## Mine Activity Data

| 7a. Organization Code (Mine Assignment) | 20401 | b. Work Group Identifier | 02 | 9. Company Name | PERFORMANCE COAL COMPANY |
| 8a. Organization Code (AR Assignment) | 20401 | b. Work Group Identifier | 02 | 10. Mine Name | UPPER BIG BRANCH MINE-SOUTH |
| c. Outby Areas | ✓ | d. Shafts/ Slopes | □ | e. Surface Areas (UG) | ✓ | f. Surface Workings | □ | g. Company Records | ✓ | h. ATF □ | i. Impoundments □ | j. Refuse Piles □ |
| k. Major Construction □ | (1) Shaft/ Slope Sinking | (2) Impoundment Construction | (3) Buildings | (4) Dragline/ Shovel: | (5) Other □ | 1. Miscellaneous □ |
| 13. Number of Samples Collected | a. Air Samples 15 | b. Rock Dust 0 | c. Rock Dust Survey 2 | d. Respirable Dust 4 | e. Noise 0 | f. Other 0 |
| 15. Prime Independent Contractor Codes (Major Construction) |
| 16. Inspection Results | Citations | Orders | Safeguards | Other |
| a. This Inspection | | Coal Opr | Ind Con | Coal Opr | Ind Con | Coal Opr | Ind Con | Coal Opr | Ind Con | Coal Opr | Ind Con |
| (1) New Issuances | 61 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 |
| (2) Terminations/Vacations | 61/0 | 0/0 | 2/0 | 0/0 | 0/0 | 0/0 | 0/0 | 0/0 |
| (3) Modifications/Extensions | 2/0 | 0/0 | 0/0 | 0/0 | 0/0 | 0/0 | 0/0 | 0/0 |
| (4) Left Pending | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| b. Previously Issued | | Coal Opr | Ind Con | Coal Opr | Ind Con | Coal Opr | Ind Con | Coal Opr | Ind Con | Coal Opr | Ind Con |
| (1) Modifications/Extensions | 0/0 | 0/0 | 0/0 | 0/0 | 0/0 | 0/0 | 0/0 | 0/0 |
| (2) Terminations/Vacations | 0/0 | 0/0 | 0/0 | 0/0 | 0/0 | 0/0 | 0/0 | 0/0 |
| 17. Remarks: |
| 18. Signature and Card Number of Authorized Representative/ Right of Entry Person(s) Responsible for Activity |
| a. | 23583 |
| b. | 24329 |
| c. | 24320 |
| d. | 24024 |
| 19. Remarks: |

MSHA Form 2000-22. Oct. 85 (Revised) Previous editions are Obsolete
### Activity Calendar

<table>
<thead>
<tr>
<th>Shift</th>
<th>Sun</th>
<th>Mon</th>
<th>Tues</th>
<th>Wed</th>
<th>Thurs</th>
<th>Fri</th>
<th>Sat</th>
</tr>
</thead>
<tbody>
<tr>
<td>Week 1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9/30/2007</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Week 2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10/7/2007</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Week 3</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10/14/2007</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Week 4</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10/21/2007</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Week 5</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10/28/2007</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Week 6</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Week 7</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Week 8</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11/18/2007</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Week 9</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>12/2/2007</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Week 10</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>12/9/2007</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Week 11</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>12/16/2007</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Key Codes:**
- 1- Ovd Shift
- 2- Day Shift
- 3- Evening Shift (Mark "X" in appropriate Block to Indicate Shift)
The operator was not following the approved ventilation plan on the 030 section. Only 4565 CFM of air could be measured with the scrubber not running at the end of the line curtain in the number four entry. The plan requires 5400 CFM of air at the end of the line curtain with the scrubber not running.

MSHA Form 7000-3a (2018 revise) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small businesses. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.
There was not a fire extinguisher provided for hydraulic oil (90 gallons) being stored in the primary escapeway two breaks out by the section dumping point at break 54.
The 90 gallons of hydraulic oil (located at break 54) was removed from the primary escapeway.
Under Section II (Justification for Action) the words "was removed" was duplicated and needs removed. The justification for action should read: The 90 gallons of hydraulic oil (located at break 54) was removed from the primary escapeway.
Mine Citation/Order

<table>
<thead>
<tr>
<th>Section I--Violation Data</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Date: 10/03/2007</td>
</tr>
<tr>
<td>2. Time (24 Hr. Clock): 1020</td>
</tr>
<tr>
<td>3. Citation/Order Number: 7271367</td>
</tr>
</tbody>
</table>

4. Served To: Bill Harless; Mine Foreman
5. Operator: PERFORMANCE COAL COMPANY
6. Mine: UPPER BIG BRANCH MINE-SOUTH
7. Mine ID: 46-08436 (Contractor)
8. Condition or Practice: None
9. Violation: A. Health Safety
10. Section of Act: B.
11. Part/Section of Title 30 CFR: 75.1502
12. Gravity:
   A. Injury or Illness (has) (is):
      A. No Likelihood
      B. Unlikely
      C. Reasonably Likely
      D. Highly Likely
      E. Occurred
   B. Injury or Illness could reasonably be expected to be:
      A. No Lost Workdays
      B. Lost Workdays or Restricted Duty
      C. Permanently Disabling
      D. Fatal
   C. Significant and Substantial:
      A. Yes
      B. No
   D. Number of Persons Affected: 005
13. Type of Action: 104(a)
14. Initial Action:
   A. Citation
   B. Order
   C. Safeguard
   D. Written Notice
15. Area or Equipment
16. Termination Due:
   A. Date: 10/03/2007
   B. Time (24 Hr. Clock): 1300

Section II--Inspector's Evaluation

The emergency response plan was not being followed on the 030 section. The phone in the primary escapeway on the section was not being maintained in an operative condition.

See Continuation Form (MSHA Form 7000-3a)

Section III--Termination Action

17. Action to Terminate

Section IV--Automated System Data

19. Type of Inspection (activity code): P01
20. Event Number: 4116771
21. Primary or Mill
22. Signature

MSHA Form 7000-3a

For information on the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established National, Small Business, and Regional Regulatory Ombudsmen and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsmen annually evaluate enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsmen at Small Business Administration, Office of the National Ombudsmen, 409 3rd Street, SW, MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsmen is in addition to any other rights you may have, including the right to contest violations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.
The phone was repaired.
### Mine Citation/Order Continuation

**Section I—Subsequent Action/Continuation Data**

<table>
<thead>
<tr>
<th>1. Subsequent Action</th>
<th>2. Dated (Original issue)</th>
<th>3. Citation/Order Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>✔️</td>
<td>10/03/2007</td>
<td>7271367-02</td>
</tr>
</tbody>
</table>

**4. Served To**
Bill Harless; Mine Foreman

**5. Operator**
PERFORMANCE COAL COMPANY (Contractor)

**6. Mine**
UPPER BIG BRANCH MINE-SOUTH

**7. Mine ID**
46-08436

**Section II—Justification for Action**

**Change**

<table>
<thead>
<tr>
<th>Change From</th>
<th>Change To</th>
</tr>
</thead>
<tbody>
<tr>
<td>9. B. Section of Act</td>
<td>316(b)</td>
</tr>
</tbody>
</table>

**Reason**

close section of law

**Section III—Subsequent Action Taken**

**8. Extended To**

<table>
<thead>
<tr>
<th>A. Date</th>
<th>Mo Da Yr</th>
<th>B. Time (24 Hr. Clock)</th>
<th>C. Vacated</th>
<th>D. Terminated</th>
<th>E. Modified</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>✔️</td>
</tr>
</tbody>
</table>

**Section IV—Inspection Data**

**9. Type of Inspection**
E01

**10. Event Number**
4116771

**11. Subsequent Action**

<table>
<thead>
<tr>
<th>AR Number</th>
<th>12. Date</th>
<th>Mo Da Yr</th>
<th>13. Time (24 Hr. Clock)</th>
</tr>
</thead>
<tbody>
<tr>
<td>23583</td>
<td>10/15/2007</td>
<td></td>
<td>1447</td>
</tr>
</tbody>
</table>
The high voltage lines entering the mine at the main track portal were not guarded in several places where they contacted various low voltage cables.
The high voltage lines are now guarded.
The various types of low voltage cables located in the main track entry were allowed to contact combustible material (cribs, timbers, and coal ribs) at several locations along the track form the portal to the airlock doors on the no. 1 section.
The cables have been hung on insulators.
The high voltage cable located at the end of the track on the 029 and 030 sections was not guarded where men normally get on and off the man trips. The highest point measured was approximately 6 ft. above the mine floor.
## Section I - Subsequent Action/Continuation Data

<table>
<thead>
<tr>
<th>1. Subsequent Action</th>
<th>1a. Continuation</th>
<th>2. Dated (Original Issue)</th>
<th>3. Citation/Order Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>✔</td>
<td></td>
<td>10/15/2007</td>
<td>7271370 - 01</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>4. Served To</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Rick Nicolau, Chief</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>6. Mine</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>UPPER BIG BRANCH MINE-SOUTH</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>5. Operator</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>PERFORMANCE COAL COMPANY</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>7. Mine ID</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>46-08436</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

## Section II - Justification for Action

All areas of high voltage cable have now been guarded.

---

### Section III - Subsequent Action Taken

<table>
<thead>
<tr>
<th>8. Extended To</th>
<th>A. Date</th>
<th>Mo Da Yr</th>
<th>B. Time (24 Hr. Clock)</th>
<th>C. Vacated</th>
<th>D. Terminated</th>
<th>E. Modified</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Section IV - Inspection Data

<table>
<thead>
<tr>
<th>9. Type of Inspection</th>
<th>10. Event Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>E01</td>
<td>4116771</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>11. Signature</th>
<th>12. Date</th>
<th>Mo Da Yr</th>
<th>13. Time (24 Hr. Clock)</th>
</tr>
</thead>
<tbody>
<tr>
<td>23153</td>
<td>10/16/2007</td>
<td>0920</td>
<td></td>
</tr>
</tbody>
</table>
Mine Citation/Order

Section I--Violation Data

1. Date Mo Da Yr 10/16/2007
2. Time (24 Hr. Clock) 0950
3. Citation/Order Number 7271371

5. Operator PERFORMANCE COAL COMPANY

6. Mine UPPER BIG BRANCH MINE-SOUTH (Contractor) 46-08436

7. Mine ID

8. Condition or Practice

8a. Written Notice (103g) ☐

Loose coal, oil and oil soaked coal had been allowed to accumulate in the pump motor compartment and around the pump motor of the Joy model 10 SC shuttle car, ser. No. ET17503, being operated on the 029 section.

Section II--Inspector's Evaluation

9. Violation

A. Health Safety ☑ Other ☐

B. Section of Act

C. Part/Section of Title 30 CFR 75.400

10. Gravity:

A. Injury or Illness (has) ☐ Unlikely ☐ Reasonably Likely ☑ High Likely ☐ Occurred ☐

B. Injury or Illness could reasonably be expected to:

No Lost Workdays ☐ Lost Workdays Or Restricted Duty ☐ Permanently Disabling ☑ Fatal ☐

C. Significant and Substantial:

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

15. Area or Equipment

16. Termination Due

A. Date Mo Da Yr 10/16/2007
B. Time (24 Hr. Clock) 1200

17. Action to Terminate

18. Terminated

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

19. Type of Inspection (activity code) B01

20. Event Number 4116771

21. Primary or Mill

22. Signature

23. AR Number 23583

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

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

Note: The information provided is for reference purposes only and does not necessarily reflect the current status or actions of the State or MSHA. The documentation and reporting requirements are subject to change. The information provided is for reference purposes only and does not necessarily reflect the current status or actions of the State or MSHA. The documentation and reporting requirements are subject to change.
The shuttle car has been cleaned.
The Fairchild model 35C scoop, ser. No. T339-224, being operated on the 030 section was not being maintained in a permissible condition. The battery lids were not secured to the batteries.
Due to a large body of water between stopping no. 37 and no. 36 int the 029 return airway the return could not be safely traveled in its entirety. The water was approximately 20 ft. wide by 20 ft. long and up to 20 inches deep.
The water was removed from the mine.
Due to 2 bodies of water located in the 030 section return between stoppings 36 and 38 the return could not be safely traveled in its entirety. The water was approximately 130 ft. long by 20 ft. wide and 14 inches deep.
The water was removed.
Due to a large body water, located Survey Station Spad Number 21797, in the 040 section return, the return could not be safely traveled in its entirety. The area of water was approximately 50 feet long and 20 feet wide and up to 20 inches deep.
The water has been removed.
A thin layer of coal float dust had been allowed to accumulate over the entire cover of the 12470 volt power center located at the no. 4 belt drive near the no. 2 section.
The power center has been cleaned.
Two low voltage cables provided at the High Voltage Center at the number 4 belt drive near the number two section were not labeled for identification.
The cables are now properly labeled.
Mine Citation/Order

Date: 10/30/2007

Time (24 Hr. Clock): 0920

Citation/Order Number: 7271378

Operator: PERFORMANCE COAL COMPANY

Mine: UPPER BIG BRANCH MINE-SOUTH

Citation/Order Number: 1200

Condition or Practice: Three of the permanent stoppings built between the 041 section intake and the 041 section return at various places from the no. 6 belt drive to the no. 4 belt drive were not being properly maintained. The wood on the return side had not been completely plastered.

See Continuation Form (MSHA Form 7000-3a)

Section II--Inspector's Evaluation

Gravity:
- A. Injury or Illness (has) (is): Unlikely ✓ Reasonably Likely
- B. Injury or Illness could reasonably be expected to:
  - No Lost Workdays
  - Lost Workdays Or Restricted Duty ✓
  - Permanently Disabling
  - Fatal
- C. Significant and Substantial: Yes ✓ No
- D. Number of Persons Affected: 001

Type of Action:
- A. Citation
- B. Order
- C. Safeguard
- D. Written Notice

Initial Action:
- E. Citation/Order Number
- F. Dated Mo Da Yr

Area or Equipment

Termination Due:
- A. Date Mo Da Yr: 10/30/2007
- B. Time (24 Hr. Clock): 1200

Type of Inspection (activity code):
- E01

Event Number:
- 4116771

Primary or Mill

MHS Form 7000-3a

MSHA Form 7000-3a

MSHA Form 7000-3a

MSHA Form 7000-3a
The stoppings were repaired
Mine Citation/Order

1. Date 10/01/2007
2. Time (24 Hr. Clock) 1000
3. Citation/Order Number 7271379

4. Served To
Bill Harless; Mine Foreman

5. Operator
PERFORMANCE COAL COMPANY

6. Mine
UPPER BIG BRANCH MINE-SOUTH

7. Mine ID 46-08436

Due to a body of water in the 041 section intake escapeway at sur. Sta. no. 21811 on the 041 section the escapeway was not maintained in a condition to assure safe passage. The water was approximately 80 ft. long by 20 ft wide and 16 inches deep. Production was ceased on the section until the water could be removed.

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

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

9. Violation
A. Health Safety [X] Other [ ]

B. Section of Act

C. Part/Section of Title 30 CFR
75.380(d)(1)

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 [X] Permanently Disabling [ ] Fatal [ ]

C. Significant and Substantial:
Yes [ ] No [X]

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 11/01/2007

15. Area or Equipment

16. Termination Due
A. Date 11/01/2007
B. Time (24 Hr. Clock) 1030

17. Action to Terminate
The escapeway is now safe to travel.

18. Terminated
A. Date 11/01/2007
B. Time (24 Hr. Clock) 1015

19. Type of Inspection
(activity code) E01

20. Event Number 4116771

21. Primary or Mill

22. Signatures

MSHA Form 7000-1

The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW. MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.
The high voltage cable in the track entry from the end of the track on the no. 2 section to approximately 1500 ft outby was not guarded against damage. The cable had fallen to the ground.
The 480 volt charger cable located at the end of the track on the no. 2 section was not supported on well insulated hangers and was contacting the rib in several places. The cable had fallen to the ground for a distance of approximately 300 ft.
**Section I--Violation**

1. **Date**
   - Mo Da Yr: 11/05/2007
2. **Time (24 Hr. Clock)**
   - 0141
3. **Citation/Order Number**
   - 7271382

4. **Served To**
   - Dave Petry, Fore.

5. **Operator**
   - PERFORMANCE COAL COMPANY

6. **Mine**
   - UPPER BIG BRANCH MINE-SOUTH

7. **Mine ID**
   - 46-08436

8. **Condition or Practice**
   - Written Notice (103g)
   - The ventilation plan was not being followed on the 040 section. The plan states that scrubber volumes would be made weekly and the results would be entered in the preshift book. The last results were entered on 10-5-2007.

**Section II--Inspector's Evaluation**

9. **Violation**
   - A. Health
   - B. Section of Act
   - C. Part/Section of Title 30 CFR
   - 75.370(a)(1)

10. **Gravity**
    - A. Injury or Illness (has) (e)
    - B. Injury or Illness could reasonably be expected to be:
      - No Lost Workdays
      - Lost Workdays or Restricted Duty
      - Permanently Disabled
      - Fatal
    - C. Significant and Substantial:
      - 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

14. **Initial Action**
    - A. Citation
    - B. Order
    - C. Safeguard
    - D. Written Notice

15. **Area or Equipment**

16. **Termination Due**
    - A. Date
    - Mo Da Yr: 11/05/2007
    - 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**
    - 4116771

21. **Primary or Mill**

22. **Signature**

---

MSHA Form 7000-3a

The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW, MC 2120, Washington, DC 20415. Please note, however, that your right to file a complaint with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.
The results are now being entered in the book.
The ventilation plan was not being followed on the 041 section. The plan states that scrubber volumes would be made weekly and the results entered in the preshift book. The last results were entered on 10-5-2007.
The results are now being entered in the book.
The bathing and sanitary facilities provided at the mine were not being maintained in a sanitary condition. Only 2 of the 4 flush toilets would work, 1 of the 3 urinals would work, and coal dust was allowed to accumulate over the floor and on the benches.
The compressed oxygen cylinder located along the track entry at crosscut no 47 on the no. 2 section was not secured. The restraining strap had broken and the cylinder was not secured.

<table>
<thead>
<tr>
<th>Violation</th>
<th>Section of Act</th>
<th>Part/Section of Title 30 CFR</th>
</tr>
</thead>
<tbody>
<tr>
<td>9.</td>
<td>10.</td>
<td>75.1106-3(a)(2)</td>
</tr>
</tbody>
</table>

Gravity:

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

B. Injury or Illness could reasonably be expected to be:
   - No Lost Workdays
   - Lost Workdays Or Restricted Duty
   - Permanently Disabling
   - Fatal

C. Significant and Substantial:
   - Yes
   - No

D. Number of Persons Affected: 001

Type of Action: 104(a)

Type of Issuance (check one):
- Citation
- Order
- Safeguard

Action to Terminate: The cylinder was secured.

[MSHA Form 7000-3a]

See Continuation Form (MSHA Form 7000-3a)

The provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW - MC 2140, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.
Mine Citation/Order

Mine Safety and Health Administration

1. Date: 11/13/2007
2. Time (24 Hr. Clock): 0950
3. Citation/Order Number: 7271386

4. Served To: Rick Nicolau, Chief.
5. Operator: PERFORMANCE COAL COMPANY
6. Mine: UPPER BIG BRANCH MINE-SOUTH
7. Mine ID: 46-08436
8. Condition or Practice: Stopping nos. 46, 47, 49, 53, 56, 57, 58 and 59 between the 030 section return and the belt haulage course were not being properly maintained. The wood on the return side had not been completely plastered.

See Continuation Form (MSHA Form 7000-3a)

9. Violation: A. Health Safety
   B. Section of Act: B. Written Notice (103g)
   C. Part/Section of Title 30 CFR: 75.333(b)(2)

10. Gravity:
    A. Injury or Illness (has): Unlikely
    B. Injury or Illness could reasonably be expected to be:
        No Lost Workdays
        Lost Workdays Or Restricted Duty
        Permanently Disabling
        Fatally
    C. Significant and Substantial:
        Yes
    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):
    A. Citation
    B. Order
    C. Safeguard
    E. Written Notice

14. Initial Action:
    A. Citation
    B. Order
    C. Safeguard
    D. Written Notice

15. Area or Equipment

16. Termination Due:
    A. Date: 11/13/2007
    B. Time (24 Hr. Clock): 1300

17. Action to Terminate

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

19. Type of Inspection (activity code): E01
20. Event Number: 4116771
21. Primary or Mill
22. Signature

MSHA Form 7000-1 revised 95 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established the Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW, MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.
The stoppings were repaired.
Sampling no. 56 between the 030 section return and the belt haulage course was not being maintained to serve the purpose for which it was built. The stopping had been damaged from the haulage side, several blocks had been dislodged and the stopping contained a hole approximately 12 inches long by 3 inches wide.
The stopping was repaired.
A loose area of rib was found on the track side of return stopping at crosscut no. 45. The rib was approximately 6 ft. high by 12 ft. wide and up to 10 inches thick. The rib has separated from the main rib approximately 6 inches.

<table>
<thead>
<tr>
<th>Section 1—Violation Data</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Date (Mo Da Yr)</td>
<td>11/13/2007</td>
</tr>
<tr>
<td>Time (24 Hr. Clock)</td>
<td>1030</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>4. Served To</th>
<th>Rick Nicolau, Chief.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mine</td>
<td>PERFORMANCE COAL COMPANY</td>
</tr>
<tr>
<td>Mine ID</td>
<td>46-08436</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Section 2—Condition or Practice</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Written Notice (103g)</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>7. Mine</th>
<th>UPPER BIG BRANCH MINE-SOUTH</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>8. Condition or Practice</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Written Notice (103g)</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>9. Violation</th>
<th>A. Health Safety</th>
<th>B. Section of Act</th>
<th>C. Part/Section of Title 30 CFR</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. None</td>
<td>B. None</td>
<td>C. None</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Section 3—Inspector's Evaluation</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>No Lost Workdays</td>
<td>Lost Workdays Or Restricted Duty</td>
</tr>
<tr>
<td>No</td>
<td>No</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>10. Gravity:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Injury or Illness (has) (is):</td>
<td></td>
</tr>
<tr>
<td>B. Injury or Illness could reasonably be expected to be:</td>
<td></td>
</tr>
<tr>
<td>C. Significant and Substantial:</td>
<td></td>
</tr>
<tr>
<td>D. Number of Persons Affected:</td>
<td>001</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>11. Negligence (check one)</th>
<th>A. None</th>
<th>B. Low</th>
<th>C. Moderate</th>
<th>D. High</th>
<th>E. Reckless Disregard</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>12. Type of Action</th>
<th>104(a)</th>
</tr>
</thead>
<tbody>
<tr>
<td>13. Type of Issuance (check one)</td>
<td>Citation</td>
</tr>
<tr>
<td>E. Citation/Order Number</td>
<td></td>
</tr>
<tr>
<td>F. Dated (Mo Da Yr)</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>15. Area or Equipment</th>
<th></th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>16. Termination Due</th>
<th>A. Date (Mo Da Yr)</th>
<th>B. Time (24 Hr. Clock)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1300</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Section 4—Automated System Data</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>E01</td>
<td>4116771</td>
</tr>
<tr>
<td>20. Event Number</td>
<td>21. Primary or Mill</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>22. Signature</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>23. AR Number</td>
<td>23583</td>
</tr>
</tbody>
</table>

For small business regulatory enforcement fairness acts of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW, MC 7125, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.
Timbers have been set in the area.
Mine Citation/Order

1. Date: 11/13/2007
2. Time (24 Hr. Clock): 1420
3. Citation/Order Number: 7271389

4. Served To:
   Rick Nicolau, Chief.

5. Operator:
   PERFORMANCE COAL COMPANY

6. Mine:
   UPPER BIG BRANCH MINE-SOUTH

Due to the obvious hazards found in the 030 section return and the fact that the hazards had not been reported it is determined that adequate weekly examinations are not being conducted.

9. Violation:
   A. Health Safety [x] Other [ ]

B. Section of Act:
   C. Part/Section of Title 30 CFR: 75.364(b)(2)

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:
       No Lost Workdays [ ] Lost Workdays Or Restricted Duty [ ] Permanently Disabling [x] Fatal [ ]
    C. Significant and Substantial:
       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):
    A. Citation [x] B. Order [ ] C. Safeguard [ ] D. Written Notice [ ]

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

15. Area or Equipment

16. Termination Due:
    A. Date: 11/14/2007
    B. Time (24 Hr. Clock): 0800

17. Action to Terminate

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

19. Type of Inspection (activity code):
    E01

20. Event Number: 4116771

21. Primary or Mill

22. Signature

23. AR Number: 23583

---

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

---

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

---

Section II--Inspector's Evaluation

---

Section III--Termination Action

---

Section IV--Automated System Data

---

MSHA Form 7000-3a is a document that provides information about the enforcement actions taken by the Mine Safety and Health Administration. It is used to document violations, the authority to issue citations, the miner's responsibility to comply with regulations, and the procedures for contesting citations. The form is an integral part of the enforcement process and serves as a record of the actions taken by MSHA. It is available for public inspection and is an important tool for ensuring compliance with mining regulations.
An examination has been made and all hazards entered in the book.
Stopping nos. 129, 128, 125, 124, 119, 118, 5, and 3 are not being properly maintained between the belt haulage course and the return air course. The wood on the return side of the stopping has not been completely plastered. Stoppings at #3 and #5 are crushing out and leaking.
Mine Citation/Order

Section I-- Violation Data

1. Date  Mo Da Yr  11/15/2007
2. Time (24 Hr. Clock)  0900
3. Citation/Order Number  7271391

4. Served To
Rick Hodge, Supt.

5. Operator
PERFORMANCE COAL COMPANY

6. Mine
UPPER BIG BRANCH MINE-SOUTH

7. Mine ID  46-08436 (Contractor)

8. Condition or Practice

After a reasonable period for abatement little or no effort has been made to correct the conditions.

<table>
<thead>
<tr>
<th>9. Violation</th>
<th>A. Health Safety □ Other □</th>
</tr>
</thead>
<tbody>
<tr>
<td>B. Section of Act</td>
<td></td>
</tr>
<tr>
<td>C. Part/Section of Title 30 CFR</td>
<td></td>
</tr>
<tr>
<td>75.333(b)(2)</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>10. Gravity:</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Injury or illness (has) (is)</td>
</tr>
<tr>
<td>No Likelihood □ Unlikely □ Reasonably Likely □ Highly Likely □ Occurred □</td>
</tr>
<tr>
<td>B. Injury or illness could reasonably be expected to be:</td>
</tr>
<tr>
<td>No Lost Workdays □ Lost Workdays Or Restricted Duty □ Permanently Disabling □ Fatal □</td>
</tr>
<tr>
<td>C. Significant and Substantial:</td>
</tr>
<tr>
<td>Yes □ No □</td>
</tr>
<tr>
<td>D. Number of Persons Affected:</td>
</tr>
</tbody>
</table>

| 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 □ Safeguard □ |

| 14. Initial Action |
| A. Citation □ B. Order □ C. Safeguard □ D. Written Notice □ |

| 15. Area or Equipment |
| The north mains return from stopping 124 to 129 |

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

| 17. Action to Terminate |
| The stoppings were repaired. |

| 18. Terminated |
| A. Date  Mo Da Yr 11/15/2007 |
| B. Time (24 Hr. Clock) 1040 |

Section III--Termination Action

Section IV--Automated System Data

| 19. Type of Inspection (activity code) |
| E01 |

| 20. Event Number 4116771 |

| 21. Primary or Mill |

| 22. Signature |

| 23. AR Number 23583 |

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

(Continued)
Mine Citation/Order

Section I—Violation Data

<table>
<thead>
<tr>
<th>1. Date</th>
<th>Mo Da Yr</th>
<th>11/30/2007</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. Time (24 Hr. Clock)</td>
<td>1405</td>
<td></td>
</tr>
<tr>
<td>3. Citation/Order Number</td>
<td>7272650</td>
<td></td>
</tr>
</tbody>
</table>

4. Served To
Rick Nicolau, Maint. Chief

5. Operator
PERFORMANCE COAL COMPANY

8. Mine
UPPER BIG BRANCH MINE-SOUTH

9. Condition or Practice

Protective covers are not provided to the valves of three (3) Compressed Gas Cylinders (Oxygen) located in the Compressed Gas Cylinder storage rack.

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 Fatel

C. Significant and Substantial: 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

15. Area or Equipment

Section III—Termination Action

16. Termination Due

A. Date Mo Da Yr 11/30/2007

B. Time (24 Hr. Clock) 1600

17. Action to Terminate

Covers to the valves have now been provided.

Section IV—Automated System Data

19. Type of Inspection (activity code) E01

20. Event Number 4116771

21. Primary or Mill

22. Signature

23. AR Number 24024

See Continuation Form (MSHA Form 7000-3a)
The Hobart DC Welder, S/N 86WS08998, located in the Motor Shop is not being maintained in a safe operating condition. The two (2) electrical connections are not provided with protective covers. These two (2) connections are located within six (6) inches below the Welder Controls and can be easily contacted by persons.

### Section I - Violation Data

| 1. Date | 11/30/2007 |
| 2. Time | 1415 |
| 3. Citation/Order Number | 7272651 |

### Section II - Inspector's Evaluation

- **Section of Act**: 77.502
- **Number of Persons Affected**: 001
- **Time of Issuance**: 104(a)
- **Date**: 11/30/2007
- **Time**: 1600

### Section III - Termination Action

- **Date**: 11/30/2007
- **Time**: 1435

- **Reason**: The electrical connections have now been provided with protective covers.

### Section IV - Automated System Data

- **Type of Inspection**: E01
- **Event Number**: 4116771
- **AR Number**: 24024

---

In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small businesses. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.
Mine Citation/Order

<table>
<thead>
<tr>
<th>Section I - Violation Data</th>
<th>U.S. Department of Labor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date Mo Da Yr</td>
<td>Mine Safety and Health Administration</td>
</tr>
<tr>
<td>11/30/2007</td>
<td></td>
</tr>
<tr>
<td>2. Time (24 Hr. Clock)</td>
<td>1555</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3. Citation/Order Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>7272652</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>4. Served To</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rick Nicolau, Maint. Chief</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>5. Operator</th>
</tr>
</thead>
<tbody>
<tr>
<td>PERFORMANCE COAL COMPANY</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>6. Mine</th>
</tr>
</thead>
<tbody>
<tr>
<td>UPPER BIG BRANCH MINE-SOUTH</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>7. Mine ID</th>
</tr>
</thead>
<tbody>
<tr>
<td>46-08436</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>8. Condition or Practice</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Caterpillar Forklift, S/N 4EM04289, located in the Supply House is not provided with a fully charged fire extinguisher.</td>
</tr>
</tbody>
</table>

9. Violation

<table>
<thead>
<tr>
<th>A. Health Safety</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B. Section of Act</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>C. Part/Section of Title 30 CFR</th>
</tr>
</thead>
<tbody>
<tr>
<td>77.1109(c)(1)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>10. Gravity:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>A. Injury or Illness (has) (is):</th>
</tr>
</thead>
<tbody>
<tr>
<td>No Likelihood</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B. Injury or Illness could reasonably be expected to be:</th>
</tr>
</thead>
<tbody>
<tr>
<td>No Lost Workdays</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>C. Significant and Substantial:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>D. Number of Persons Affected:</th>
</tr>
</thead>
<tbody>
<tr>
<td>001</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>11. Negligence (check one)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. None</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>12. Type of Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>104(a)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>13. Type of Issuance (check one)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Citation</td>
</tr>
</tbody>
</table>

14. Initial Action

<table>
<thead>
<tr>
<th>A. Citation</th>
<th>B. Order</th>
<th>C. Safeguard</th>
<th>D. Written Notice</th>
<th>E. Citation/Order Number</th>
<th>F. Dated Mo Da Yr</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>15. Area or Equipment</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>16. Termination Due</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Date Mo Da Yr</td>
</tr>
<tr>
<td>11/30/2007</td>
</tr>
<tr>
<td>B. Time (24 Hr. Clock)</td>
</tr>
<tr>
<td>1630</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>17. Action to Terminate</th>
</tr>
</thead>
<tbody>
<tr>
<td>A fire extinguisher has now been provided to the Forklift.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>18. Terminated</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Date Mo Da Yr</td>
</tr>
<tr>
<td>11/30/2007</td>
</tr>
<tr>
<td>B. Time (24 Hr. Clock)</td>
</tr>
<tr>
<td>1600</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>19. Type of Inspection (activity code)</th>
</tr>
</thead>
<tbody>
<tr>
<td>E01</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>20. Event Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>4116771</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>21. Primary or Minor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>22. Signature</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>23. AR Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>24024</td>
</tr>
</tbody>
</table>

MSHA Form 7000-3, Mar 86 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-800-REG-FAIR (1-800-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.
A record of a preoperational examination has not been made on the Caterpillar Forklift, S/N 4EM04289, located in the Supply House. The Forklift is not provided with a charged fire extinguisher when examined (Cited on citation #7272652). The last recorded date of examination was 10/3/2007.

9. Violation A. Health ☐ Safety ☑ B. Section of Act B. Part/Section of Title 30 C/F/R 77.1606(a)

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 ☐ Fatally ☐
C. Significant and Substantial: Yes ☑ No ☐ D. Number of Persons Affected: 001

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

13. Type of Issuance (check one) Citation ☑ Order ☐ Safeguard ☐

15. Area or Equipment

16. Termination Due A. Date Mo Da Yr 11/30/2007 B. Time (24 Hr. Clock) 1630

17. Action to Terminate A record has now been made of an examination.

18. Terminated A. Date Mo Da Yr 11/30/2007 B. Time (24 Hr. Clock) 1605

22. Signature [Redacted]

MSHA Form 7000-3, Mar 85 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MO 2170, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.
The roof, face and ribs of areas where persons work or travel shall be supported or otherwise controlled to protect persons from hazards related to falls of the roof, face or ribs and coal or rock bursts. The operator has a kittle bottom measuring 16 inches by 16 inches in the primary escapeway outby #39 break that's not supported or otherwise controlled to protect persons from hazards related to fall of the kittle bottom.

See Continuation Form (MSHA Form 7000-3a)
The kettle bottom was supported and controlled with a wooden timber.
Mobile and stationary machinery and equipment shall be maintained in safe operating condition. The #3 North Main belt from #130 crosscut to #93 crosscut has 14 top belt rollers and 12 bottom belt rollers stuck or damaged. The operator took the belt out of service.
At least once during each shift, or more often if necessary for safety, a certified person designated by the operator shall conduct an on-shift examination of each section where anyone is assigned to work during the shift and any area where mechanized mining equipment is being installed or removed during the shift. The certified person shall check for hazardous conditions, test for methane and oxygen deficiency, and determine if the air is moving in its proper direction. The #3 North Main belt from #130 crosscut to #93 crosscut had 14 top rollers and 12 bottom rollers stuck or damaged that was not recorded in the on-shift book.
The area was pre-shifted and pre-shift examiners were re-instructed on examination of belt conveyors.
The person conducting the on-shift examination in belt haulage entries shall certify by initials, date, and time that the examination was made. The certified person shall certify by initials, date, and the time at enough locations to show that the entire area has been examined. The date board at the tailpiece for the #7 belt does not have an initial, date, and time for 12-04-2007.

### Section I – Violation Data

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Date</td>
<td>Mo Da Yr</td>
<td>12/04/2007</td>
</tr>
<tr>
<td>2. Time (24 Hr. Clock)</td>
<td>09:05</td>
<td></td>
</tr>
<tr>
<td>3. Citation/Order Number</td>
<td>7278711</td>
<td></td>
</tr>
</tbody>
</table>

### Section II – Inspector’s Evaluation

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>9. Violation</td>
<td>A. Health Safety</td>
<td>✓ A. Other</td>
</tr>
<tr>
<td>10. Gravity</td>
<td>A. Injury or illness (has) (is):</td>
<td>No Likelihood</td>
</tr>
<tr>
<td></td>
<td>B. Injury or illness could reasonably be expected to be:</td>
<td>No Lost Workdays</td>
</tr>
<tr>
<td>11. Negligence (check one)</td>
<td>A. None</td>
<td>B. Low</td>
</tr>
<tr>
<td>12. Type of Action</td>
<td>104(a)</td>
<td></td>
</tr>
<tr>
<td>13. Type of issuance (check one)</td>
<td>Citation</td>
<td>✓ Order</td>
</tr>
</tbody>
</table>

### Section III – Termination Action

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>16. Termination Due</td>
<td>A. Date</td>
<td>Mo Da Yr</td>
</tr>
<tr>
<td></td>
<td>B. Time (24 Hr. Clock)</td>
<td>07:00</td>
</tr>
</tbody>
</table>

### Section IV – Automated System Data

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>19. Type of Inspection</td>
<td>E01</td>
<td></td>
</tr>
<tr>
<td>19. (activity code)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>20. Event Number</td>
<td>4116771</td>
<td></td>
</tr>
<tr>
<td>21. Primary or Mill</td>
<td></td>
<td></td>
</tr>
<tr>
<td>22. Signature</td>
<td></td>
<td></td>
</tr>
<tr>
<td>23. AR Number</td>
<td>24320</td>
<td></td>
</tr>
</tbody>
</table>

---

MSHA Form 7000-3a, Mar 05 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-886-REG-FAIR (1-886-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW., MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.
The operator has initials, date and time at the #7 belt tailpiece. The operator also spoke with all the examiner about doing a proper examination.
The operator has allowed accumulation of float coal dust and loose coal to accumulate starting at the #4 belt tailpiece for 1 break out by.
The accumulations at the tail piece including one break out by have been cleaned and the area was rock dusted.
Each escapeway shall be provided with a continuous directional lifeline or equivalent device that shall be installed and maintained throughout the entire length of each escapeway. The alternate escapeway lifeline on the #2 LBB section (MMU 040 and 041) was approximately 411 feet from the section loading point.
The operator failed to record in the book designated for the weekly examination of the seals, the examination for the week ending 11-24-2007.

<table>
<thead>
<tr>
<th>Section I—Violation Data</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Date Mo Da Yr</td>
</tr>
<tr>
<td>2. Time (24 Hr. Clock)</td>
</tr>
<tr>
<td>3. Citation/Order Number</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Section II—Inspector’s Evaluation</th>
</tr>
</thead>
<tbody>
<tr>
<td>9. Violation</td>
</tr>
<tr>
<td>10. Gravity:</td>
</tr>
<tr>
<td>11. Negligence (check one)</td>
</tr>
<tr>
<td>12. Type of Action</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Section III—Termination Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>17. Action to Terminate</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Section IV—Automated System Data</th>
</tr>
</thead>
<tbody>
<tr>
<td>19. Type of Inspection (activity code)</td>
</tr>
<tr>
<td>20. Event Number</td>
</tr>
<tr>
<td>21. Primary or Mill</td>
</tr>
<tr>
<td>22. Signature</td>
</tr>
</tbody>
</table>

MSHA Form 7000-3a
The operator failed to conduct an examination at EP-52, EP-53, EP-54, and EP-58 for 20 days (11-09-2007 through 11-29-2007). At least every 7 days, a certified person shall examine unsealed worked-out areas where no pillars have been recovered by traveling to the area of deepest penetration; measuring methane and oxygen concentrations and air quantities and making tests to determine if the air is moving in the proper direction in the area. The locations of measurement points where tests and measurements will be performed shall be included in the mine ventilation plan and shall be adequate in number and location to assure ventilation and air quality in the area. Air quantity measurements shall also be made where the air enters and leaves the worked-out area.

Section III—Inspector's Evaluation

10. Gravity:
   - A. Injury or Illness (has) (is): No Likelihood  Unlikely [✓] Reasonably Likely [✓] Highly Likely [✓] Occurred [✓]
   - B. Injury or illness could reasonably be expected to be: No Lost Workdays Lost Workdays Or Restricted Duty [✓] Permanently Disabling [✓] Fatal [✓]
   - C. Significant and Substantial: Yes [✓] No [✓]
   - D. Number of Persons Affected: 025

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):
   - A. Citation [✓]
   - B. Order [✓]
   - C. Safeguard [✓]
   - D. Written Notice [✓]

14. Initial Action:
   - A. Citation [✓]
   - B. Order [✓]
   - C. Safeguard [✓]
   - D. Written Notice [✓]

15. Area or Equipment

16. Termination Due:
   - A. Date: 12/12/2007
   - B. Time (24 Hr. Clock): 1000

17. Action to Terminate:
   A weekly examination has been conducted since 11-29-2007.
The operator failed to provide an 5000-23 for the following people when asked by MSHA. [redacted] task training form, [redacted] task training and experience form, [redacted] experience form, [redacted] task training and experience form, [redacted] experience form, [redacted] task training and experience form, [redacted] task training form, [redacted] experience form. Upon a miner's completion of each MSHA approved training program, the operator shall record and certify on MSHA form 5000-23 that the miner has received the specified training. A copy of the training certificate shall be given to the miner at the completion of the training. The training certificates for each miner shall be available at the mine site for inspection by MSHA and for examination by the 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
   48.9(a)

10. Gravity:
A. Injury or Illness (has) (is) [ ] No Likelihood [√] Unlikely [ ] Reasonably Likely [ ] Highly Likely [ ] Occurred [ ]
B. Injury or Illness could reasonably be expected to be [ ] No Lost Workdays [√] Lost Workdays Or Restricted Duty [ ] Permanently Disabling [ ] Fatal [ ]
C. Significant and Substantial: [×] Yes [ ] No [√]
D. Number of Persons Affected: 010

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)
A. Citation [√] B. Order [ ] C. Safeguard [ ] D. 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 12/17/2007
B. Time (24 Hr. Clock) 1500

17. Action to Terminate

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

19. Type of Inspection (activity code) B01
20. Event Number 4116771
21. Primary or Mill
23. AR Number 24320

MSHA Form 7000-3, Mar 86 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-PAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20418. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.
miner's representative, and State inspection agencies. When a miner leaves
the operator's employ, the miner shall be entitled to a copy of his training
certificates.
The operator provided an 5000-23 form for the following people for task training. The operator provided an 5000-23 form for the following people for experience form and worker's compensation he will receive his task form when he return to work.
Mine Citation/Order

<table>
<thead>
<tr>
<th>Section I--Violation Data</th>
<th>U.S. Department of Labor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date</td>
<td>Mine Safety and Health Administration</td>
</tr>
<tr>
<td>1. Date</td>
<td>10/10/2007</td>
</tr>
<tr>
<td>2. Time (24 Hr. Clock)</td>
<td>1125</td>
</tr>
<tr>
<td>3. Citation/Order Number</td>
<td>7279645</td>
</tr>
<tr>
<td>4. Served To</td>
<td>Mo Da Yr 10/10/2007</td>
</tr>
<tr>
<td>5. Operator</td>
<td>PERFORMANCE COAL COMPANY</td>
</tr>
<tr>
<td>6. Mine</td>
<td>UPPER BIG BRANCH MINESOUTH</td>
</tr>
<tr>
<td>7. Mine ID</td>
<td>46-08436 (Contractor)</td>
</tr>
<tr>
<td>8. Condition or Practice</td>
<td>Mo Da Yr 10/10/2007</td>
</tr>
<tr>
<td>9. Violation</td>
<td>11:20</td>
</tr>
</tbody>
</table>

The cover serving as a guard for the belt sequence roller, for the section feeder, operating on the No. 3 belt was not securely in place.

10. Gravity:
   A. Injury or Illness (has) (is): Unlikely
   B. Injury or illnes could reasonably be expected to be: Permanently Disabling
   C. Significant and Substantial: Yes

11. Negligence (check one): Low

12. Type of Action: 104(a)

13. Type of Issuance (check one): Citation

14. Initial Action: A. Citation

15. Area or Equipment:

16. Termination Due:
   A. Date Mo Da Yr 10/10/2007
   B. Time (24 Hr. Clock) 1200

The cover was bolted securely in place.

17. Action to Terminate:

18. Terminated:
   A. Date Mo Da Yr 10/10/2007
   B. Time (24 Hr. Clock) 1130

22. Signature: [Redacted]

MSHA Form 7000-3a, last revised 10/11/07 In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 400 3rd Street, SW, MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.
**Mine Citation/Order**

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

<table>
<thead>
<tr>
<th>Section I - Violation Data</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Date</td>
<td>Mo Da Yr</td>
<td>10/10/2007</td>
</tr>
<tr>
<td>2. Time (24 Hr. Clock)</td>
<td>1225</td>
<td></td>
</tr>
<tr>
<td>3. Citation/Order Number</td>
<td></td>
<td>7279646</td>
</tr>
<tr>
<td>4. Served To</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rick Hodge; Superintendent</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Operator</td>
<td></td>
<td>PERFORMANCE COAL COMPANY</td>
</tr>
<tr>
<td>6. Mine</td>
<td></td>
<td>UPPER BIG BRANCH MINE-SOUTH</td>
</tr>
<tr>
<td>7. Mine ID</td>
<td></td>
<td>46-08436</td>
</tr>
<tr>
<td>8. Condition or Practice</td>
<td></td>
<td></td>
</tr>
<tr>
<td>9. Violation</td>
<td>A. Health Safety [✓]</td>
<td></td>
</tr>
</tbody>
</table>

**Section II - Inspector's Evaluation**

<table>
<thead>
<tr>
<th>10. Gravity</th>
<th>B. Section of Act</th>
<th>C. Part/Section of Title 30 CFR</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Injury or illness (has) (is):</td>
<td>No Likelihood [ ]</td>
<td>Unlikely [ ]</td>
</tr>
<tr>
<td>B. Injury or illness could reasonably be expected to be:</td>
<td>No Lost Workdays [ ]</td>
<td>Lost Workdays Or Restricted Duty [✓]</td>
</tr>
<tr>
<td>C. Significant and Substantial:</td>
<td>Yes [✓]</td>
<td>No [ ]</td>
</tr>
<tr>
<td>D. Number of Persons Affected:</td>
<td>003</td>
<td></td>
</tr>
</tbody>
</table>

**Section III - Termination Action**

| 17. Action to Terminate |  |
|-------------------------|  |

**Section IV - Automated System Data**

| 22. Signature |  |

Loose coal including float coal dust was permitted to accumulate along the 2 North Belt at the No. 1 Lower Big Branch Belthead. There was coal spillage measuring 81 feet and up to 10 inches in depth from the track cross under. Twenty-two (22) feet inby the dumping point the spillage was rubbing the bottom belt and one bottom roller.

---

**MSHA Form 7000-3a**  
In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW, MG 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.
Section I—Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation

2. Dated (Original Issue) 10/10/2007

3. Citation/Order Number 7279646 - 01

4. Served To

Rick Nicolau, Chief

5. Operator

PERFORMANCE COAL COMPANY

6. Mine

UPPER BIG BRANCH MINE-SOUTH

Section II—Justification for Action

The belt has been cleaned.

Section III—Subsequent Action Taken

8. Extended To

A. Date 10/10/2007

B. Time (24 Hr. Clock) 1130

C. Vacated

D. Terminated

E. Modified

Section IV—Inspection Data

9. Type of Inspection E01

10. Event Number 4116771

11. Signature

AR Number 23583

12. Date 10/15/2007

13. Time (24 Hr. Clock) 1130

See Continuation Form
Mine Citation/Order

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

Section I—Violation Data
1. Date Mo Da Yr 11/28/2007
2. Time (24 Hr. Clock) 0930
3. Citation/Order Number 7279676

4. Served To
Jamie Ferguson; Mine Foreman

5. Operator
PERFORMANCE COAL COMPANY

6. Mine
UPPER BIG BRANCH MINE-SOUTH

7. Mine ID 46-08436

8. Condition or Practice
Written Notice (103g)

9. Violation
A. Health ☐ Safety ☐ Other ☐

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

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 ☑ Safeguard ☐

14. Initial Action
A. Citation ☐ B. Order ☑ C. Safeguard ☐ D. Written Notice ☐

15. Area or Equipment
The 2 North Mains Belt Conveyor.

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

Section II—Inspector’s Evaluation

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) E0J

20. Event Number 4116771

21. Primary or Mill

22. Signature [Redacted]

MSHA Form 7000-2

There was a smoldering fire located 45 feet outby the No. 1 Lower Big Branch Dumping Point on the No. 2 North Mains Belt Conveyor. The bottom belt was rubbing into a belt stand, on the offside of the No. 2 North Mains Belt Conveyor, causing hot belt shavings to accumulate upon a small area of loose coal. The coal along with the belt shavings were smoking and smoldering with bright orange hot spots with an occasional flame. The smoldering area was 12 square feet. Citation No. 7279677 is being issued in conjunction with this order.

Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency’s responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 400 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.
**Section I—Subsequent Action/Continuation Data**

<table>
<thead>
<tr>
<th>1. Subsequent Action 1a. Continuation</th>
<th>2. Dated (Original Issue)</th>
<th>3. Citation/Order Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>[ ]</td>
<td>11/28/2007</td>
<td>7279676 - 01</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Rick Hodge, Superintendent</td>
<td>PERFORMANCE COAL COMPANY</td>
<td>46-08436</td>
</tr>
</tbody>
</table>

**Mine** UPPER BIG BRANCH MINE-SOUTH

**Section II—Justification for Action**

The fire was extinguished.

**Section III—Subsequent Action Taken**

<table>
<thead>
<tr>
<th>6. Mine ID</th>
</tr>
</thead>
<tbody>
<tr>
<td>46-08436</td>
</tr>
</tbody>
</table>

**Section IV—Inspection Data**

<table>
<thead>
<tr>
<th>9. Type of Inspection</th>
<th>10. Event Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>E01</td>
<td>4116771</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>11. Signature</th>
<th>12. Date</th>
<th>13. Time (24 Hr. Clock)</th>
</tr>
</thead>
<tbody>
<tr>
<td>[Redacted]</td>
<td>11/28/2007</td>
<td>1030</td>
</tr>
</tbody>
</table>

MSHA Form 7000-3a, Mar 85 (revised)
The No. 2 North Mains Belt was not being maintained in safe operating condition. The bottom belt was rubbing two bottom belt conveyor stands and several bottom return roller hangers beginning 45 feet outby the No. 1 Lower Big Branch Dumping Point. There was smoldering coal and belt shavings, with bright orange hot spots and occasional flames, accumulated at the first belt stand outby the dumping point. This condition was a factor that contributed to the issuance of Imminent Danger Order No. 7279676 dated 11/28/2007. Therefore, no abatement time was set.
The belt was trained so that it would not rub the belt stands and hangers.
There were no initials, dates and times certifying that a weekly examination had been conducted at seal no. 37, 36, 35 and 34, including the main return from seal no. 33 to seal no. 32 within the last seven days. The last initials, dates and times observed were on 11/20/2007.
The operator permitted loose coal to accumulate in various places on both sides of the No. 2 LBB Belt Conveyor, as well as, float coal dust under the bottom return rollers for a distance of 3600 feet. Also, loose coal including float coal dust was permitted to accumulate in the belt conveyor storage unit, as well as, under and around the belt conveyor tail roller.
The Belt Conveyor has been cleaned and rock dusted.
Float coal dust, dark gray to black in color, was permitted to accumulate on both sides of the No. 5 LBB Belt Conveyor including cross-cuts for a distance of 3800 feet. Also, loose coal was permitted to accumulate on both sides of the belt conveyor in various places and the belt conveyor storage unit had accumulations of loose coal and float coal dust.
**Mine Citation/Order**  
**Continuation**

<table>
<thead>
<tr>
<th>Section I–Subsequent Action/Continuation Data</th>
</tr>
</thead>
</table>
| 1. Subsequent Action 1a. Continuation: [ ]  
3. Citation/Order Number: 7279680 - 01  
4. Served To: William Harless, Mine Foreman  
5. Operator: PERFORMANCE COAL COMPANY  
6. Mine: UPPER BIG BRANCH MINE-SOUTH  
7. Mine ID: 46-08436  

---

**Section II–Justification for Action**

The belt conveyor was cleaned and rock dusted.

---

**Section III–Subsequent Action Taken**

See Continuation Form [☐]

---

**Section IV–Inspection Data**

- **Type of inspection:** E01
- **Event Number:** 4116771
- **AR Number:** 24329
- **Date:** 12/10/2007
- **Time (24 Hr. Clock):** 1100

---

MSHA Form 7000-3a, Mar 86 (revised)
Accumulations of loose coal including float coal dust was permitted to accumulate in the No. 3 LBB Belt Conveyor Storage Unit from the beginning of the belt drive to the end of the belt take-up.
The Belt drive was cleaned and appears in adequate condition.
There were no initials, dates and times certifying that a weekly examination was conducted for the intake entries located between Survey Station No. 3435 and Survey Station No. 18781.
The water sprinkler system provided for the Glory Belt Conveyor Take-up Storage Unit was not being maintained in accordance with 75.1101-8. 10 water sprays (5 on both sides of the storage unit) were not directed so that the discharge would spray on the upper surface of the top belt. Also, there were 6 sprays provided for the bottom surface of the top belt and the upper surface of the bottom belt that were covered with belt shredding.

See Continuation Form (MSHA Form 7000-3a)
The water sprinklers were directed to protect the surfaces of the belt.

**Section I - Subsequent Action/Continuation Data**

1. Subsequent Action 1a. Continuation [✓] [ ☐ ]
2. Dated (Original Issue) 12/03/2007
3. Citation/Order Number 7279683 - 01
4. Served To Rick Hodge, Superintendent
5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH
7. Mine ID 46-08436

**Section II - Justification for Action**

The water sprinklers were directed to protect the surfaces of the belt.

**Section III - Subsequent Action Taken**

8. Extended To [☐] [☐] [☐]
   A. Date [☐] [☐] [☐]
   B. Time (24 Hr. Clock) [☐] [☐] [☐]
   C. Vacated [☐] [☐] [☐]
   D. Terminated [✓] [☐] [☐]
   E. Modified [☐] [☐] [☐]

**Section IV - Inspection Data**

9. Type of Inspection E01 [☐] [☐] [☐]
   10. Event Number 4116771
11. Sig [☐] [☐] [☐]
    AR Number 24329
    12. Date 12/06/2007
    13. Time (24 Hr. Clock) 1005

MSHA Form 7000-3a, Mar 85 (revised)
Hydraulic oil and accumulations of coal was permitted to accumulate in and around the #2 Feeder Hydraulic Power Pack being used for the feeder located in the Glory Hole.
<table>
<thead>
<tr>
<th>Section I—Subsequent Action/Continuation Data</th>
</tr>
</thead>
<tbody>
<tr>
<td>3. Citation/Order Number 7279684 - 01</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>4. Served To</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rick Hodge: Superintendent</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>5. Operator</th>
</tr>
</thead>
<tbody>
<tr>
<td>PERFORMANCE COAL COMPANY (Contractor)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>6. Mine</th>
</tr>
</thead>
<tbody>
<tr>
<td>UPPER BIG BRANCH MINE-SOUTH</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>7. Mine ID</th>
</tr>
</thead>
<tbody>
<tr>
<td>46-08436</td>
</tr>
</tbody>
</table>

Section II—Justification for Action

The accumulations of hydraulic oil and coal have been cleaned.
Section I--Violation Data

1. Date Mo Da Yr 12/03/2007
2. Time (24 Hr. Clock) 0355
3. Citation/Order Number
4. Served To
5. Operator

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:
      No Lost Workdays Lost Workdays Or Restricted Duty Permanently Disabled Fatal

   C. Significant and Substantial: Yes No
   D. Number of Persons Affected: 001

Section III--Termination Action

17. Action to Terminate

Section IV--Automated System Data

21. Event Number 4116771
22. Signature

Five Nozzles were not directed so that the water would discharge on both the upper and bottom surfaces of the top belt and the upper surface of the bottom belt on the #1 UBB Section Belt Conveyor.
The nozzles were directed so that the spray protected the surfaces of the belt.
Seven nozzles would not spray when tested and several other nozzles were not directed so that the water would discharge on both the upper and bottom surfaces of the top belt and the upper surface of the bottom belt on the #2 North Mains Belt Conveyor Drive and Storage Unit.
The nozzles have been cleaned and they are directed to protect the surface of the belt.
Accumulations of loose fine coal (damp) was permitted to accumulate in the Glory Belt Take-up Storage Unit from the stationary roller to the take-up roller.
The belt drive was cleaned and appears to be in adequate condition.
The operator failed to follow the ventilation plan approved by the District Manager for the No. 2 LBB Section (MMU 040 and 041). The air ventilating the belt, track and two other entries (Nos. 2, 3, 4, and 5) was going in the wrong direction causing the air ventilating these entries to mix with air ventilating the section.

9. Violation A. Health [ ] Safety [ ] Other [ ]
   B. Section of Act
   C. Part/Section of Title 30 CFR 75.370(a)(1)

10. Gravity:
    A. Injury or Illness (has) (is): No Likelihood [ ] Unlikely [ ] Reasonably Likely [ ] Highly Likely [ ] Occurred [ ]
    B. Injury or Illness could reasonably be expected to be: No Lost Workdays [ ] Lost Workdays Or Restricted Duty [ ] Permanently Disabling [ ] Fatal [ ]
    C. Significant and Substantial: Yes [ ] No [ ] D. Number of Persons Affected: 010

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 [ ]

15. Area or Equipment

16. Termination Due A. Date Mo Da Yr 12/05/2007 B. Time (24 Hr. Clock) 1345

17. Action to Terminate The operator found and repaired a stopping that had been crushed out. This correction caused the air to move in the proper direction.
Section I--Violation Data

1. Date  Mo Da Yr  12/10/2007
2. Time (24 Hr. Clock)  1115
3. Citation/Order Number  7279689

4. Served To
Rick Hodge; Superintendent

5. Operator
PERFORMANCE COAL COMPANY

6. Mine
UPPER BIG BRANCH MINE-SOUTH

7. Mine ID  46-08436

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

The certified person conducting the on-shift examination in the belt haulage entries in the No. 5, 4, 3, and 2 LBB Section belt haulage entries failed to certify by initials, date and time at enough locations to show that the entire area had been examined.

9. Violation
A. Health Safety  

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood  

B. Injury or Illness could reasonably be expected to be: No Lost Workdays  Lost Workdays Or Restricted Duty  Permanently Disabling  

C. Significant and Substantial: Yes  

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  

15. Area or Equipment

16. Termination Due
A. Date  Mo Da Yr  12/10/2007
B. Time (24 Hr. Clock)  1230

17. Action to Terminate
The belt haulage entries were examined and certified by initials, date and time by a certified person.

18. Terminated
A. Date  Mo Da Yr  12/10/2007
B. Time (24 Hr. Clock)  1200

19. Type of Inspection (activity code)
B01

20. Event Number  4116771

21. Primary or Mill

22. Signature

See Continuation Form (MSHA Form 7000-3a)  

Section III--Termination Action

17. Action to Terminate
The belt haulage entries were examined and certified by initials, date and time by a certified person.

18. Terminated
A. Date  Mo Da Yr  12/10/2007
B. Time (24 Hr. Clock)  1200

Section IV--Automated System Data

19. Type of Inspection (activity code)
B01

20. Event Number  4116771

21. Primary or Mill

22. Signature

MSHA Form 7000-3, Mar 85 (revised)  In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.
The operator permitted accumulations of loose coal and float dust to accumulate along the No. 2 North Mains Belt Haulage Conveyor from break 79 to including the belt conveyor storage unit.
The belt conveyor has been cleaned and rock dusted.
The operator permitted accumulations of loose coal and float coal dust to accumulate along the No. 1 South Mains Belt Haulage Conveyor from the belt conveyor tail-piece to break 20.
The belt conveyor has been cleaned and rock dusted.
The manual pump on the Fairchild 35C Scoop (Co. No. 1; SN: T339-145) would not release and reengage the brakes without energizing the equipment.
The manual pump was replaced and would release and reengage the brakes without energizing the equipment.

---

**Section I—Subsequent Action/Continuation Data**

<table>
<thead>
<tr>
<th>1. Subsequent Action (Continuation)</th>
<th>2. Dated (Original Issue)</th>
<th>3. Citation/Order Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>✓</td>
<td>12/17/2007</td>
<td>7279692 - 01</td>
</tr>
</tbody>
</table>

**Section II—Justification for Action**

The manual pump was replaced and would release and reengage the brakes without energizing the equipment.

**Section III—Subsequent Action Taken**

<table>
<thead>
<tr>
<th>8. Extended To A. Date</th>
<th>9. Event Number</th>
<th>10. Event Number</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>4116771</td>
</tr>
</tbody>
</table>

**Section IV—Inspection Data**

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>24329</td>
<td>12/19/2007</td>
<td>1154</td>
</tr>
</tbody>
</table>

MSHA Form 7000-3a, Mar 85 (revised)
The unsupported top located at spad # 8915 was timbered to control the mine roof. The unsupported top located at breaks 21 and 24 was dangered off and the travelway was routed around the area.