-0 368
Advisory No. 0001 dated 7/6/08

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation
A. Health ☐
Safety ☐
Other ☐
B. Section of Act -
C. Part/Section of Title 30 CFR 71.100

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely ☐ Highly Likely [X] Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty ☐ Permanently Disabling [X] Fatal ☐

C. Significant and Substantial (See Reverse): Yes [X] No ☐

D. Number of Persons Affected 001

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

12. Type of Action 104-a-, -

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

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 07 Da 27 Yr 08
B. Time (24 Hr. Clock) 0800

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) E16

20. Event Number 5032408

21. Primary or Mill

22. Signature
Thomas Morris

23. AR Number 02420

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION BASED ON MSHA OR MINE OPERATOR SAMPLES

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
	07	07	08	1800	20710002

4. Served To: John Brown, Superintendent

5. Operator: XYZ Company

6. Mine: No. 3

7. Mine ID: 44-01702- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

The average concentration of respirable dust in the working environment of the designated occupation was 3.0 mg/m3, which exceeded the 1.2 mg/m3 applicable limit. This finding was based on the results of five valid dust samples collected by the operator [or inspector]. Management must take corrective action to lower the respirable dust, and then sample each production shift until five valid samples are taken. The samples must be submitted to the Pittsburgh Respirable Dust Processing Laboratory.

Designated occupation: continuous miner operator -036
Location: MMU 001-0
Advisory No. 0001 dated 7/6/08

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation — A. Health ☐ Safety ☐ Other ☐ — B. Section of Act - — C. Part/Section of Title 30 CFR 70.101

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely [X] Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty ☐ Permanently Disabling ☐ [X] Fatal ☐

C. Significant and Substantial (See Reverse): Yes [X] No ☐ — D. Number of Persons Affected 002

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

12. Type of Action 104-a-, -

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

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 07 Da 27 Yr 08 — B. Time (24 Hr. Clock) 0800

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) E16 — 20. Event Number 5032409 — 21. Primary or Mill

22. Signature: Thomas Morris — 23. AR Number 02420

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION BASED ON REDUCED DUST STANDARDS

Mine Citation/Order

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

Section I -- Violation Data

1. Date: Mo 10, Da 05, Yr 08
2. Time (24 Hr. Clock): 0900
3. Citation/Order: 9000001

4. Served To: John Brown, Superintendent
5. Operator: TR Company
6. Mine: No. 40
7. Mine ID: 45-5123 2- (contractor)
8. Condition or Practice
8a. Written Notice (103g) ☐

The mine operator did not collect the required bimonthly valid respirable dust samples in the designated area, as identified in Advisory No. 0001, dated October 5, 2008.

Bimonthly cycle missed: August - September

Designated area: 212-0

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation
A. Health ☐ Safety ☐ Other ☐
B. Section of Act: -
C. Part/Section of Title 30 CFR: 70.208

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely [X] Reasonably Likely ☐ Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays [X] Lost Workdays or Restricted Duty ☐ Permanently Disabling ☐ Fatal ☐

C. Significant and Substantial (See Reverse): Yes ☐ No [X]
D. Number of Persons Affected: 001

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

12. Type of Action: 104-a-, -
13. Type of Issuance (check one): Citation [X] Order ☐ Safeguard ☐

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 10, Da 05, Yr 08
B. Time (24 Hr. Clock): 0910

Section III -- Termination Action

17. Action to Terminate

No action required because bimonthly sampling requirements can only be satisfied during the established bimonthly period.

18. Terminated
A. Date: Mo 10, Da 05, Yr 08
B. Time (24 Hr Clock): 0910

Section IV -- Automated System Data

19. Type of Inspection (activity code): E26
20. Event Number: 512345 6
21. Primary or Mill

22. Signature: Thomas Morris
23. AR Number: 02420

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION BASED ON FAILURE TO TAKE RESPIRABLE DUST SAMPLES

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action	1a. Continuation	2. Dated (Original Issue)	3. Citation/Order Number
X	☐	Mo 07 Da 07 Yr 08	20710002-01

4. Served To	5. Operator
John Brown, Superintendent	XYZ Company

6. Mine	7. Mine ID
No. 3	44-01702- (contractor)

Section II -- Justification for Action

MMU - 001 was idle for a period of 10 days during the period for abatement. Samples have been collected during each working shift, and MSHA has received two samples. Additional time is granted to allow more samples to be sent to MSHA so compliance or noncompliance can be determined.

See Continuation Form ☐

Section III -- Subsequent Action Taken

8. Extended To	A. Date	B. Time (24 Hr. Clock)	C. Vacated	D. Terminated	E. Modified
	Mo 08 Da 05 Yr 08	0900	☐	☐	☐

Section IV -- Inspection Data

9. Type of Inspection	10. Event Number
E26	5032419

11. Signature	AR Number	12. Date	13. Time (24 Hr. Clock)
Thomas Morris	02420	Mo 07 Da 27 Yr 08	1000

MSHA Form 7000-3a, Mar 85 (Revised)

EXTENSION OF ABATEMENT TIME

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
	07	27	08	1800	2071003

4. Served To: John Brown, Superintendent

5. Operator: XYZ Company

6. Mine: No. 3

7. Mine ID: 44-01702- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

MSHA's analysis of the five most recent respirable dust samples collected from the working environment of the designated occupation shows an average concentration of 5.7 mg/m3. Due to the obvious lack of effort by the operator to control respirable dust, the reasonable time period for the abatement of the original violation will not be further extended. All miners working on this section must be withdrawn until the condition is corrected.

Designated occupation: continuous miner operator -036 in mechanized mining unit 001-0

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation — A. Health ☐ Safety ☐ Other ☐ — B. Section of Act: - — C. Part/Section of Title 30 CFR: 70.101

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 (See Reverse): Yes ☐ No ☐ — D. Number of Persons Affected

11. Negligence (check one)

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

12. Type of Action: 104-b-, --

13. Type of Issuance (check one): Citation ☐ Order [X] Safeguard ☐

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

E. Citation/Order Number: 2071002 — F. Dated: Mo 07 Da 07 Yr 08

15. Area or Equipment

The mechanized mining unit 001-0

16. Termination Due — A. Date: Mo Da Yr — B. Time (24 Hr. Clock)

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): E16

20. Event Number: 5032410

21. Primary or Mill

22. Signature: Thomas Morris

23. AR Number: 02420

MSHA Form 7000-3 Mar 85 (Revised)

104(b) ORDER

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action	1a. Continuation	2. Dated (Original Issue)	3. Citation/Order Number
X		Mo 07 Da 27 Yr 08	20710003-01

4. Served To	5. Operator
John Brown, Superintendent	XYZ Company

6. Mine	7. Mine ID
No. 3	44-01702- (contractor)

Section II -- Justification for Action

The operator has submitted and implemented a revised respirable dust control plan. Therefore, the order is modified to permit MSHA to collect respirable dust samples on MMU 001-0 to determine compliance.

See Continuation Form ☐

Section III -- Subsequent Action Taken

8. Extended To	A. Date	B. Time (24 Hr. Clock)	C. Vacated	D. Terminated	E. Modified
	Mo Da Yr		☐	☐	X

Section IV -- Inspection Data

9. Type of Inspection	10. Event Number
E26	5032420

11. Signature	AR Number	12. Date	13. Time (24 Hr. Clock)
Thomas Morris	02420	Mo 07 Da 28 Yr 08	0800

MSHA Form 7000-3a, Mar 85 (Revised)

104(b) ORDER - MODIFICATION

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action	1a. Continuation	2. Dated (Original Issue)	3. Citation/Order Number
X		Mo 07 Da 27 Yr 08	2071003-02

4. Served To	5. Operator
John Brown, Superintendent	XYZ Company

6. Mine	7. Mine ID
No. 3	44-01702- (contractor)

Section II -- Justification for Action

The average concentration of respirable dust in the working environment of the designated occupation was 1.0 mg/m3, which is within the applicable limit of 1.2 mg/m^3. This finding was based on the results of five valid dust samples collected during an MSHA inspection.

Designated occupation: continuous miner operator -036
Location: MMU 001-0

See Continuation Form ☐

Section III -- Subsequent Action Taken

8. Extended To	A. Date	Mo	Da	Yr	B. Time (24 Hr. Clock)	C. Vacated	D. Terminated	E. Modified
						☐	☐	X

Section IV -- Inspection Data

9. Type of Inspection	10. Event Number
E 2 2	5032423

11. Signature	AR Number	12. Date	Mo	Da	Yr	13. Time (24 Hr. Clock)
Thomas Morris	02420		08	10	08	1400

MSHA Form 7000-3a, Mar 85 (Revised)

104(b) ORDER - TERMINATION

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action	1a. Continuation	2. Dated (Original Issue)	Mo	Da	Yr	3. Citation/Order Number
X			07	27	01	2071003-02

4. Served To	5. Operator
John Brown, Superintendent	XYZ Company

6. Mine	7. Mine ID
No. 3	44-01702- (contractor)

Section II -- Justification for Action

The average concentration of respirable dust in the working environment of the designated occupation was 4.9 mg/m3, which exceeded the applicable limit of 1.2 mg/m^3. This finding was based on the results of five valid dust samples collected during an MSHA inspection. The order is now in effect as originally issued.

Designated occupation: continuous miner operator -036
Location: MMU 001-0

See Continuation Form ☐

Section III -- Subsequent Action Taken

8. Extended To	A. Date	Mo	Da	Yr	B. Time (24 Hr. Clock)	C. Vacated	D. Terminated	E. Modified
						☐	☐	X

Section IV -- Inspection Data

9. Type of Inspection	10. Event Number
E22	5032421

11. Signature	AR Number	12. Date	Mo	Da	Yr	13. Time (24 Hr. Clock)
Thomas Morris	02420		08	20	08	0800

MSHA Form 7000-3a, Mar 85 (Revised)

MODIFICATION (REINSTATING) 104(b) ORDER AS ORIGINALLY ISSUED.

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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
	07	18	08	1600	4410188

4. Served To	5. Operator
SYDNEY JONES, PRESIDENT	TMC MINING COMPANY

6. Mine	7. Mine ID
TRIANGLE MINE	72-00012- (contractor)

8. Condition or Practice — 8a. Written Notice (103g) ☐

The repair shop welder was exposed to a shift-weighted average of 2.35 mg/m^3 of nickel welding fumes when sampled on July 1, 2008. This amount exceeded the Threshold Limit Value (TLV) of 1.0 mg/m3 times the error factor (1.10*) for welding fume sampling and elemental analysis. The employee was welding tubing in the repair shop and visible fumes were produced during this process. The engineering control in use was one 24-inch exhaust fan in the shop roof. The welder was not wearing a respirator and a respirator program meeting the requirements of ANSI Z88.2-1969 was not in place. The original abatement date is for the institution of a respiratory protection program meeting the requirements of ANSI Z88.2-1969. When a respiratory protection program meeting the minimum requirements is established, the abatement date will be extended to allow the mine operator time to install additional engineering controls.

* Note: The error factor for metal dust and fume sampling is determined by, and will be supplied by, the Pittsburgh lab.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation — A. Health ☐ Safety ☐ Other ☐ — B. Section of Act - — C. Part/Section of Title 30 CFR 56.5001a/.5005

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely [X] Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty ☐ Permanently Disabling [X] Fatal ☐

C. Significant and Substantial (See Reverse): Yes [X] No ☐ — D. Number of Persons Affected 001

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

12. Type of Action 104-a-, - - — 13. Type of Issuance (check one) Citation [X] Order ☐ Safeguard ☐

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 07 Da 20 Yr 08 — B. Time (24 Hr. Clock) 0800

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 0768987 — 21. Primary or Mill

22. Signature
TED JOHNSON

23. AR Number 04789

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - "S&S" OVEREXPOSURE
TO WELDING FUMES

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action	1a. Continuation	2. Dated (Original Issue)	Mo	Da	Yr	3. Citation/Order Number
X	☐		07	18	08	4410188-1

4. Served To	5. Operator
SYDNEY JONES, PRESIDENT	TMC MINING COMPANY
6. Mine	**7. Mine ID**
TRIANGLE MINE	72-00012- (contractor)

Section II -- Justification for Action

A respiratory protection program meeting the requirements of ANSI Z88.2-1969 is in place. The welder is wearing a properly fitted and approved respirator (Wilson Model 1212, Approval No. TC-21C-142). The termination due date is extended until August 15, 2008, for the implementation of additional engineering controls. The welder shall continue to wear the respirator when welding until adequate engineering controls have been implemented and further sampling by MSHA confirms the exposure to be less than the permissible exposure limit times the error factor.

See Continuation Form ☐

Section III -- Subsequent Action Taken

8. Extended To	A. Date	Mo	Da	Yr	B. Time (24 Hr. Clock)	C. Vacated	D. Terminated	E. Modified
		08	15	08	1200	☐	☐	☐

Section IV -- Inspection Data

9. Type of Inspection	10. Event Number
E15	0768991

11. Signature	AR Number	12. Date	Mo	Da	Yr	13. Time (24 Hr. Clock)
TED JOHNSON	04789		07	21	08	1530

MSHA Form 7000-3a, Mar 85 (Revised)

104(a) CITATION - EXTENSION AFTER
RESPIRATORY PROTECTION PROVIDED

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action	1a. Continuation	2. Dated (Original Issue)	3. Citation/Order Number
[X]	[ ]	Mo 07 Da 18 Yr 08	4410188-6

4. Served To	5. Operator
SYDNEY JONES, PRESIDENT	TMC MINING COMPANY
6. Mine	**7. Mine ID**
TRIANGLE MINE	72-0001 2- (contractor)

Section II -- Justification for Action

The mine operator purchased and installed a local exhaust fume collection system that can be moved close to welding and cutting operations. The welder in the repair shop was exposed to a shift-weighted average of 0.13 mg/m3 of nickel welding fumes after a resample was conducted by MSHA on August 22, 2008. This average is less than the Threshold Limit Value (TLV) times the error factor (1.10) for welding fume sampling and elemental analysis. The analytical results were received and the termination issued on September 1, 2008.

See Continuation Form [ ]

Section III -- Subsequent Action Taken

8. Extended To	A. Date	Mo	Da	Yr	B. Time (24 Hr. Clock)	C. Vacated	D. Terminated	E. Modified
						[ ]	[X]	[ ]

Section IV -- Inspection Data

9. Type of Inspection	10. Event Number
E15	0768994

11. Signature	AR Number	12. Date	Mo	Da	Yr	13. Time (24 Hr. Clock)
TED JOHNSON	04789		09	01	08	0915

MSHA Form 7000-3a, Mar 85 (Revised)

104(a) CITATION - TERMINATION AFTER RESAMPLING

Mine Citation/Order

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

12/05/95

Section I -- Violation Data

1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number
	07	18	08	1600	4410189

4. Served To: J.B. SMITH, PRESIDENT

5. Operator: S&S MINING COMPANY

6. Mine: S&S MINE

7. Mine ID: 71-03798- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

The primary crusher operator was exposed to a shift-weighted average of 3.30 mg/m^3 of respirable silica-bearing dust on 07/02/08. This exceeded the Threshold Limit Value (TLV) of 1.25 mg/m3 times the error factor (1.20 for respirable free silica dust sampling and analysis). Respiratory protection was not being used and a respiratory protection program meeting the requirements of ANSI Z88.2-1969 was not in place. All feasible engineering controls were not in use to control employee's dust exposure. An operator's control booth was in place but a window was broken and a ventilation system had not been provided for the booth. The original abatement date is for the institution of a Respiratory Protection Program. When a Respiratory Protection Program that meets the minimum requirements of ANSI Z88.2-1969 is in place, the abatement date will be extended to allow the mine operator time to install additional and repair existing engineering controls.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation — A. Health ☐ Safety ☐ Other ☐ — B. Section of Act: - — C. Part/Section of Title 30 CFR: 56.5001a/.5005

Section II -- Inspector's Evaluation

10. Gravity:

A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely [X] Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty ☐ Permanently Disabling [X] Fatal ☐

C. Significant and Substantial (See Reverse): Yes [X] No ☐ — D. Number of Persons Affected: 001

11. Negligence (check one)

A. None ☐ B. Low ☐ C. Moderate [X] D. High ☐ E. Reckless Disregard ☐

12. Type of Action: 104-a-, --

13. Type of Issuance (check one): Citation [X] Order ☐ Safeguard ☐

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 07 Da 20 Yr 08 — B. Time (24 Hr. Clock): 0900

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: 3850189 — 21. Primary or Mill:

22. Signature: TED JOHNSON — 23. AR Number: 04789

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - "S&S" OVEREXPOSURE
TO SILICA-BEARING DUST

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action	1a. Continuation	2. Dated (Original Issue)	Mo	Da	Yr	3. Citation/Order Number
☐ X	☐			0 7	1 8 0 8	4 4 1 0 1 8 9 - 0

4. Served To	5. Operator
J.B. SMITH, PRESIDENT	S&S MINING COMPANY
6. Mine	**7. Mine ID**
S&S MINE	7 1 - 0 3 7 9 8 - (contractor)

Section II -- Justification for Action

A Respiratory Protection Program meeting the requirements of ANSI Z88.2-1969 is in place. The primary crusher operator is wearing a properly fitted and approved respirator (MSA COMFO II, Approval Number TC-21C-134). The termination due date is extended until August 15, 2008, for the implementation of additional engineering controls. The crusher operator shall continue to wear the approved respirator while operating the crusher until engineering controls have been implemented and further sampling by MSHA confirms the exposure to be less than the Threshold Limit Value (TLV) times the error factor.

See Continuation Form ☐

Section III -- Subsequent Action Taken

8. Extended To	A. Date (Mo Da Yr)	B. Time (24 Hr. Clock)	C. Vacated	D. Terminated	E. Modified
	0 8 1 5 0 8	1 2 0 0	☐	☐	☐

Section IV -- Inspection Data

9. Type of Inspection	10. Event Number
E 1 5	3 8 5 0 1 9 6

11. Signature	AR Number	12. Date (Mo Da Yr)	13. Time (24 Hr. Clock)
TED JOHNSON	0 4 7 8 9	0 7 2 1 0 8	1 5 3 0

MSHA Form 7000-3a, Mar 85 (Revised)

104(a) CITATION - EXTENSION AFTER RESPIRATORY PROTECTION PROVIDED FOR SILICA-BEARING DUST

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action	1a. Continuation	2. Dated (Original Issue)	3. Citation/Order Number
[X]	[ ]	Mo 07 Da 18 Yr 08	4410189-02

4. Served To	5. Operator
J.B. SMITH, PRESIDENT	S&S MINING COMPANY
6. Mine	**7. Mine ID**
S&S MINE	71-0379 8- (contractor)

Section II -- Justification for Action

The mine operator replaced the control booth's broken window and installed a heating and cooling unit in the booth of the primary crusher. Water sprays were also installed on the crusher which reduced source dust levels. The primary crusher operator was exposed to a shift-weighted average of 0.82 mg/m3 of respirable silica-bearing dust during a resample conducted on August 22, 2008. This shift-weighted average is less than the Threshold Limit Value (TLV) of 1.11 mg/m3.

See Continuation Form [ ]

Section III -- Subsequent Action Taken

8. Extended To	A. Date	Mo	Da	Yr	B. Time (24 Hr. Clock)	C. Vacated	D. Terminated	E. Modified
						[ ]	[X]	[ ]

Section IV -- Inspection Data

9. Type of Inspection	10. Event Number
E15	3850200

11. Signature	AR Number	12. Date	13. Time (24 Hr. Clock)
TED JOHNSON	04789	Mo 09 Da 01 Yr 08	1130

MSHA Form 7000-3a, Mar 85 (Revised)

104(a) CITATION - TERMINATION AFTER RESAMPLING
FOR SILICA-BEARING DUST

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
	07	23	08	0900	4410190

4. Served To: J.B. SMITH, PRESIDENT

5. Operator: S&S MINING COMPANY

6. Mine: S&S MINE

7. Mine ID: 71-0379 8- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

The primary crusher operator was not using a respirator as required by Citation No. 4410189 issued on 07/18/08. An approved respirator was in its original container at the crusher and the crusher operator admitted that he seldom used it. The primary crusher shall be taken out of service until the crusher operator has been reinstructed and retrained in the use of the respirator. Management shall ensure that the crusher operator will wear the respirator when the crusher is in operation. After the respirator requirement has been fulfilled, MSHA will modify this order to allow work to resume with the understanding that management will install the needed engineering controls at the primary crusher within two months. Citation No. 4410189 documented a shift-weighted average exposure of 3.30 mg/m3 of respirable silica-bearing dust when allowable exposure was 1.25 mg/m^3.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation — A. Health ☐ Safety ☐ Other ☐ — B. Section of Act - — C. Part/Section of Title 30 CFR 56.5001a/.5005

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 (See Reverse): Yes ☐ No ☐ D. Number of Persons Affected

11. Negligence (check one)

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

12. Type of Action: 104-b-, -

13. Type of Issuance (check one): Citation ☐ Order [X] Safeguard ☐

14. Initial Action: A. Citation [X] B. Order ☐ C. Safeguard ☐ D. Written Notice ☐ E. Citation/Order Number 4410189 F. Dated 07/18/08

15. Area or Equipment

PRIMARY CRUSHER

16. Termination Due — A. Date Mo Da Yr — B. Time (24 Hr. Clock)

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): E15

20. Event Number: 0123456

21. Primary or Mill

22. Signature: TED SMITH

23. AR Number: 02933

MSHA Form 7000-3 Mar 85 (Revised)

104(b) ORDER OF WITHDRAWAL FOR SILICA-BEARING DUST

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action	1a. Continuation	2. Dated (Original Issue)	Mo	Da	Yr	3. Citation/Order Number
X			07	23	08	4410190-01

4. Served To	5. Operator
J.B. SMITH, PRESIDENT	S&S MINING COMPANY

6. Mine	7. Mine ID	
S&S MINE	71-0379 8-	(contractor)

Section II -- Justification for Action

The primary crusher operator has been reinstructed and retrained in the use of his fit-tested respirator. He will use the respirator whenever the crusher is in operation. The foreman and the plant manager will check periodically through the shift to ensure that he continues to use it. All provisions of ANSI Z88.2-1969 will be followed. Management will install the needed engineering controls at the primary crusher within two months and will notify MSHA when the controls are in place. The crusher operator will continue to wear the respirator until a resample analysis indicates that the quartz dust at the crusher is within the Threshold Limit Value (TLV). The Section 104(b) order is modified to include the above provisions and to allow crushing operations to resume. The order will be terminated when the silica dust overexposure has been fully abated.

Note: In this example, the 104(b) Order of Withdrawal is not terminated but modified to allow crushing operations to resume until the quartz dust overexposure is brought to within permissible limits.

See Continuation Form ☐

Section III -- Subsequent Action Taken

8. Extended To	A. Date	Mo	Da	Yr	B. Time (24 Hr. Clock)	C. Vacated	D. Terminated	E. Modified
						☐	☐	X

Section IV -- Inspection Data

9. Type of Inspection	10. Event Number
E15	0123456

11. Signature	AR Number	12. Date	Mo	Da	Yr	13. Time (24 Hr. Clock)
TED SMITH	02933		07	24	08	0800

MSHA Form 7000-3a, Mar 85 (Revised)

104(b) ORDER MODIFICATION - ALLOWING
MINING OPERATIONS TO RESUME

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
	07	24	01	0800	4410191

4. Served To: J.B. SMITH, PRESIDENT

5. Operator: S&S MINING COMPANY

6. Mine: S&S MINE

7. Mine ID: 71-03798- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

Section 104(b) Order No. 4410190, issued 07/23/01, required that the primary crusher be shut down and not started until the crusher operator was using a respirator for which he had been fit-tested and trained, as required by ANSI Z88.2-1969. The primary crusher is in full operation, the crusher operator is not wearing a respirator, and engineering controls have not been installed to control the dust. The crusher operator is working in visible silica-bearing dust. The condition has not been designated as "significant and substantial" because the conduct violated a provision of the Mine Act rather than a mandatory safety or health standard.

Note: Section I, Item 9B, is completed with 104(b).

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation — A. Health ☐ Safety ☐ Other ☐ — B. Section of Act: 104-b — C. Part/Section of Title 30 CFR: .

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 (See Reverse): Yes ☐ No ☒

D. Number of Persons Affected: 001

11. Negligence (check one)

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

12. Type of Action: 104-a-, -

13. Type of Issuance (check one): Citation ☒ Order ☐ Safeguard ☐

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

E. Citation/Order Number: 4410190 F. Dated: Mo 07 Da 23 Yr 01

15. Area or Equipment

16. Termination Due — A. Date: Mo 07 Da 24 Yr 01 — B. Time (24 Hr. Clock): 0900

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: 0123456

21. Primary or Mill

22. Signature: TED SMITH

23. AR Number: 02933

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - FAILURE TO COMPLY WITH 104(b) ORDER

Mine Citation/Order

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

Section I -- Violation Data

1. Date: Mo 07 Da 16 Yr 08
2. Time (24 Hr. Clock): 1600
3. Citation/Order Number: 4410192

4. Served To: RICHARD JONES, SAFETY DIRECTOR
5. Operator: INTERNATIONAL CEMENT CORPORATION

6. Mine: ICC MILL
7. Mine ID: 75-00024- (contractor)

8. Condition or Practice
8a. Written Notice (103g) ☐

The #2 bagging machine operator was exposed to a shift-weighted average of 1.56 mg/m^3 of respirable silica-bearing dust when sampled for a full shift on 07/03/08. This exceeded the Threshold Limit Value (TLV) of 0.33 mg/m3 times the error factor (1.20) for respirable free silica sampling and analysis. The operator was wearing an approved fit-tested respirator and a respiratory protection program meeting the requirements of ANSI Z88.2-1969 was in place.

All feasible engineering controls were not used to reduce the bagger operator's exposure. A dust collection system was being used, but numerous holes and leaks in the duct work reduced the system's efficiency. Accumulations of dust, 1/2 to 1 inch deep, indicated poor cleanup. Cleanup was done with shovels and brooms causing more dust to become airborne.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation
A. Health ☐ Safety ☐ Other ☐
B. Section of Act: -
C. Part/Section of Title 30 CFR: 56.5001a/.5005

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 (See Reverse): Yes ☐ No ☒
D. Number of Persons Affected: 001

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

12. Type of Action: 104-a-, -
13. Type of Issuance (check one): Citation ☒ Order ☐ Safeguard ☐

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 08 Da 03 Yr 08
B. Time (24 Hr. Clock): 0800

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: 0088301
21. Primary or Mill:

22. Signature: JOHN REDWOOD
23. AR Number: 03333

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - "NON-S&S" OVEREXPOSURE
TO SILICA-BEARING DUST

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action	1a. Continuation	2. Dated (Original Issue)	Mo	Da	Yr	3. Citation/Order Number
[X]	[ ]		07	16	08	4410192-01

4. Served To	5. Operator
RICHARD JONES, SAFETY DIRECTOR	INTERNATIONAL CEMENT CORPORATION

6. Mine	7. Mine ID
ICC MILL	75-0002 4- (contractor)

Section II -- Justification for Action

The mine operator had repaired the holes and leaks in the dust control system duct work for the #2 bagging machine. The mine operator had also purchased and was using a vacuum system to clean up dust spills. The machine operator was found to be exposed to a shift-weighted average of 0.25 mg/m3 of respirable silica-bearing dust during a resample conducted on August 7, 2008. This shift-weighted average is less than the Threshold Limit Value (TLV) of 0.33 mg/m3.

See Continuation Form [ ]

Section III -- Subsequent Action Taken

8. Extended To	A. Date	Mo	Da	Yr	B. Time (24 Hr. Clock)	C. Vacated	D. Terminated	E. Modified
						[ ]	[X]	[ ]

Section IV -- Inspection Data

9. Type of Inspection	10. Event Number
E15	008831 2

11. Signature	AR Number	12. Date	Mo	Da	Yr	13. Time (24 Hr. Clock)
TED SMITH	02933		08	19	08	1230

MSHA Form 7000-3a, Mar 85 (Revised)

104(a) CITATION - TERMINATION AFTER RESAMPLING

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action	1a. Continuation	2. Dated (Original Issue)	Mo	Da	Yr	3. Citation/Order Number
X			07	16	08	4410192-02

4. Served To	5. Operator
RICHARD JONES, SAFETY DIRECTOR	INTERNATIONAL CEMENT CORPORATION

6. Mine	7. Mine ID
ICC MILL	75-000024- (contractor)

Section II -- Justification for Action

The bagging machine was shut down and removed from service by disconnecting the electrical leads to the machine and wrapping it in plastic. The mill foreman stated that they would not be using the machine anymore as a new machine was being installed. The mine operator is notified that the basis for this termination is the removal of the bagging machine from service. Prior to the resumption of milling activities with this machine they are required to comply with the cited standard. Failure to comply will be considered by MSHA to be aggravated conduct constituting more than ordinary negligence.

See Continuation Form ☐

Section III -- Subsequent Action Taken

8. Extended To	A. Date	Mo	Da	Yr	B. Time (24 Hr. Clock)	C. Vacated	D. Terminated	E. Modified
						☐	☐	X

Section IV -- Inspection Data

9. Type of Inspection	10. Event Number
E15	0088312

11. Signature	AR Number	12. Date	Mo	Da	Yr	13. Time (24 Hr. Clock)
TED SMITH	02933		08	19	08	1230

MSHA Form 7000-3a, Mar 85 (Revised)

104(a) CITATION - TERMINATION AFTER
REMOVAL OF EQUIPMENT FROM SERVICE

Mine Citation/Order

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

Section I -- Violation Data

1. Date: Mo 07 Da 06 Yr 08
2. Time (24 Hr. Clock): 1600
3. Citation/Order Number: 44101194

4. Served To: SAMUEL ADAMS, LEVEL FOREMAN
5. Operator: ABLE MINING, INC.

6. Mine: THE DOUBLE M MINE
7. Mine ID: 57-0678 9- (contractor)

8. Condition or Practice
8a. Written Notice (103g) ☐

The 1402 stope driller was exposed to air containing 1.90 WL of radon daughters on July 6, 2008. This exceeded the maximum permissible exposure limit of 1.00 WL times the error factor (1.20) for radon daughter sampling. Several sections of ventilation tubing had large holes and the 1402 stope regulator door was damaged. The driller was not wearing a respirator.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation
A. Health ☐ Safety ☐ Other ☐
B. Section of Act: -
C. Part/Section of Title 30 CFR: 57.5039

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely [X] Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty ☐ Permanently Disabling ☐ Fatal [X]

C. Significant and Substantial (See Reverse): Yes [X] No ☐
D. Number of Persons Affected: 001

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

12. Type of Action: 104-a-, -
13. Type of Issuance (check one): Citation [X] Order ☐ Safeguard ☐

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 07 Da 07 Yr 08
B. Time (24 Hr. Clock): 1600

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: 0345678
21. Primary or Mill

22. Signature: BILL WILLIAMS
23. AR Number: 02555

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - "S&S"
OVEREXPOSURE TO RADON DAUGHTERS

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action	1a. Continuation	2. Dated (Original Issue)	Mo	Da	Yr	3. Citation/Order Number
X	☐		07	06	08	4410194-01

4. Served To	5. Operator
SAMUEL ADAMS, LEVEL FOREMAN	ABLE MINING, INC.

6. Mine	7. Mine ID
THE DOUBLE M MINE	57-0678 9- (contractor)

Section II -- Justification for Action

Repairs to the ventilation tube and the stope regulator door have brought the concentration of radon daughters under the exposure limit. The 1402 stope driller was exposed to air containing 0.22 WL of radon daughters when resampled on July 7, 2008. During resampling the driller was wearing a fit-tested and approved respirator. The amount is less than the maximum permissible exposure limit of 1.00 WL times the error factor (1.20) for radon daughter sampling.

See Continuation Form ☐

Section III -- Subsequent Action Taken

8. Extended To	A. Date	Mo	Da	Yr	B. Time (24 Hr. Clock)	C. Vacated	D. Terminated	E. Modified
						☐	X	☐

Section IV -- Inspection Data

9. Type of Inspection	10. Event Number
E01	0345678

11. Signature	AR Number	12. Date	Mo	Da	Yr	13. Time (24 Hr. Clock)
BILL WILLIAMS	02555		07	07	08	1600

MSHA Form 7000-3a, Mar 85 (Revised)

104(a) CITATION - TERMINATION AFTER RESAMPLING

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
	09	25	08	0830		1234782

4. Served To: Mike McGregor, Safety Director

5. Operator: Beautiful Vista Coal Company

6. Mine: No. 1

7. Mine ID: 15-03536- (contractor)

8. Condition or Practice — 8a. Written Notice (103g) ☐

The mine operator failed to replace missing labels on five 55-gallon drums of perchloroethylene stored on the ground floor of the preparation plant. The material data safety sheet (MSDS) provided by the manufacturer indicates that perchloroethlyene is a health hazard. The drums were sealed, stored in a protected area, and there was no evidence of material leakage. This condition was observed during a normal production shift and 5 miners are frequently working or traveling in the area. The plant normally operates two 10-hour production shifts per day.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation — A. Health [X] Safety [ ] Other [ ] — B. Section of Act: - — C. Part/Section of Title 30 CFR: 47.41a1

Section II -- Inspector's Evaluation

10. Gravity:

A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely [X] 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 [X] Fatal ☐

C. Significant and Substantial (See Reverse): Yes ☐ No [X] — D. Number of Persons Affected: 010

11. Negligence (check one)

A. None ☐ B. Low ☐ C. Moderate [X] D. High ☐ E. Reckless Disregard ☐

12. Type of Action: 104-a-, -

13. Type of Issuance (check one): Citation [X] Order ☐ 0 Safeguard ☐

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 09 Da 26 Yr 08 — B. Time (24 Hr. Clock): 0700

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: 7654322 — 21. Primary or Mill:

22. Signature — 23. AR Number: 23190

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - "NON S&S" HAZCOM

Mine Citation/Order

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

Section I -- Violation Data

1. Date: Mo 07 Da 16 Yr 08
2. Time (24 Hr. Clock): 1600
3. Citation/Order Number: 4410196

4. Served To: RICHARD JONES, SAFETY DIRECTOR
5. Operator: INTERNATIONAL CEMENT CORPORATION

6. Mine: ICC MILL
7. Mine ID: 75-0002 4- (contractor)

8. Condition or Practice
8a. Written Notice (103g) ☐

The #2 bagging machine operator was exposed to a shift-weighted average of 1.56 mg/m^3 of respirable silica-bearing dust when sampled for a full shift on 07/03/08. This amount exceeded the Threshold Limit Value (TLV) of 0.33 mg/m3 times the error factor (1.20) for respirable free silica sampling and analysis. The operator was not wearing an approved fit-tested respirator nor was a respiratory protection program meeting the requirements of ANSI Z88.2-1969 in place. Also, all feasible engineering controls were not used to reduce the bagger operator's exposure. A dust collection system was being used but numerous holes and leaks in the ductwork reduced the system's efficiency. Accumulations of dust, 5 to 6 inches deep in the area, were indicative of these leaks and the poor cleanup methods. Cleanup was done sporadically, when production permitted, with shovels and brooms causing more dust to become airborne. The workplace safety reports, for the week preceding this sample, indicated that the malfunctioning dust collection system had been noted and reported to the foreman. The foreman stated that he had production to worry about and that when customer orders slowed down he might get the collection system repaired. He also said that he had not purchased any respirators for the employees because they were too expensive. This company has received four previous violations for over-exposure to silica-bearing dust at the bagging plant within the past year. Management engaged in aggravated conduct constituting more than ordinary negligence by deeming production more important than the miner's health. This violation is an unwarrantable failure to comply with a mandatory standard.

9. Violation
A. Health ☐ Safety ☐ Other ☐
B. Section of Act: -
C. Part/Section of Title 30 CFR: 56.5001a/.5005

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely [X] Highly Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty ☐ Permanently Disabling ☐ Fatal [X]

C. Significant and Substantial (See Reverse): Yes [X] No ☐
D. Number of Persons Affected: 001

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

12. Type of Action: 104-d-1, -
13. Type of Issuance (check one): Citation [X] Order ☐ Safeguard ☐

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 07 Da 18 Yr 08
B. Time (24 Hr. Clock): 1600

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: 0088301
21. Primary or Mill

22. Signature: JOHN REDWOOD
23. AR Number: 03333

MSHA Form 7000-3 Mar 85 (Revised)

104(d)(1) CITATION - "S&S" OVEREXPOSURE
TO SILICA-BEARING DUST

Mine Citation/Order

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

Section I -- Violation Data

1. Date: Mo 07 Da 06 Yr 08
2. Time (24 Hr. Clock): 1605
3. Citation/Order Number: 4410197

4. Served To: SAMUEL ADAMS, LEVEL FOREMAN
5. Operator: ABLE MINING, INC.
6. Mine: THE DOUBLE M MINE
7. Mine ID: 57-06789- (contractor)
8. Condition or Practice
8a. Written Notice (103g) [ ]

The 1402 stope driller was exposed to air containing 1.90 WL of radon daughters on July 6, 2008. This amount exceeded the maximum permissible concentration (exposure limit) of 1.00 WL times the error factor (1.20) for radon daughter sampling. Several sections of ventilation tubing had large holes and the 1402 stope regulator door was damaged. The driller was not wearing a respirator. The damaged regulator door and the malfunctioning ventilation tubing had been noted and turned in to the foreman, Joe Jones, two weeks preceding this sampling. Additionally, company samples taken for the week preceding the MSHA samples indicated over-exposure to radon daughters in this area. Foreman Jones stated that it was too expensive to repair the defective items. Management engaged in aggravated conduct constituting more than ordinary negligence in deeming production more important than a miner's health. This violation is an unwarrantable failure to comply with a mandatory standard.

See Continuation Form (MSHA Form 7000-3a) [ ]

9. Violation
A. Health [ ] Safety [ ] Other [ ]
B. Section of Act: -
C. Part/Section of Title 30 CFR: 57.5039

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood [ ] Unlikely [ ] Reasonably Likely [X] Highly Likely [ ] Occurred [ ]
B. Injury or Illness could reasonably be expected to be: No Lost Workdays [ ] Lost Workdays or Restricted Duty [ ] Permanently Disabling [ ] Fatal [X]
C. Significant and Substantial (See Reverse): Yes [X] No [ ]
D. Number of Persons Affected: 001

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

12. Type of Action: 104-d-1, -
13. Type of Issuance (check one) Citation [ ] Order [X] Safeguard [ ]

14. Initial Action
A. Citation [X] B. Order [ ] C. Safeguard [ ] D. Written Notice [ ]
E. Citation/Order Number: 4410111
F. Dated: Mo 05 Da 27 Yr 08

15. Area or Equipment
1402 STOPE DRILLER

16. Termination Due
A. Date: Mo Da Yr
B. Time (24 Hr. Clock)

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: 03456 78
21. Primary or Mill

22. Signature
BILL WILLIAMS
23. AR Number: 02555

MSHA Form 7000-3 Mar 85 (Revised)

104(d)(1) ORDER - "S&S" OVEREXPOSURE
TO RADON DAUGHTERS

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
	07	04	08	0830	4410198

4. Served To: J.R. JOHNSON, SAFETY DIRECTOR

5. Operator: ABC MINING COMPANY

6. Mine: ABC MINE AND MILL

7. Mine ID: 75-09133- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

An underground tram operator is working in area nine east where the measured carbon monoxide level was 800 ppm (parts per million). The operator has been in the area for over two hours and has the following symptoms: headache, nausea, dizziness, and some mental confusion. Sampling was conducted in the operator's work area with eight drager tubes. The operator was not wearing respiratory protection. The TLV for a full shift is 50 ppm, and the STEL is 400 ppm. Exposure to carbon monoxide over this length of time can result in death. An oral imminent danger order was issued to Jim Smith, foreman, at 0800 hours this date.

Citation No. 4410199 is being issued in conjunction with this order.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation — A. Health ☐ Safety ☐ Other ☐ — B. Section of Act ___-___ — C. Part/Section of Title 30 CFR

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 (See Reverse): Yes ☐ No ☐

D. Number of Persons Affected

11. Negligence (check one)

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

12. Type of Action: 107-a-, --

13. Type of Issuance (check one): Citation ☐ Order [X] Safeguard ☐

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

TRAM OPERATOR (NINE EAST)

16. Termination Due: A. Date Mo Da Yr B. Time (24 Hr. Clock)

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: 0735114

21. Primary or Mill

22. Signature: JOHN SMITH

23. AR Number: 01999

MSHA Form 7000-3 Mar 85 (Revised)

107(a) ORDER - "S&S" OVEREXPOSURE
TO CARBON MONOXIDE

Mine Citation/Order

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

Section I -- Violation Data

1. Date: Mo 07 Da 04 Yr 08
2. Time (24 Hr. Clock): 0830
3. Citation/Order Number: 4410199

4. Served To: J.R. JOHNSON, SAFETY DIRECTOR
5. Operator: ABC MINING COMPANY

6. Mine: ABC MINE AND MILL
7. Mine ID: 75-0913 3- (contractor)

8. Condition or Practice
8a. Written Notice (103g) ☐

An underground tram operator is working in area nine east where the measured carbon monoxide level was 800 ppm (parts per million). The operator has been in the area for over two hours and has the following symptoms: headache, nausea, dizziness, and some mental confusion. Sampling was conducted in the operator's work area with eight drager tubes. The operator was not wearing respiratory protection. The TLV for a full shift is 50 ppm, and the STEL is 400 ppm. Exposure to carbon monoxide over this length of time can result in death. An oral imminent danger order was issued to Jim Smith, foreman, at 0800 hours this date.

This violation is a factor cited in imminent danger order No. 4410198

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation
A. Health ☐ Safety ☐ Other ☐
B. Section of Act: -
C. Part/Section of Title 30 CFR: 57.5001a/.5005

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely ☐ Highly Likely [X] Occurred ☐
B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty ☐ Permanently Disabling ☐ Fatal [X]
C. Significant and Substantial (See Reverse): Yes [X] No ☐
D. Number of Persons Affected: 001

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

12. Type of Action: 104-a- , -
13. Type of Issuance (check one): Citation [X] Order ☐ Safeguard ☐

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)

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: 0735114
21. Primary or Mill

22. Signature: JOHN SMITH
23. AR Number: 01999

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION ISSUED IN CONJUNCTION WITH 107(a) ORDER OF WITHDRAWAL

Mine Citation/Order

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

Section I -- Violation Data

1. Date: Mo 07, Da 04, Yr 08
2. Time (24 Hr. Clock): 1100
3. Citation/Order Number: 4410200

4. Served To: J.R. JOHNSON, SAFETY DIRECTOR
5. Operator: ABC MINING COMPANY
6. Mine: ABC MINE AND MILL
7. Mine ID: 75-09133- (contractor)
8. Condition or Practice
8a. Written Notice (103g) ☐

A laboratory technician was handling hot acid in the assay laboratory where the measured hydrogen chloride levels were 35 ppm (parts per million), which is almost at the immediately dangerous to life and health (IDLH) level of 50 ppm. A sample was taken in the operator's work area for an hour with a Drager diffusion tube. The measured exposures are almost at levels that are fatal. The ceiling limit for hydrogen chloride is 5 ppm. The technician was removed from the lab when levels exceeded the ceiling limit of 5 ppm, and an oral imminent danger order was issued to Becky Mills, laboratory supervisor, at 1045 hours this date. The technician was not wearing respiratory protection and complained of eye and throat irritation.

Citation No. 4410201 is being issued in conjunction with this order.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation: A. Health ☐ Safety ☐ Other ☐; B. Section of Act -; C. Part/Section of Title 30 CFR

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 (See Reverse): Yes ☐ No ☐
D. Number of Persons Affected

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

12. Type of Action: 107-a-, -
13. Type of Issuance (check one): Citation ☐ Order [X] Safeguard ☐

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
THE ASSAY LABORATORY

16. Termination Due: A. Date Mo Da Yr; B. Time (24 Hr. Clock)

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: 0735114
21. Primary or Mill

22. Signature: JOHN SMITH
23. AR Number: 01999

MSHA Form 7000-3 Mar 85 (Revised)

107(a) ORDER - "S&S" OVEREXPOSURE
TO HYDROGEN CHLORIDE

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
	07	04	08	1100	4410201

4. Served To: J.R. JOHNSON, SAFETY DIRECTOR

5. Operator: ABC MINING COMPANY

6. Mine: ABC MINE AND MILL

7. Mine ID: 75-09133- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

A laboratory technician was handling hot acid in the assay laboratory where the measured hydrogen chloride levels were 35 ppm (parts per million), which is almost at the immediately dangerous to life and health (IDLH) level of 50 ppm. A sample was taken in the operator's work area for an hour with a Drager diffusion tube. The measured exposures are almost at levels that are fatal. The ceiling limit for hydrogen chloride is 5 ppm. The technician was removed from the lab when levels exceeded the ceiling limit of 5 ppm, and an oral imminent danger order was issued to Becky Mills, laboratory supervisor, at 1045 hours this date. The technician was not wearing respiratory protection and complained of eye and throat irritation.

This violation is a factor cited in imminent danger order No. 4410200.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation — A. Health ☐ Safety ☐ Other ☐ — B. Section of Act: - — C. Part/Section of Title 30 CFR: 57.5001a/.5005

Section II -- Inspector's Evaluation

10. Gravity:

A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely ☐ Highly Likely [X] Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty ☐ Permanently Disabling ☐ Fatal [X]

C. Significant and Substantial (See Reverse): Yes [X] No ☐ — D. Number of Persons Affected: 001

11. Negligence (check one)

A. None ☐ B. Low ☐ C. Moderate [X] D. High ☐ E. Reckless Disregard ☐

12. Type of Action: 104-a-, -

13. Type of Issuance (check one): Citation [X] Order ☐ Safeguard ☐

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)

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: 0735114

21. Primary or Mill

22. Signature: JOHN SMITH

23. AR Number: 01999

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION ISSUED IN CONJUNCTION WITH A 107(a) ORDER OF WITHDRAWAL

Mine Citation/Order

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

Section I -- Violation Data

1. Date: Mo 11 Da 07 Yr 08
2. Time (24 Hr. Clock): 1000
3. Citation/Order Number: 6666667

4. Served To: JANE DOE, SAFETY DIRECTOR
5. Operator: ABC ROCK COMPANY

6. Mine: ABC MINE
7. Mine ID: 70-7777- (contractor)

8. Condition or Practice
8a. Written Notice (103g) ☐

Clouds of dust were being produced by the No. 4 Ingersoll Rand air track drill when it was being used to drill blast holes in the south end of the quarry. The dust control system on the drill was not being used. The system functioned by water feeding through a hollow drill steel and out the drill bit. The water tank for the system was empty. No other dust control was being used. The drill operator was not wearing a respirator, and his clothing was covered with dust. He was drilling in non-water-soluble material. A respiratory protection program meeting all requirements of ANSI Z88.2 - 1969 was not in place.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation
A. Health ☐ Safety ☐ Other ☐
B. Section of Act: -
C. Part/Section of Title 30 CFR: 58.620

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely [X] Highly Likely ☐ Occurred ☐
B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty ☐ Permanently Disabling ☐ [X] Fatal ☐
C. Significant and Substantial (See Reverse): Yes [X] No ☐
D. Number of Persons Affected: 001

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

12. Type of Action: 104-a-, -
13. Type of Issuance (check one): Citation [X] Order ☐ Safeguard ☐

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 11 Da 07 Yr 08
B. Time (24 Hr. Clock): 1200

Section III -- Termination Action

17. Action to Terminate
The water tank on air trac was filled and the dust control system was activated. After the dust control system was activated, there was no visible dust when the drill was operated.

18. Terminated
A. Date: Mo 11 Da 07 Yr 08
B. Time (24 Hr Clock): 1130

Section IV -- Automated System Data

19. Type of Inspection (activity code): E01
20. Event Number: 123456 9
21. Primary or Mill

22. Signature: TED OLSON
23. AR Number: 99999

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - "S&S" OVEREXPOSURE TO DRILL DUST

Mine Citation/Order

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

Section I -- Violation Data

1. Date Mo 11 Da 07 Yr 08	2. Time (24 Hr. Clock) 1700		3. Citation/Order Number 4444444
4. Served To SYDNEY JONES, PRESIDENT		5. Operator TMC MINING COMPANY	
6. Mine TRIANGLE MINE		7. Mine ID 72-0012- (contractor)	
8. Condition or Practice			8a. Written Notice (103g) ☐

The results of an MSHA full shift noise sample taken on 11/07/08 showed the driver of the No. 31 Euclid Haul truck received an action level noise dose of 76%. This exceeds the action level dose or 50% plus the error factor (or 66%). The miner was not enrolled in a hearing conservation program as required by 30 CFR 62.120.

The abatement date for this citation is to allow the mine operator time to enroll the miner into a formal hearing conservation program which meets all the requirements of 30 CFR 62.150.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation A. Health ☐ Safety ☐ Other ☐ B. Section of Act - C. Part/Section of Title 30 CFR 62.120

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely [X] 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 [X] Fatal ☐

C. Significant and Substantial (See Reverse): Yes ☐ No [X] D. Number of Persons Affected 001

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

12. Type of Action 104-a-, - - 13. Type of Issuance (check one) Citation [X] Order ☐ Safeguard ☐

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 11 Da 29 Yr 08 B. Time (24 Hr. Clock) 1000

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 1234567 21. Primary or Mill

22. Signature TED JOHNSON 23. AR Number 05555

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - "NON S&S" HEARING CONSERVATION PROGRAM

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action	1a. Continuation	2. Dated (Original Issue)	Mo	Da	Yr	3. Citation/Order Number
X			11	07	08	4444444-01

4. Served To	5. Operator
SYDNEY JONES, PRESIDENT	TMC MINING COMPANY
6. Mine	**7. Mine ID**
TRIANGLE MINE	72-00012- (contractor)

Section II -- Justification for Action

The driver of the No. 31 Euclid haulage truck has been enrolled in a formal hearing conservation program meeting all provisions of 30 CFR 62.150.

See Continuation Form ☐

Section III -- Subsequent Action Taken

8. Extended To	A. Date	Mo	Da	Yr	B. Time (24 Hr. Clock)	C. Vacated	D. Terminated	E. Modified
						☐	☐	X

Section IV -- Inspection Data

9. Type of Inspection	10. Event Number
E01	1234567

11. Signature	AR Number	12. Date	Mo	Da	Yr	13. Time (24 Hr. Clock)
TED JOHNSON	05555		11	29	08	1100

MSHA Form 7000-3a, Mar 85 (Revised)

104(A) CITATION - TERMINATION AFTER ENROLLMENT IN HEARING PROGRAM

Mine Citation/Order

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

Section I -- Violation Data

1. Date: Mo 12, Da 03, Yr 08	2. Time (24 Hr. Clock): 1700		3. Citation/Order Number: 4444445
4. Served To: GEORGE JONES, SAFETY DIRECTOR		5. Operator: XYZ MINING COMPANY	
6. Mine: XYZ MINE		7. Mine ID: 81-12345- (contractor)	
8. Condition or Practice			8a. Written Notice (103g) ☐

The results of an MSHA full shift noise sample taken on 12/03/08 showed the operator of the front-end loader received a permissible exposure level noise dose of 152%. This exceeds the permissible exposure level noise dose of 100% plus error factor (or 132%). The end loader operator was wearing a hearing protector.

The abatement date for this citation is to allow time for the mine operator to install all feasible engineering and administrative controls.

The mine operator must ensure continued use of a hearing protector until the noise dose is reduced to or below the permissible exposure level.

Equipment: Caterpillar 880 front-end loader, S/N 00764762

See Continuation Form (MSHA Form 7000-3a) X

9. Violation — A. Health ☐ Safety ☐ Other ☐ — B. Section of Act: - — C. Part/Section of Title 30 CFR: 62.1301a

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely [X] 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 [X] Fatal ☐

C. Significant and Substantial (See Reverse): Yes ☐ No [X] — D. Number of Persons Affected: 001

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

12. Type of Action: 104-a-, - -
13. Type of Issuance (check one) Citation [X] Order ☐ Safeguard ☐

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 12 Da 16 Yr 08 — B. Time (24 Hr. Clock): 1200

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: 7654321 — 21. Primary or Mill:

22. Signature: JOE SOUTH — 23. AR Number: 05556

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - "NON S&S" OVEREXPOSURE TO NOISE

Mine Citation/Order

Continuation

U.S. Department of Labor

Mine Safety and Health Administration

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action	1a. Continuation	2. Dated (Original Issue)	Mo	Da	Yr	3. Citation/Order Number
X	☐		12	03	08	4444445-01

4. Served To	5. Operator
GEORGE JONES, SAFETY DIRECTOR	XYZ MINING COMPANY

6. Mine	7. Mine ID
XYZ MINE	81-12345- (contractor)

Section II -- Justification for Action

The mine operator installed a new muffler, put in a noise insulating floor mat, and plugged all openings between the operator's compartment and the engine compartment with noise attenuating material on the Caterpillar front-end loader.

Based on an MSHA full shift noise sample taken on 12/16/08, the operator of the front-end loader received a permissible exposure level noise dose of 76%. This dose is less than the permissible exposure level of 100% plus error factor (or 132%).

The front-end loader operator identified above must remain enrolled in a hearing conservation program which complies with the provisions of 30 CFR 62.150 until the noise dose is reduced below the action level.

Equipment: Caterpillar 880 front-end loader, S/N 00764762

See Continuation Form ☐

Section III -- Subsequent Action Taken

8. Extended To	A. Date	Mo	Da	Yr	B. Time (24 Hr. Clock)	C. Vacated	D. Terminated	E. Modified
						☐	X	☐

Section IV -- Inspection Data

9. Type of Inspection	10. Event Number
E01	7654321

11. Signature	AR Number	12. Date	Mo	Da	Yr	13. Time (24 Hr. Clock)
JOE SOUTH	05556		12	16	08	1730

MSHA Form 7000-3a, Mar 85 (Revised)

104(a) CITATION - TERMINATION AFTER RESAMPLING

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
	01	03	08	1700	4444476

4. Served To: JOHN MILTON, PRESIDENT

5. Operator: ONLY THE BEST ROCK

6. Mine: HARD ROCK MINE

7. Mine ID: 90-88888- (contractor)

8. Condition or Practice

8a. Written Notice (103g) ☐

The results of an MSHA full shift noise sample taken on 01/03/08 showed the operator using the jack leg drill received a noise dose of 1230%. This exceeds the dual hearing protection level of 800% plus error factor (or 1056%). The miner was not wearing dual hearing protection, but was just using a muff-type hearing protector. Further, no muffler was installed on the drill.

The initial abatement period is to allow time for the mine operator to provide and ensure the concurrent use of dual hearing protectors. The abatement date may be extended to allow the mine operator time to install and implement all feasible engineering and administrative noise controls.

Dual hearing protection must be worn by the affected miner until the noise dose is reduced to or below the dual hearing protection level. After the dual hearing protection requirement is met, actions specified under 30 CFR 62.130 apply for exposures that exceed the permissible exposure level.
Equipment: Model 2 B-Barber jack leg drill, Company # 10
Location: 9 East Section, 12 Right

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation — A. Health ☐ Safety ☐ Other ☐ — B. Section of Act: - — C. Part/Section of Title 30 CFR: 62.140a

Section II -- Inspector's Evaluation

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ☐ Unlikely ☐ Reasonably Likely ☐ Highly Likely [X] Occurred ☐

B. Injury or Illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays or Restricted Duty ☐ Permanently Disabling [X] Fatal ☐

C. Significant and Substantial (See Reverse): Yes [X] No ☐ — D. Number of Persons Affected: 001

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

12. Type of Action: 104-a-, -- 13. Type of Issuance (check one): Citation [X] Order ☐ Safeguard ☐

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 01 Da 10 Yr 08 — B. Time (24 Hr. Clock): 1200

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: 1234568 — 21. Primary or Mill

22. Signature: HORATIO ALGER — 23. AR Number: 60000

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - OVEREXPOSURE TO NOISE

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action	1a. Continuation	2. Dated (Original Issue)	3. Citation/Order Number
☐ X	☐	Mo Da Yr: 0 1 0 3 0 8	4 4 4 4 4 7 6 - 0 1

4. Served To	5. Operator
JOHN MILTON, PRESIDENT	ONLY THE BEST ROCK
6. Mine	**7. Mine ID**
HARD ROCK MINE	9 0 - 8 8 8 8 8 - (contractor)

Section II -- Justification for Action

The mine operator has provided the miner with both a muff and a plug-type hearing protector of the miner's choosing.
The mine operator has trained the miner in the use of the dual hearing protection, and ensured that they are being used concurrently.

The mine operator has ordered a manufacturer's muffler for the jack leg drill. The miner operating the jack leg drill must continue to wear the dual hearing protection until the noise dose has been reduced to or below the dual hearing protection level.

This citation is being extended to allow time for the mine operator to install and implement all feasible engineering and administrative controls.

Equipment: Model 2 B-Barber Jack Leg Drill, No. 10

See Continuation Form ☐

Section III -- Subsequent Action Taken

8. Extended To	A. Date (Mo Da Yr)	B. Time (24 Hr. Clock)	C. Vacated	D. Terminated	E. Modified
	0 1 1 7 0 2	1 2 0 0	☐	☐	☐

Section IV -- Inspection Data

9. Type of Inspection	10. Event Number
E 0 1	1 2 3 4 5 6 8

11. Signature	AR Number	12. Date (Mo Da Yr)	13. Time (24 Hr. Clock)
HORATIO ALGER	6 0 0 0 0	0 1 1 1 0 8	1 3 0 0

MSHA Form 7000-3a, Mar 85 (Revised)

104(a) CITATION - EXTENSION OF NOISE CITATION

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action	1a. Continuation	2. Dated (Original Issue)	Mo	Da	Yr	3. Citation/Order Number
X	☐		01	03	08	4444476-04

4. Served To	5. Operator
JOHN MILTON, PRESIDENT	ONLY THE BEST ROCK

6. Mine	7. Mine ID
HARD ROCK MINE	90-88888- (contractor)

Section II -- Justification for Action

A "P" code for the occupation operating the No. 10, Model 2B Barber jack leg drill has been assigned as number XXXX.

All feasible engineering and administrative controls must continue to be used and maintained. This includes the muffler for the jack leg drill. In addition, if new feasible engineering and/or administrative controls become available, they must be implemented.

The mine operator must continue to meet requirements of 30 CFR Part 62.

This citation is terminated.

See Continuation Form ☐

Section III -- Subsequent Action Taken

8. Extended To	A. Date	Mo	Da	Yr	B. Time (24 Hr. Clock)	C. Vacated	D. Terminated	E. Modified
						☐	X	☐

Section IV -- Inspection Data

9. Type of Inspection	10. Event Number
E01	1234568

11. Signature	AR Number	12. Date	Mo	Da	Yr	13. Time (24 Hr. Clock)
HORATIO ALGER	60000		03	05	08	1300

MSHA Form 7000-3a, Mar 85 (Revised)

104(a) CITATION - TERMINATION OF NOISE VIOLATION WITH "P" CODE

Appendix E
Miscellaneous Forms
And Codes

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Special Assessment Review Form

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

1. MSHA District Office	2. Field Office	
3. Mine ID/Contractor ID	4. Mine Name	
5. Operator Name	6. Citation/Order Number	7. Citation/Order Issue Date

8. Accident Related Violation? ☐ Yes ☐ No If yes, all violations must be submitted together with any accident report or memorandum.

9. A. Operator Notified of Special Assessment? ☐ Yes ☐ No

10. Inspector's Recommendation Is this a flagrant violation? ☐ Yes ☐ No

Special Assessment? ☐ Yes ☐ No If yes, explain below the serious or aggravating circumstances involved.

☐ See Continuation Seet Signature Date

11. Supervisor's Review Is this a flagrant violation? ☐ Yes ☐ No

Special Assessment? ☐ Yes ☐ No

Comments:

☐ See Continuation Seet Signature Date

12. Assistant District Manager's Review Is this a flagrant violation? ☐ Yes ☐ No

Special Assessment? ☐ Yes ☐ No

Comments:

☐ See Continuation Seet Signature Date

13. District Manager's Review Is this a flagrant violation? ☐ Yes ☐ No

Special Assessment? ☐ Yes ☐ No

Comments:

☐ See Continuation Seet Signature Date

MSHA Form 7000-32, Revised August 2006

POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM
(Confidential, Pre-decisional Information)

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

MINE ID _____ MSHA OFFICE _____

MINE NAME _____

COMPANY NAME _____

Citation/Order Number _____ Date _____

ACCIDENT INFORMATION

Was this violation associated with an accident which caused an injury? Yes ☐ No ☐ If yes: Fatal? ☐ Non-fatal? ☐

REVIEW CRITERIA (Attach supplemental information if needed)

1. Did the condition or practice cited create the presence of a high degree of risk to the health and safety of miners? Yes ☐ No ☐
   a) Who was exposed to the hazard? (Name and Occupation)
   b) How were they exposed to the hazard?
   c) When and over what period of time did the exposure occur?
   d) Is this first hand information?
   If not, who provided the information? (Name and Occupation)
2. Did the operator or agent have actual knowledge, or reason to know, of the facts or conditions constituting the violation?
   a) Who had this knowledge? (Name and Title)
   b) How was this knowledge evidenced?
   c) Is this first hand information? Yes ☐ No ☐
   If not, who provided the information? (Name and Occupation)
3. Any other pertinent information:

INSPECTORS CONCLUSION:

Based on this review, does this appear to be a possible knowing and/or willful violaton of the Act or mandatory health or safety standard?

Inspector AR Number: _____ Signature: _____ Date: _____

Supervisor: Do you agree with the inspector's conclusion? Yes ☐ No ☐

Signature: _____ Date: _____

POSSIBLE RECOMMENDED ACTIONS:

A. Conduct a special investigation. ☐ C. No further action. ☐

Assistant District Manager: Recommendation (A or C from the list above)

Signature: _____ Date: _____

Supervisory Special Investigator: Recommendation: _____ (A or C from the list above)

Signature: _____ Date: _____

District Manager: Action Decision: _____ (A or C from the list above)

Signature: _____ Date: _____

ADDITIONAL COMMENTS OR REMARKS _____

CASE ASSIGNMENT INFORMATION:

Investigation Case No. _____ Date Assigned _____

Investigator Assigned _____ ID No. _____

MSHA Form 7000-20, June 97 (revised) WHITE: SPECIAL INVESTIGATOR

Enforcement Activity Codes

MSIS Code	Activity	Description
E01	Regular Safety and Health Inspection	Mandatory Safety and Health Inspections of a mine, surface facility, or other entity having a mine I.D. number in its entirety.
E02	103(i) Spot Inspections	Mandatory spot inspections of mines that qualify under 103(i) of the Act and are inspected for gases liberation, serious ignition or explosions hazards, or other especially hazardous conditions or problems.
E03	103(g) Written Notification Hazard Complaint Inspection	Special inspections that respond to a written notice filed pursuant to 103(g) of the Act alleging a violation or imminent danger exists at a mine.
E04	Verbal Hazard Complaint Inspections	Special inspections that result from a verbal or otherwise written complaint where a violation or hazardous condition is alleged and is not a 103(g) request or a code-a-phone complaint.
E05	108 Injunctive Actions or Other SI Activities	All investigative activities conducted pursuant to 108 of the Act regarding injunctions or any other Special Investigation activities.
E06	Fatal Accident Investigation	Investigation of a death of an individual at a mine.
E07	Non-Fatal Accident Investigation	Investigation of a serious non-fatal injury accident at a mine.
E08	Non-Injury Accident Investigation	Investigation of non-injury accidents as defined in 30 CFR, Part 50.2
E09	Mine Emergency Operations	Includes all rescue and recovery operations during a mine emergency. No citations or orders should be issued against this type of activity. Also, includes time monitoring the mine environment during mine fires determined to be mine emergencies.
E10	Petition for Modification Investigation	All investigative activities conducted pursuant to 101 (c) and 101 (d) of the Act.
E11	105(c) Investigation (Discrimination)	All investigative activities conducted pursuant to 105 (c) of the Act where a complaint of discrimination is alleged.
E12	110(c), 110(d) Investigation (Willful or Knowing Violations)	All investigative activities conducted pursuant to 110 of the Act regarding citations and orders where there is possible knowing and willful intent.
E13 ***(Coal Only)***	Re-opening Inspection	This is a non-penalty inspection of an entire mine after having been abandoned or declared inactive. This code is restricted to Coal Mine program area use only.
E14 ***(Metal Only)***	Compliance Assistance Visit	A visit to a new mine, a visit prior to re-opening a mine, a visit to inspect new facilities at an operating mine, or the installation of new equipment at an operating mine to point out potential violations without monetary civil penalties being proposed.
E15	Compliance Follow-up Inspection	An inspection conducted for the primary purpose of ascertaining the abatement status of previously cited violations.
E16	Spot Inspection	The inspection of a mine or part(s) of a mine to determine whether there is compliance with safety and health standards
E17	Special Emphasis Programs	Activity for a specialized purpose that may be unique for the agency, coal or metal. An example would be the “Focus on Safe Work” outreach.

MSIS Code	Activity	Description
		Each activity may be assigned a unique identifier.
E18	Shaft, Slope or Major Construction Spot Inspection	An inspection of a shaft, slope, or major construction site to determine whether an imminent danger exists and whether there is compliance with safety and health standards or any issued violations.
E19	Electrical Technical Investigation	An investigation of all or part of a mine's electrical components and systems. Includes field changes on electrical face equipment, trolley surveys, circuit breaker studies, ground monitor checks and other special electrical inspections/investigations.
E20	Roof Control Technical Investigation	An investigation of a mine's roof conditions that may include engineering and in-depth studies of roof problems or potential problems, roof control surveys, and pull tests.
E21	Ventilation Technical Investigation	An investigation of a mine's ventilation system that may include detailed engineering studies of current or potential problems, surveys, and waiver requests.
E22	Health Technical Investigation	Includes a toxic substance or harmful physical agent investigation of a reported problem or potential problem with any toxic substance or harmful physical agent. An investigation of an operator's sampling program where samples may or may not be collected and investigations of Part 90 miners and their occupations (Coal). Includes free silica technical investigations dictating additional respirable dust samples for further analysis.
E23	Impoundment Spot Inspection	An inspection of an impoundment ot determine whether an imminent danger exists and whether there is compliance with approved plans and safety and health standards.
E24	Other Technical Compliance Investigations	Other technical investigations not described by any other code.
E25	Part 50 Audit	Part 50 Audit of a mine's accident, injury, illness, and employment records. Includes all activity in pursuit of the audit.
E26	Other Contacts	Includes industry assistance, technical assistance visits for plan evaluations, and other contacts not classified by one of the other codes. Although this is a visit to a mine, these are *not* mine inspections or investigations.
E27	Attempted Inspection (Denial of Entry)	A mine visit specifically for the purpose of conducting an enforcement activity, but the activity could not be accomplished because of direct or indirect denial of entry.
E28	Mine Idle Activity	A mine visit specifically for the purpose of conducting an enforcement activity, but the activity could not be accomplished because the mine was not operating.
E29	Program in Accident Reduction/Compliance Analysis Program	A program aimed at injury reduction in selected mines with high accident and injury levels. This includes accident reduction surveys conducted by teams. In Coal, includes all time working in a non-AR capacity.
E30	Accident Reduction Program	All activities in the field related to the accident reduction and prevention programs, and formal walk and talk activities. These are activities not conducted as part of any other event.
E31	Training Plan Approval and Revisions (Field)	All field activities regarding the initial approval or revision of training plans.

MSIS Code	Activity	Description
E32	On-site Training Program Evaluation (Field)	All field activities related to evaluating MSHA approved instructors, training plans, course content, task outline, 5000-23 forms, records of certified and qualified persons, learning environment, etc., not conducted as part of another event.
E33	Non-Chargeable Accident Investigation	Investigation of any death, serious non-fatal injury, or non-injury accident at a mine that is not charged to the mine, contractor, or the mining industry. NOTE: If the accident is subsequently deemed chargeable, the activity may be changed to another event type. Issuances can be issued during an E33 event.
T01	Investigative Case Review	Time spent in an MSHA office reviewing reports of investigations.
T02 ***(Coal only)***	Office Generated Violation Activity	All time associated with office generated violations not coded under another code.
T03	Legal Hearing/Document	Time involved in legal hearings, MSHA hearings, or testifying in court, including the prep time for these activities unless covered by another activity code. Does not include time spent by the CLRs.
T04	Safety and Health Conference	All time spent on operator / miners' representative requested conferences related to cited violations of the Act or regulations and the subsequent assessment of civil penalties. These are not inspectors' closeout conferences.
T05	Contested Case Activities	All CLR activities (office, mine site, hearings, etc.) relating to ACRI case resolutions.
T06	Plan Approvals and Reviews	Time spent in an MSHA office reviewing and approving plans
T07	Technical Assistance to Industry/Union Personnel or Interested Parties	All time associated with providing technical assistance to company or union personnel or other interested parties. This includes groups requiring our technical expertise but that are not specifically under MSHA jurisdiction.
T08	Instructor Approval	All activities, other than training instructors, required to produce approved instructors.
T09	Evaluating Cooperative Instructors	All time evaluating cooperative instructors in the office or field.
T10	Qualification and Certification	All activities related to qualifying and certifying people. Includes noise, dust, methane, oxygen deficiency, impoundments, electrical, mine rescue and first aid instructors, and so forth.
T11	Holmes Safety Association (Assistance to Chapters/Councils)	All activities of HSA chapters. Include all time spent in forming and operating HSA chapters or councils, preparing for and making presentations at meetings, and time involving Joseph A. Holmes Awards.
T12	State Grants Assistance and State Plans	Includes time spent attending State Grants meetings, as well as meetings with state and headquarters personnel regarding State Grant assistance and plans.
T13	Other Education and	Includes work on accident reduction and prevention programs that are not

MSIS Code	Activity	Description
	Training Field Activities	mine specific, as well as other activities providing assistance to the mining community that are not coded as an education and training event or that are not covered by another activity code. These activities are at locations other than the MSHA office.
T14	Informational Meetings, Seminars, and Training Classes Given to Industry	All activities relating to training, demonstrations, meetings, seminars, conferences, association meetings and informational meetings for industry (off-site meetings, excluding Holmes Safety).
T15	Instructing Mine Rescue and First Aid (non-MSHA)	All activities, excluding mine-rescue and first-aid-instructor training, related to mine rescue and first aid training, including team training, judges training, and so forth.
T16	Supervisory Duties (Office)	All supervisory-related duties in an MSHA Office.
T17	National Committee Meetings and Assignments	Includes time spent attending committee meetings at the national level and assignments from headquarters, such as the development or revision of standards and /or regulations.
T18	Review of Documents/Laboratory Duties / Vehicle Maintenance	Time spent reviewing such documents as regulations, policy, accident investigations, conducting laboratory duties (not associated with an event), and vehicle maintenance.
T19	Official Union Duties	Personnel participating in official union duties.
T20	Staff Meetings	Personnel participating in staff or safety meetings in or outside MSHA offices.
T21	Instructing MSHA Personnel in Training Classes	Time of MSHA personnel instructing classes, in information meetings, seminars, and so forth.
T22	Informational Meetings, Seminars and Training Classes Received	Personnel receiving training other than Mine Rescue and First Aid from both MSHA and outside sources.
T23	Mine Rescue/MERD Activities	Includes time spent training and preparing for or participating in the National or regional contests. Also includes time spent preparing for or participating in MERD exercises.
T24	FOIA Request/Congressional Inquiries	Includes all time spent researching and responding to the request.
T25	Medical Accommodation -- On- the-Job Injury	Include all time charged by the individuals who were injured or incapacitated on the job and who are performing meaningful work for MSHA in a capacity that meets their physician's prescribed limitations or restrictions. These assignments must be of limited duration.
T26	Medical Accommodation— Personal Injury	Include all time charged by the individuals who were injured or incapacitated outside of Government time and who are performing meaningful work for MSHA in a capacity that meets their physician's prescribed limitations or restrictions. These assignments must be of limited duration.
T27	Special and Miscellaneous Assignments	Duties of a temporary nature outside of regularly assigned job-related duties and any other activity not covered by other codes.

MSIS Code	Activity	Description
T28	Annual Leave	Self explanatory
T29	Administrative Leave	Self explanatory
T30	Compensatory Leave	Self explanatory
T31	Holiday	Self explanatory
T32	LWOP	Leave Without Pay
T33	AWOL	Absent Without Leave
T34	Military Leave	Self explanatory
T35	Sick Leave	Self explanatory
T36	OWCP	Worker's Compensation
T37	Jury Duty	Self explanatory
T38	Furlough (non-pay status)	Self explanatory
T39	Suspension Without Pay	Self explanatory

New Enforcement Task Codes

Task Code	Task Title
I	General **I**nspection Activity
S	**S**upervisory Duties (Field)
T	Inspector **T**rainee
R	**R**oof Control (on-site and plans)(Specialists only)
V	**V**entilation (on-site and plans)(Specialists only)
H	**H**ealth (on-site and plans)(Specialists only)
W	Impoundments / **W**aste Piles (on-site and plans)(Specialists only)
E	**E**lectrical (on-site)
L	Hau**L**age Technical (special activities; does not include routine checks)
C	Self-**C**ontained Self-Rescuers Evaluation (Field)
U	Ed**U**cation and Training (including walk & talk activities)
A	Compliance **A**ssistance
D	Respirable **D**ust Sampling
N	**N**oise Sampling
Y	Industrial H**Y**giene
M	Diesel E**M**issions Work (does not include routine gas checks and ventilations checks)
Z	Ha**Z**ard Communication