## Mine Activity Data

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

### 1. Action:
- a. New Entry 
- b. Update [ ]

### 2. Activity Code:
- E01

### 3. Event Number:
- 4117121

### 4. Date Event Started:

### 5. Date Event Finished:
- 7/10/2007

### 6. Mine ID:
- 46-08436

### 7a. Organization Code (Mine Assignment):
- 20401

### 7b. Work Group Identifier:
- 01

### 8a. Organization Code (AR Assignment):
- 20401

### 8b. Work Group:
- 01

### 9. Company Name:
- PERFORMANCE COAL COMPANY

### 10. Mine Name:
- UPPER BIG BRANCH MINE-SOUTH

### 11. Report Type (check one):
- a. First [ ]
- b. Interim [ ]
- c. Last [ ]
- d. Not Applicable [ ]

### 12. Area of Inspections:
- a. Active Sections: 4
- b. Idle Sections: 1

### e. Outby Areas [ ]

### d. Shafts/Slopes [ ]

### e. Surface Areas (UG) [ ]

### f. Surface Workings [ ]

### g. Company Records [ ]

### h. ATP [ ]

### i. Impoundments [ ]

### j. Refuse Piles [ ]

### k. Major Construction:
- (1) Shaft/Slope Sinking [ ]
- (2) Impoundment Construction [ ]
- (3) Buildings [ ]
- (4) Dragline/Shovel [ ]
- (5) Other [ ]
- (6) Miscellaneous [ ]

### m. MMU/Php Number:
- (1) 029  (2) 030  (3) 040  (4) 041

### 13. Number of Samples Collected:
- a. Air Samples: 29
- b. Rock Dust Spot: 0
- c. Rock Dust Survey: 2
- d. Respirable Dust: 16
- e. Noise: 0
- f. Other: 0

### 14. Impoundments/Refuse Piles:
- a. Number [ ]
- b. HFC [ ]
- c. Configuration [ ]

### 15. Prime Independent Contractor Codes (Major Construction):

### 16. Inspection Results:

<table>
<thead>
<tr>
<th>Citations</th>
<th>Orders</th>
<th>Safeguards</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Coal Opr</td>
<td>Ind Con</td>
<td>Coal Opr</td>
<td>Ind Con</td>
</tr>
<tr>
<td>(1) New Issuances</td>
<td>68</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(2) Terminations/Vacations</td>
<td>66/0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(3) Modifications/Extensions</td>
<td>2/14</td>
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<td>(4) Left Pending</td>
<td>2</td>
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</table>

### 17. Remarks:
- R3039, R3062, R3072, R5148, R5186, R5191, R5192, R6708, R6716, R6730, R6738, R6739, R6744, R6754, R6756, R6764, R6768, R6793, R6798, R7617, R7642, R7664, R7666, S0525, S0546, S0568, S0581, S0583, S0596

### 18. Signature and Card Number of Authorized Representative/Right of Entry Person(s) Responsible for Activity:

<table>
<thead>
<tr>
<th>Card Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>23644</td>
</tr>
<tr>
<td>23879</td>
</tr>
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</table>

### 19. Key Entered By:
- [ ]

**Date**

**MSHA Form 2000-22, Oct. 85 (Revised) Previous editions are Obsolete**
<table>
<thead>
<tr>
<th>Shift</th>
<th>Sun</th>
<th>Mon</th>
<th>Tue</th>
<th>Wed</th>
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</table>

Reverse, MSHA Form 2000-22, Oct 85 (Revised)

Key Codes: 1- Owl Shift, 2- Day Shift & 3- Evening Shift (Mark "X" in appropriate Block to Indicate Shift)
Mine Citation/Order

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

Section I--Violation Data

<table>
<thead>
<tr>
<th>1. Date</th>
<th>04/30/2007</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. Time (24 Hr. Clock)</td>
<td>1152</td>
</tr>
<tr>
<td>3. Citation/Order Number</td>
<td>7263906</td>
</tr>
</tbody>
</table>

4. Served To
Virgil Bowman, Electrician Foreman

5. Operator
PERFORMANCE COAL COMPANY

6. Mine
UPPER BIG BRANCH MINE-SOUTH

7. Mine ID
46-08436

(b) (7)(C)

8. Condition or Practice

Less than 50 fpm of air is being provided along the No. 6 beltline where the carbon monoxide sensors are spaced at 1000 ft intervals. 30 CFR states that where less than 50 fpm of air is provided along belt entries that carbon monoxide sensors shall be placed at 350 ft intervals.

<table>
<thead>
<tr>
<th>9. Violation</th>
<th>A. Health Safety [ ] B. Section of Act</th>
<th>C. Part/Section of Title 30 CFR</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>75.351(e)(3)</td>
</tr>
</tbody>
</table>

Section II--Inspector's Evaluation

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

16. Termination Due
A. Date | Mo Da Yr | 05/01/2007 |
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>B. Time (24 Hr. Clock)</td>
<td>0800</td>
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</tbody>
</table>

Section III--Termination Action

17. Action to Terminate

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

Section IV--Automated System Data

19. Type of Inspection
(activity code) 001

20. Event Number
4117121

21. Primary or Mill

22. Signature

23. AR Number
23644

MSHA Form 7000-3, Mar 65 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1995, 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.
Work is being performed to correct the belt ventilation and a revision has been submitted to MSHA.
Work is being performed to get sufficient air as required but additional time is needed.
Repairs are being made to the ventilation system to correct the problem; therefore, additional time is granted.
The velocity now measures as required; therefore, the citation is terminated.
The high voltage cable at the end of the track on the No. 2 section was not guarded and was below the required 6-1/2 feet where men disembarked the mantrip.
### Section I -- Subsequent Action/Continuation Data

<table>
<thead>
<tr>
<th>Item</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Subsequent Action</td>
<td>1a. Continuation X</td>
</tr>
<tr>
<td>2. Dated</td>
<td>(Original Issue) Mo 04 Da 09 Yr 07</td>
</tr>
<tr>
<td>3. Citation/Order Number</td>
<td>263948</td>
</tr>
<tr>
<td>4. Served To</td>
<td>By Certified Mail</td>
</tr>
<tr>
<td>5. Operator</td>
<td>Performance Coal Company</td>
</tr>
<tr>
<td>6. Mine</td>
<td>Upper Big Branch Mine - South</td>
</tr>
<tr>
<td>7. Mine ID</td>
<td>4608436</td>
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</tbody>
</table>

### Section II -- Justification for Action

Upon further review at conference, this citation is modified as follows.

Item No. 10 b from fatal to lost work days.

### Section III -- Subsequent Action Taken

<table>
<thead>
<tr>
<th>Item</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>8. Extended To</td>
<td>A.Date T 02</td>
</tr>
<tr>
<td></td>
<td>B.Time (24 Hr Clock)</td>
</tr>
<tr>
<td></td>
<td>C. Vacated □</td>
</tr>
<tr>
<td></td>
<td>D. Terminated □</td>
</tr>
<tr>
<td></td>
<td>E. Modified X</td>
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</tbody>
</table>

### Section IV -- Inspection Data

<table>
<thead>
<tr>
<th>Item</th>
<th>Details</th>
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</thead>
<tbody>
<tr>
<td>9. Type of Inspection</td>
<td>T 02</td>
</tr>
<tr>
<td>10. Event Number</td>
<td>1832R48</td>
</tr>
<tr>
<td>11. Signature</td>
<td>[Redacted]</td>
</tr>
<tr>
<td>12. Date</td>
<td>Mo 20 Da 08 Yr 37</td>
</tr>
<tr>
<td>13. Time (24 Hr Clock)</td>
<td>011708</td>
</tr>
</tbody>
</table>

MSHA Form 7000-3a, Mar 85 (revised)
The methane monitor on the left miner (040-0 MMU), operated in the No. 2 section, read 4.3% methane when a known mixture of 2.5% was applied.
The No.2 LBB belt starter box has an accumulation of float coal dust up to 1/16 in. on the energized components.
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>04/10/2007</td>
<td>7263950 - 01</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

Section II-Justification for Action
The belt starter box was cleaned.

Section III-Subsequent Action Taken

<table>
<thead>
<tr>
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<tbody>
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</table>

Section IV-Inspection Data

<table>
<thead>
<tr>
<th>9. Type of Inspection</th>
<th>10. Event Number</th>
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<tbody>
<tr>
<td>E01</td>
<td>4117121</td>
</tr>
</tbody>
</table>

AR Number 23644
12. Date 04/11/2007
13. Time (24 Hr. Clock) 1505

See Continuation Form

MSHA Form 7000-3a, Mar 85 (revised)
The high voltage cable is not guarded where miners travel underneath to access the scoop charger on the #2 Section 040/041 MMU.
The roof is not being adequately supported on the No.2 section 041 MMU in that 3 parallel cracks are present with separation observed from the rib diagonally to the opposite rib in the No.6 entry at spad No. 21187. One of the cracks was approximately 30 ft in length. Three straps had been installed, but additional straps are needed. There was a 10 ft deep test hole next to the 3 parallel cracks. In addition one wide roof bolt was observed in the No.4 entry 1 break inby the feeder on the right inby corner. The roof bolt was measured to be 5 1/2 ft. from the corner.
The 040 MMU continuous miner JM5903 on the #2 section is not being maintained in a permissible condition. The conduit is missing for an undetermined length on a power control cable on the right side of the machine. In addition, the left conveyor motor lead has damaged conduit exposing the motor lead above the panel on the left side of the machine.
Mine Citation/Order
Continuation

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

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>
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<tr>
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<td>04/10/2007</td>
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</table>

4. Served To

David Taraczkozy (Donut) Chief Electrician

5. Operator

PERFORMANCE COAL COMPANY

7. Mine ID

46-08436

6. Mine

UPPER BIG BRANCH MINE-SOUTH

Section II-Justification for Action

The conduit was replaced on the operator side and repaired on the off side

Section III-Subsequent Action Taken

8. Extended To

B. Time (24 Hr. Clock)

D. Terminated

Section IV-Inspection Data

9. Type of Inspection

E01

10. Event Number

4117121

12. Date

04/11/2007

13. Time (24 Hr. Clock)

1452

See Continuation Form

MSHA Form 7000-3a, Mar 85 (revised)
The automatic emergency park brake for the #2 shuttle car ET17020 operated on the 040/041 MMU #2 section is not being maintained as required. When the manual park brake release was tested, it would not release the park brake with the machine de-energized.

<table>
<thead>
<tr>
<th>Section I—Violation Data</th>
</tr>
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<tbody>
<tr>
<td>1. Date Mo Da Yr 04/10/2007</td>
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<tr>
<td>2. Time (24 Hr. Clock) 1345</td>
</tr>
<tr>
<td>3. Citation/Order Number 7263955</td>
</tr>
<tr>
<td>4. Served To David Taraczkozy (Donut) Chief Electrician</td>
</tr>
<tr>
<td>5. Operator PERFORMANCE COAL COMPANY</td>
</tr>
<tr>
<td>6. Mine UPPER BIG BRANCH MINE-SOUTH</td>
</tr>
<tr>
<td>7. Mine ID 46-08436 (Contractor)</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Section II—Inspector's Evaluation</th>
</tr>
</thead>
<tbody>
<tr>
<td>9. Violation A. Health Safety Other B. Section of Act C. Part/Section of Title 30 CFR</td>
</tr>
<tr>
<td>10. Gravity A. Injury or Illness (has) (is): No Likelihood Unlikely Reasonably Likely Highly Likely Occurred</td>
</tr>
<tr>
<td>B. Injury or Illness could reasonably be expected to be: No Lost Workdays Lost Workdays Or Restricted Duty Permanently Disabling Fatal</td>
</tr>
<tr>
<td>C. Significant and Substantial: Yes No</td>
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<tr>
<td>D. Number of Persons Affected: 001</td>
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<table>
<thead>
<tr>
<th>Section III—Termination Action</th>
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</thead>
<tbody>
<tr>
<td>11. Negligence (check one) A. None B. Low C. Moderate D. High E. Reckless Disregard</td>
</tr>
<tr>
<td>12. Type of Action 104(a) 13. Type of Issuance (check one) Citation Order Safeguard</td>
</tr>
<tr>
<td>14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice</td>
</tr>
<tr>
<td>15. Area or Equipment</td>
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<table>
<thead>
<tr>
<th>Section IV—Automated System Data</th>
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</thead>
<tbody>
<tr>
<td>16. Termination Due A. Date Mo Da Yr 04/12/2007 B. Time (24 Hr. Clock) 0800</td>
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<tr>
<td>17. Action to Terminate</td>
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<tr>
<td>18. Terminated A. Date Mo Da Yr B. Time (24 Hr. Clock)</td>
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<tr>
<td>19. Type of Inspection (activity code) E01</td>
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<tr>
<td>20. Event Number 4117121</td>
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<tr>
<td>21. Primary or Mill</td>
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<tr>
<td>22. Signature</td>
</tr>
<tr>
<td>23. AR Number 23644</td>
</tr>
</tbody>
</table>

MSHA Form 7000-3, Mar 88 (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-FAN (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 20410. 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 manual pump check valves were replaced and the brakes can now be released with the machine de-energized.
Mine Citation/Order
Continuation

Section I -- Subsequent Action/Continuation Data
1. Subsequent Action 1a. Continuation [X] 2. Dated (Original Issue) Mo 04 | Da 10 | Yr 07
3. Citation/Order Number 12 6 3 9 5 5
4. Served To By Certified Mail
Greg Fernett
5. Operator Performance Coal Company
6. Mine Upper Big Branch Mine - South
7. Mine ID 4 6 0 8 4 3 6 (contractor)

Section II -- Justification for Action

Upon further review at conference, this citation is modified as follows.

Item 10b from permanently disabling to lost work days

See Continuation Form

Section III -- Subsequent Action Taken
8. Extended To A. Date
B. Time (24HrClock) C. Vacated D. Terminated E. Modified

Section IV -- Inspection Data
9. Type of Inspection T 0 2 10. Event Number 18 3 2 6 8
11. Signature [redacted]

AR Number 12. Date Mo 20 | Da 08 | Yr 37
13. Time (24Hr.Clock) 0 1 1 7 0 8 1 0 2 0

MSHA Form 7000-33, Mar 89 (revised)
Mine Citation/Order

The #2 Shuttle Car on the 040/041 MMU #2 section is not being maintained in a permissible condition. The traction motor conduit is pulled out from under the clamp on both traction motors, exposing the motor leads on both sides of the machine.

Section I--Violation

1. Date: 04/10/2007
2. Time (24 Hr. Clock): 1315
3. Citation/Order Number: 7263956
4. Operator: PERFORMANCE COAL COMPANY
5. Mine: UPPER BIG BRANCH MINE-SOUTH
6. Mine ID: 46-08436
7. Mine Citation/Order

Section II--Inspector's Evaluation

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

9. Violation

<table>
<thead>
<tr>
<th>A. Health Safety</th>
<th>B. Section of Act</th>
<th>C. Part/Section of Title 30 CFR</th>
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<td>75.503</td>
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10. Gravity:

<table>
<thead>
<tr>
<th>A. Injury or Illness (has) (is):</th>
<th>No Likelihood</th>
<th>Unlikely</th>
<th>Reasonably Likely</th>
<th>Highly Likely</th>
<th>Occurred</th>
</tr>
</thead>
<tbody>
<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>
<td>Permanently Disabling</td>
<td>Fatal</td>
<td></td>
</tr>
<tr>
<td>C. Significant and Substantial:</td>
<td>Yes ✓</td>
<td>No</td>
<td>D. Number of Persons Affected:</td>
<td>002</td>
<td></td>
</tr>
</tbody>
</table>

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)

<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>
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</table>

14. Initial Action

15. Area or Equipment

Section III--Termination Action

16. Termination Due

<table>
<thead>
<tr>
<th>A. Date</th>
<th>B. Time (24 Hr. Clock)</th>
</tr>
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<tbody>
<tr>
<td>04/10/2007</td>
<td>1410</td>
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</table>

17. Action to Terminate

Section IV--Automated System Data

18. Terminated

<table>
<thead>
<tr>
<th>A. Date</th>
<th>B. Time (24 Hr. Clock)</th>
</tr>
</thead>
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19. Type of Inspection (activity code)

<table>
<thead>
<tr>
<th>E01</th>
<th>20. Event Number</th>
<th>21. Primary or Mill</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>4117121</td>
<td></td>
</tr>
</tbody>
</table>

20. AR Number: 23644

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 regularly 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 (1-888-734-3927), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 400 3rd Street, SW, MC 2120, Washington, DC 20415. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.
The conduit was secured underneath both clamps of the packing glands on each traction motor.
Mine Citation/Order

1. Date Mo Da Yr 04/11/2007
2. Time (24 Hr. Clock) 12:30
3. Citation/Order Number 7263957

4. Served To
David Taraczkozy (Donut) Chief Electrician

5. Mine
UPPER BIG BRANCH MINE-SOUTH

6. Condition or Practice
The fire suppression actuator bottle is missing on the right side of the #2 Roof Bolter on the 041/MMU #2 section.

7. Mine ID 46-08436

8. Written Notice (103g) □

9. Violation
A. Health Safety □ Other □
B. Section of Act
C. Part/Section of Title 30 CFR 75.1107-4(a)(2)(i)

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: 002

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 04/11/2007
B. Time (24 Hr. Clock) 13:00

17. Action to Terminate
The actuator and cartridge was replaced

18. Terminated
A. Date Mo Da Yr 04/11/2007
B. Time (24 Hr. Clock) 13:00

19. Type of Inspection (activity code) E01
20. Event Number 4117121
21. Primary or Mill
22. Signature

23. AR Number 23644

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 1-866-REG-FAIR (1-866-734-3247), 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.
Accumulations of coal, coal dust and oil up to 3 inches in depth over the entire machine were allowed to exist on the #2 Roof Bolting machine (Serial #2003339) on the 041 MMU #2 section.

See Continuation Form (MSHA Form 7000-3a)
Mine Citation/Order

Continuation

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

Section I-Subsequent Action/Continuation Data


4. Served To
David Taraczko (Donut) Chief Electrician

5. Operator
PERFORMANCE COAL COMPANY

6. Mine
UPPER BIG BRANCH MINE-SOUTH

7. Mine ID
46-08436

Section II-Justification for Action

The machine was washed.

Section III-Subsequent Action Taken

8. Extended To

A. Date
B. Time (24 Hr. Clock)

9. Type of Inspection E01

10. Event Number 4117121

12. Date 04/17/2007
13. Time (24 Hr. Clock)

AR Number 23644

See Continuation Form

MSHA Form 7000-3a, Mar 95 (revised)
The torque wrench supplied for the #2 Roof Bolting machine on the 041 MMU #2 section would not work when tested.
A new torque wrench was supplied for this bolting machine.
The No 1 shuttle car, (Ser. # ET16880) on the 040 MMU #2 section is not being maintained in a permissible condition. The packing gland on the pump motor on the off side is excessively loose and not installed correctly.
The pump motor packing gland was repacked and installed correctly.
Mine Citation/Order

Section I - Violation Data

1. Date Mo Da Yr
04/11/2007

2. Time (24 Hr. Clock)
1311

3. Citation/Order Number
7268761

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

Three parallel cracks with obvious separation was allowed to exist in the #5 entry on the 041 MMU #2 section. Six straps had been installed, but additional straps were needed to adequately support the roof in this intersection. In addition, at survey spad #21182 in the #4 entry there are two roof bolts, one on each side of the feeder that were loose or damaged.

Section II - Inspector's Evaluation

10. Gravity:

A. Injury or Illness (has) (is):

No Likelihood
Unlikely
Reasonably Likely
Highly Likely
Occurred

B. Injury or Illness could reasonably be expected to be:

No Lost Workdays
Lost Workdays Or Restricted Duty
Permanently Disabling
Fatal

C. Significant and Substantial:

Yes
No

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
04/11/2007

B. Time (24 Hr. Clock)
1411

Section III - Termination Action

17. Action to Terminate

Additional straps were installed in the #5 entry intersection and two posts were set in the #4 entry

18. Terminated

A. Date Mo Da Yr
04/11/2007

B. Time (24 Hr. Clock)
1434

Section IV - Automated System Date

19. Type of Inspection (activity code)

E01

20. Event Number
4117121

21. Primary or Mill

22. Signature

MSHA Form 7003-3, 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 evaluates enforcement activities and rules each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-866-REG-FAIR (1-866-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 400 3rd Street, SW, MC 2125, Washington, DC 20415. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.
The approved roof control plan is not being followed on the 040 MMU #2 section. Personnel have gone inby permanent roof support in the #2 face. A survey spad #21193 had been installed and a centerline had been painted inby the second row of bolts outby the face. The distance from the second row of roof bolts to the face was measured in excess of 11 ft. Management shall retrain the miners on this area of the approved roof control plan.
The miners were retrained on the roof control plan requirements for staying behind the second row of bolts from the face, per inquiries on the section and documentation.
### Mine Citation/Order

**U.S. Department of Labor**

**Mine Safety and Health Administration**

#### 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>
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<tr>
<td>X</td>
<td>Mo</td>
<td>Da</td>
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<tr>
<td></td>
<td>04</td>
<td>11</td>
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<table>
<thead>
<tr>
<th>4. Served To</th>
<th>5. Operator</th>
</tr>
</thead>
<tbody>
<tr>
<td>By Certified Mail</td>
<td>Performance Coal Company</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th></th>
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<tbody>
<tr>
<td>Upper Big Branch Mine - South</td>
<td>4-6-08436</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>8. Extended To</th>
<th>9. Type of Inspection</th>
</tr>
</thead>
<tbody>
<tr>
<td>A.Date</td>
<td>T 02</td>
</tr>
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<table>
<thead>
<tr>
<th>10. Event Number</th>
<th>11. Signature</th>
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<tbody>
<tr>
<td>9-83-2648</td>
<td>MSHA Form 7000-3a, Mar 85 (revised)</td>
</tr>
</tbody>
</table>
The fire suppression system (sprinkler) on the #4 North Mains belt drive is not operating as required by regulation. When tested, the walk side near the belt drive head would not de-energize the drive motors when water flowed through the system.
The fire suppression flow switch has been replaced and tested.
## Mine Citation/Order

### Continuation

<table>
<thead>
<tr>
<th>Section I – Subsequent Action/Continuation Data</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1.</strong> Subsequent Action To, Continuation</td>
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<tr>
<td>✔</td>
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<table>
<thead>
<tr>
<th><strong>4.</strong> Served To</th>
<th><strong>5.</strong> Operator</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rick Nacola (maintenance foreman)</td>
<td>PERFORMANCE COAL COMPANY</td>
</tr>
<tr>
<td><strong>6.</strong> Mine</td>
<td><strong>7.</strong> Mine ID</td>
</tr>
<tr>
<td>UPPER BIG BRANCH MINE-SOUTH</td>
<td><strong>46-08436</strong></td>
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<table>
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<tr>
<th>Change</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>9. C. Part/Section</strong></td>
<td><strong>75.523-3(h)(3)</strong></td>
<td><strong>75.1101-10</strong></td>
</tr>
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<table>
<thead>
<tr>
<th>Reason</th>
<th>Incorrect 30 CFR used</th>
</tr>
</thead>
</table>

Incorrect 30 CFR used

---

### Section II – Justification for Action

---

### Section III – Subsequent Action Taken

<table>
<thead>
<tr>
<th><strong>8.</strong> Extended To</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A.</strong> Date</td>
</tr>
<tr>
<td>Mo Da Yr</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>C.</strong> Vacated</th>
<th><strong>D.</strong> Terminated</th>
<th><strong>E.</strong> Modified</th>
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</thead>
</table>

### Section IV – Inspection Data

<table>
<thead>
<tr>
<th><strong>9.</strong> Type of Inspection</th>
<th><strong>10.</strong> Event Number</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>E01</strong></td>
<td><strong>41717121</strong></td>
</tr>
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</table>

<table>
<thead>
<tr>
<th><strong>AR Number</strong></th>
<th><strong>12.</strong> Date</th>
<th><strong>13.</strong> Time (24 Hr. Clock)</th>
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<tbody>
<tr>
<td><strong>23644</strong></td>
<td><strong>04/17/2007</strong></td>
<td><strong>1450</strong></td>
</tr>
</tbody>
</table>

---

See Continuation Form

---

MSHA Form 7000-3a, Mar 95 (revised)
**Mine Citation/Order**

**Section I—Violation Data**

1. Date       Mo Da Yr  04/16/2007
2. Time (24 Hr. Clock)  1103
3. Citation/Order Number  7268764

4. Served To
Rick Nicolau, (maintenance chief)

5. Operator
PERFORMANCE COAL COMPANY

6. Mine
UPPER BIG BRANCH MINE-SOUTH

7. Mine ID
46-08436

8. Condition or Practice
9a. Written Notice (103g)  

**Violation & Condition**

Float coal dust was present in the belt starter box (s.n.22037-2300-1105 AEEI) in service at the #4 North Mains belt drive. The dust was also on the energized components.

---

**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) (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 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)

   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

---

**Section III—Termination Action**

16. Termination Due
   A. Date  Mo Da Yr  04/17/2007
   B. Time (24 Hr. Clock)  0800

17. Action to Terminate

---

**Section IV—Automated System Data**

19. Type of Inspection
    (activity code)  F01

20. Event Number
    4117121

21. Primary or Mill

23. AR Number  23644

---

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 coal dust was cleaned from the inside of the starter box and the components...
Mine Citation/Order

Section I--Violation Data

1. Date Mo Da Yr 04/16/2007
2. Time (24 Hr. Clock) 1412
3. Citation/Order Number 7268765

4. Served To
Rick Nicolau, (maintenance chief)

5. Operator PERFORMANCE COAL COMPANY

6. Mine
UPPER BIG BRANCH MINE-SOUTH

7. Mine ID 46-08436

8. Condition or Practice
The CLA Fork Lift, Model LT 4040, (Ser.No. 152) located on the No 8 Glory hole belt is not being maintained as required by regulation. When tested on an incline, the automatic emergency parking brake would not hold the fork lift stationary.

Section II--Inspector's Evaluation

9. Violation
A. Health ☑ Safety ☐ Other ☐
B. Section of Act ☐
C. Part/Section of Title 30 CFR 75.523-3(b)(3)

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: 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 ☐
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 04/16/2007
B. Time (24 Hr. Clock) 1430

Section III--Termination Action

17. Action to Terminate
The parking brake was adjusted and the forklift now holds stationary on an incline.

18. Terminated
A. Date Mo Da Yr 04/16/2007
B. Time (24 Hr. Clock) 1435

Section IV--Automated System Data

19. Type of Inspection (activity code) E01
20. Event Number 4117121
21. Primary or Mill

22. Signature [Redacted]
23. AR Number 23644

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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  04/30/2007
2. Time (24 Hr. Clock)  1105
3. Citation/Order Number  7268766

4. Served To
Virgil Bowman, Electrician Foreman

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

7. Mine ID  46-08436

8. Condition or Practice

Less than 50 fpm of air is being provided along the No. 7 beltline where the carbon monoxide sensors are spaced at 1000 ft intervals. 30 CFR states that where less than 50 fpm of air is provided along belt entries that carbon monoxide sensors shall be placed at 350 ft intervals.

Section II-Inspector's Evaluation

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

B. Section of Act

C. Part/Section of Title 30 CFR  75.351(e)(3)

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: 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

Section III-Termination Action

16. Termination Due
A. Date  Mo Da Yr  05/01/2007
B. Time (24 Hr. Clock)  0800

17. Action to Terminate

Section IV-Automated System Data

19. Type of Inspection (activity code)  E01
20. Event Number  4117121
21. Primary or Mill

22. Signature

23. AR Number  23644

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Mine Citation/Order

Continuation

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

<table>
<thead>
<tr>
<th>Section I—Subsequent Action/Continuation Data</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Subsequent Action Ta. Continuation</td>
</tr>
<tr>
<td>[ ]</td>
</tr>
</tbody>
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<table>
<thead>
<tr>
<th>4. Served To</th>
<th>5. Operator</th>
</tr>
</thead>
<tbody>
<tr>
<td>Virgil Bowman, Electrician Foreman</td>
<td>PERFORMANCE COAL COMPANY</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>6. Mine</th>
<th>7. Mine ID</th>
<th>(Contractor)</th>
</tr>
</thead>
<tbody>
<tr>
<td>UPPER BIG BRANCH MINE-SOUTH</td>
<td>46-08436</td>
<td></td>
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</table>

Work is being performed on the belt air and a revision has been submitted to MSHA, therefore an extension is granted.

See Continuation Form

Section III—Subsequent Action Taken

<table>
<thead>
<tr>
<th>8. Extended To</th>
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<tr>
<td>A. Date</td>
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<td>05/04/2007</td>
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Section IV—Inspection Data

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<tr>
<td>B01</td>
<td>4117121</td>
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</tbody>
</table>

AR Number 12. Date Mo Da Yr 13. Time (24 Hr. Clock)
23644 04/30/2007 1105

MSHA Form 7000-3a, Mar 85 (revised)
Work is being performed to get sufficient air as required but additional time is needed.
Repairs are being made to the ventilation system to correct the problem; therefore, additional time is granted.
The velocity now measures as required; therefore, the citation is terminated.
Mine Citation/Order

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

Section I--Violation Data

1. Date: 04/17/2007
2. Time (24 Hr. Clock): 1425
3. Citation/Order Number: 7268767

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:

The weekly examination has not been performed every 7 days as required for the #2 section (040/041 MMU) in that the airways were examined 03/20/2007 and again on 04/09/2007. The examiner was on his way to make the airways on 04/17/2007. This was observed on the date board in the left return and in the weekly book.

9. Violation

A. Health Safety [ ] Other [ ]

B. Section of Act

C. Part/Section of Title 30 CFR

D. Written Notice (103g) [ ]

E. Citation/Order Number

F. Dated Mo Da Yr 23644

10. Gravity:

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

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

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

D. Number of Persons Affected: 009

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 II--Inspector's Evaluation

16. Termination Due

A. Date: 04/18/2007
B. Time (24 Hr. Clock): 0800

Section III--Termination Action

17. Action to Terminate

Section IV--Automated System Data

18. Terminated

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

19. Type of Inspection

(activity code)

B01

20. Event Number: 4117121

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, 400 3rd Street, SW MC 2120, Washington, DC 20410. 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 Continuation**

**U.S. Department of Labor**

**Mine Safety and Health Administration**

<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>04/17/2007</td>
<td>7268767 - 01</td>
</tr>
</tbody>
</table>

**4. Served To**

Bennie Presley, Fireboss

**5. Operator**

PERFORMANCE COAL COMPANY

**6. Mine**

UPPER BIG BRANCH MINE-SOUTH

**7. Mine ID**

46-08436

**Reason**
The weekly examination has not been performed every 7 days as required for the #2 section (040/041 MMU) in that the airways were examined 3/20/2007, 3/28/07, 4/2/07, and 4/9/07. The examiner was on his way to make the airways on 4/27/2007. This was observed on the date board in the left return and in the weekly book.

To add the dates 3/28/07 and 4/2/07 to the violation.

**See Continuation Form**
The weekly requirements have been discussed with the mine examiners and management, the cited area has been examined and recorded per records, and a weekly examiner has been accompanied on his travel; therefore, the citation is terminated.
The right miner on the #2 section has an oil leak behind the main control compartment causing an accumulation of coal and oil on cables and equipment therein.
The accumulations on the Rt. Miner were removed.
The methane detectors in use at this mine have not been calibrated every 31 days as required. Only 2 were calibrated in February and 3 in March per records. Detector 024 was calibrated 1/29/07 and again on 4/12/07 per records. This mine is on a 15-day methane spot inspection schedule.
31 methane and multi-gas detectors have been calibrated.
The #6 beltline is not being maintained in a safe condition for travel. Both left corner ribs of the intersection at No. 101 breakthrough are broken with obvious cracks and separation in excess of two feet in length and eighteen inches in height and twelve inches thick. Miners walking in this area would be exposed to this violative condition.
The rock has been pulled from the cited area.
Mine Citation/Order

Section I--Violation Data
1. Date Mo Da Yr 04/30/2007
2. Time (24 Hr. Clock) 1220
3. Citation/Order Number 7268771

4. Served To
Virgil Bowman, Electrician Foreman

5. Operator PERFORMANCE COAL COMPANY

6. Mine
UPPER BIG BRANCH MINE-SOUTH

7. Mine ID 46-08436 (Contractor)

8. Condition or Practice
Less than 50 fpm of air is being provided along the No.5 beltline where the carbon monoxide sensors are spaced at 1000 ft intervals. 30 CFR states that where less than 50 fpm of air is provided along belt entries that carbon monoxide sensors shall be placed at 350 ft intervals.

Section II--Inspector's Evaluation
9. Violation
A. Health [ ] Safety [X] Other [ ]

B. Section of Act
C. Part/Section of Title 30 CFR 75.351(e)(3)

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 [X] Permanently Disabling [ ] Fatal [ ]

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

D. Number of Persons Affected: 001

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

12. Initial Action
104(a)

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

14. Type of 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 05/01/2007
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 4117121
21. Primary or Mill
22. Signature

MSHA Form 7000-3, Mar 85 (revised) In accordance with the principles of the Federal Business Regulatory Enforcement Fairness Act of 1999, 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, 499 3rd Street, SW MC 2120, Washington, DC 20410. 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.
Work is being performed to correct the belt ventilation and a revision has been submitted to MSHA.
Work is being performed to get sufficient air as required but additional time is needed.
Repairs are being made to the ventilation system to correct the problem; therefore, additional time is granted.

1. Subsequent Action 1a. Continuation
   G
   2. Dated (Original Issue) 04/30/2007
   3. Citation/Order Number 7268771 - 03
   4. Served To
      Rick Hodge, Superintendent
   5. Operator
      PERFORMANCE COAL COMPANY
   6. Mine
      UPPER BIG BRANCH MINE-SOUTH
   7. Mine ID
      46-08436
   8. Type of Inspection
      E01
   9. Event Number
      4117121
   10. AR Number
      23644
   11. Date
      05/16/2007
   12. Time (24 Hr. Clock)
      07:35
The velocity now measures as required; therefore, the citation is terminated.
Mine Citation/Order

Section I--Violation Date
1. Date Mo Da Yr 04/30/2007  2. Time (24 Hr. Clock) 11:25  3. Citation/Order Number 7268772

4. Served To
Harley Taylor, Fireboss

5. Operator
PERFORMANCE COAL COMPANY

6. Mine
UPPER BIG BRANCH MINE-SOUTH

7. Mine ID 46-08436 (Contractor)

The top is not being adequately supported in the area of 76-80 brks. In the main intake on the way to North Mains (idle section). The top has fallen out from around numerous bolts and timbers set previously have fallen down.

9. Violation
A. Health ☑ Safety ☐ Other ☐

Section II--Inspector's Evaluation
10. Gravity:
A. Injury or illness (has) ☑ (e): 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

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 05/01/2007

15. Area or Equipment

16. Termination Due
A. Date Mo Da Yr 05/01/2007  B. Time (24 Hr. Clock) 0800

17. Action to Terminate

18. Terminated
A. Date Mo Da Yr 05/01/2007  B. Time (24 Hr. Clock) 0800

Section IV--Automated System Data
19. Type of Inspection (activity) ☑

20. Event Number 4117121

21. Primary or Mill

22. Signatures

23. AR Number 23644

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.
Work is being performed in the area and an extension is granted.
The breaks 76-80 have had the rock fall from around the bolts in numerous locations but new timbers have been installed which now supports the roof; therefore, the citation is terminated.
The top between #5 and #6 entries at 48 and 49 break in the Main Intake is not being adequately supported in that the top has fallen out from around all the bolts for over half the length of the block in each break, leaving the area unsupported. This is the primary escapeway for the LBB section.
Each breakthrough was timbered off and marked with danger boards.
The top is not being adequately supported in the area of 49-50 break in the main intake. Five bolts have the draw rock fallen out from around them in the intersection of 50 brk and more are in this condition to the outby end of 49 break. This is the primary escapeway for the LBB section.
Mine Citation/Order Continuation

<table>
<thead>
<tr>
<th>Section I—Subsequent Action/Continuation Data</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1. Subsequent Action</strong></td>
</tr>
<tr>
<td>[✓]</td>
</tr>
</tbody>
</table>

| **4. Served To** | **5. Operator** |
| Harley Taylor, Fireboss | PERFORMANCE COAL COMPANY |

| **6. Mine** | **7. Mine ID** |
| UPPER BIG BRANCH MINE-SOUTH | 46-08436 |

---

**Work is being performed in the area and additional time is needed. An extension is granted.**

---

**Section III—Subsequent Action Taken**

<table>
<thead>
<tr>
<th><strong>8. Extended To</strong></th>
<th><strong>B. Time (24 Hr. Clock)</strong></th>
<th><strong>C. Vacated</strong></th>
<th><strong>D. Terminated</strong></th>
<th><strong>E. Modified</strong></th>
</tr>
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<tbody>
<tr>
<td><strong>A. Date</strong></td>
<td><strong>05/02/2007</strong></td>
<td><strong>0800</strong></td>
<td><strong>☐</strong></td>
<td><strong>☐</strong></td>
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</table>

**Section IV—Inspection Data**

<table>
<thead>
<tr>
<th><strong>9. Type of Inspection</strong></th>
<th><strong>10. Event Number</strong></th>
<th><strong>11. AR Number</strong></th>
<th><strong>12. Date</strong></th>
<th><strong>13. Time (24 Hr. Clock)</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>E01</td>
<td>4117121</td>
<td>23644</td>
<td>04/30/2007</td>
<td>1215</td>
</tr>
</tbody>
</table>
The bolts have had the rock fall out from around them but timbers have been set to support the roof in the airway; therefore, the citation is terminated.
A change in the ventilation system was made without the District Manager's approval. The North Mains return and intake was switched without approval.
An annual map showing changes to the ventilation system has been submitted on the annual review received 4/30/07 from the operator. Additional time is granted for the review and approval process of the annual map.
The ventilation department has not completed the annual review; therefore, additional time is granted.
Additonal time is granted to allow the Ventilation Department to review the plan.
**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>
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<tbody>
<tr>
<td>✓</td>
<td></td>
<td>Mo Da Yr 05/08/2007</td>
<td>7268775 - 04</td>
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<table>
<thead>
<tr>
<th>4. Served To</th>
<th>5. Operator</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rick Hodge, Superintendent</td>
<td>PERFORMANCE COAL COMPANY</td>
</tr>
</tbody>
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<tbody>
<tr>
<td>UPPER BIG BRANCH MINE-SOUTH</td>
<td>46-08436</td>
</tr>
</tbody>
</table>

**Section II—Justification for Action**

Ventilation is still reviewing the map, therefore additional time is granted.

---

**Section III—Subsequent Action Taken**

- **Extended To:**
  - A. Date: 07/02/2007
  - B. Time (24 Hr. Clock): 0900

**Section IV—Inspection Data**

- **Type of Inspection:** E01
- **Event Number:** 4117121

<table>
<thead>
<tr>
<th>AR Number</th>
<th>12. Date</th>
<th>13. Time (24 Hr. Clock)</th>
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</thead>
<tbody>
<tr>
<td>23644</td>
<td>06/25/2007</td>
<td>1650</td>
</tr>
</tbody>
</table>
The ventilation department is still reviewing the plan; therefore, additional time is granted.
The plan has been received and approved by the district manager; therefore, the citation is terminated.
The No. 1 Scoop is not being maintained in a safe operating condition. When tested the automatic emergency parking brake would not bring the machine to a complete stop. When tested on a grade the automatic emergency parking brake would not hold the machine. The machine was removed from service until repairs were made.

**Section I-Violation Data**

<table>
<thead>
<tr>
<th>1. Date</th>
<th>Mo Da Yr</th>
<th>05/01/2007</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. Time (24 Hr. Clock)</td>
<td>1030</td>
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<tr>
<td>3. Citation/Order Number</td>
<td>7268776</td>
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</tr>
</tbody>
</table>

**4. Served To**

Mike Burke (Block 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) [ ]

**9. Violation**

A. Health [ ] Safety [ ] Other [ ]

B. Section of Act

C. Part/Section of Title 30 CFR

75.523-3(b)(1)

**Section II-Inspector's Evaluation**

**10. Gravity:**

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

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

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

D. Number of Persons Affected: 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 | 05/01/2007 |
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td>B. Time (24 Hr. Clock)</td>
<td>1400</td>
<td></td>
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</table>

**Section III-Termination Action**

**17. Action to Terminate**

The automatic emergency parking brake was replaced by an agent of the operator.

**18. Terminated**

A. Date | Mo Da Yr | 05/01/2007 |
<table>
<thead>
<tr>
<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td>B. Time (24 Hr. Clock)</td>
<td>1314</td>
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</table>

**Section IV-Automated System Data**

**19. Type of Inspection (activity code)**

E01

**20. Event Number**

4117121

**21. Primary or Mill**

**22. Signature**

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

**Note:**

MSHA Form 7000-3, Mar 95 (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, NC 2129, 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.
Three permanent splices on the No. 2 shuttle car (sn.ET17056) are not effectively insulated or sealed against moisture. Two of the splices are showing all three of the insulated inner conductors. One other splice had two insulated conductors exposed and the red conductor in the same splice was exposing 480 volts AC power.
Mine Citation/Order  

```
Mine Citation/Order

Section I—Violation Data
1. Date Mo Da Yr  05/01/2007
2. Time (24 Hr. Clock)  1145
3. Citation/Order Number  7268778

4. Served To
Mike Burke (Block Superintendent)

5. Operator PERFORMANCE COAL COMPANY

6. Mine
UPPER BIG BRANCH MINE-SOUTH

7. Mine ID  46-08436

8. Condition or Practice
The right miner on the 041-0 mmu No. 2 section did not follow the approved methane dust control plan. The left side vertical spray block sprays are plugged with pipe plugs. The plan requires these sprays to be operating while loading. The correct number of sprays were present on the miner and the pressure was correct, but the spray configuration is incorrect.

9. Violation

A. Health  
B. Section of Act  
C. Part/Section of Title 30 CFR

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:  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

16. Termination Due

A. Date Mo Da Yr  05/07/2007
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  4117121

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, MO 2120, Washington, DC 20410. 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.

See Continuation Form (MSHA Form 7000-3a)  

4. Served To  
5. Operator  
6. Mine  
7. Mine ID  
8. Condition or Practice  
9. Violation  
A. Health  
B. Section of Act  
C. Part/Section of Title 30 CFR  
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:  001
11. Negligence (check one)  
   A. None  
   B. Low  
   C. Moderate  
   D. High  
   E. Reckless Disregard
   F. Initial Action (check one)  
   A. Citation  
   B. Order  
   C. Safeguard  
   D. Written Notice  
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  05/07/2007
   B. Time (24 Hr. Clock)  0800
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  4117121
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, MO 2120, Washington, DC 20410. 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 sprays are now located as required by the newly approved methane and dust control plan.
The methane dust control plan for the 040-0 mmu No. 2 section left continuous miner is not being complied with as required. There are 49 working sprays with 75 psi delivered, but the spray configuration does not match the methane/dust control plan.
The sprays are now located as required by the newly approved methane and dust control plan.
The take up roller and belt is running over and against an accumulation of wet to damp coal on No. 2 section No. 1 belt.
The accumulations have been removed from the cited area.
Mine Citation/Order

Section I - Violation Data
1. Date Mo Da Yr 05/08/2007 2. Time (24 Hr. Clock) 1215 3. Citation/Order Number 7268781

4. Served To
Mike Burke (Block Superintendent)

5. Operator PERFORMANCE COAL COMPANY

6. Mine UPPPER BIG BRANCH MINE-SOUTH

7. Mine ID 46-08436 (Contractor)

Only 7,168 cubic feet of air per minute could be measured in the last open break 2-1 on the No. 2 section 040-0 MMU.

9. Violation A. Health Safety

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: 002

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 05/08/2007 B. Time (24 Hr. Clock) 1230

17. Action to Terminate Adjustments were made to the ventilation controls and 16,380 cfm could be measured.

18. Terminated A. Date Mo Da Yr 05/08/2007 B. Time (24 Hr. Clock) 1224

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 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.
There are 3 open breaks located in the No. 2 section 040 MMU 2-1. The third stopping had been stacked but had not been plastered.
There are 3 open breaks located in the No. 2 section 041 MMU 6-7. The 2nd break did not have a ventilation control present and the 3rd break had a stopping which had been stacked but had not been plastered (SS 21267).

The stopping was completed and the missing curtain installed.
Mine Citation/Order

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

Section I—Violation Data

<table>
<thead>
<tr>
<th>1. Date</th>
<th>2. Time (24 Hr. Clock)</th>
<th>3. Citation/Order Number</th>
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<td>Mo Da Yr</td>
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<td>7268784</td>
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<tr>
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</table>

4. Served To
Tom Sheets, Electrician

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 takeup roller and belt is running on and against accumulations of wet to damp coal and mud on the No. 2 LBB belt.

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 [ ] Lost Workdays Or Restricted Duty [X] Permanently Disabling [ ] Fatal [ ]
C. Significant and Substantial: Yes [ ] No [X]
D. Number of Persons Affected: 10

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 [X] B. Order [ ] C. Safeguard [ ] D. Written Notice [ ]

15. Area or Equipment

16. Termination Due
A. Date       | 2. Time (24 Hr. Clock) |
<table>
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<th></th>
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</tr>
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<tbody>
<tr>
<td>Mo Da Yr</td>
<td>05/09/2007</td>
</tr>
</tbody>
</table>

Section III—Termination Action

17. Action to Terminate

Section IV—Automated System Data

19. Type of Inspection (activity code)

20. Event Number
4117121

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 accumulations have been removed from the cited area.
The smoking program is not being followed in that: No. 2 section owl shift is searching in a pattern 4/23, 4/30 and 5/7; Outby Owl searched in pattern 4/12, 4/19 and 4/26; No. 1 section day shift did not perform and/or record search for week of 4/1; and No. 1 section Owl shift did not perform and/or record search for week of 4/1.

Sea Continuation Form (MSHA Form 7000-3a)
The smoking program has now been discussed with all foreman; therefore, the citation is terminated.
Float coal dust was present mainly on the offside of the 1 North belt beginning at the tail and extending outby to 45 break, a distance of approximately 850 feet. The float dust was deposited on rock dusted surfaces and damp on nature.
Additional rock dust has been applied to the cited area rendering the float coal dust inert.
Mine Citation/Order

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

Section I—Violation Data

<table>
<thead>
<tr>
<th>1. Date</th>
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<th>05/14/2007</th>
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<tr>
<td>2. Time (24 Hr. Clock)</td>
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<td></td>
</tr>
<tr>
<td>3. Citation/Order Number</td>
<td>7268787</td>
<td></td>
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</table>

4. Served To:
Bill Harless, Mine Foreman

6. Operator:
PERFORMANCE COAL COMPANY

8. Mine:
UPPER BIG BRANCH MINE-SOUTH

Condition or Practice:
The left reverse light on the Caterpillar 966 loader, PIN 1SL01272, was inoperative when examined.

Section II—Inspector’s Evaluation

<table>
<thead>
<tr>
<th>9. Violation</th>
<th>A. Health Safety [✓]</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>77.1605(d)</td>
</tr>
</tbody>
</table>

10. Gravity:
A. Injury or Illness (has) (is):
- 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

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 Da Yr
05/14/2007
B. Time (24 Hr. Clock): 1300

Section III—Termination Action

17. Action to Terminate:
The light has been replaced.

18. Terminated
A. Date: Mo Da Yr
05/14/2007
B. Time (24 Hr. Clock): 14:22

Section IV—Automated System Data

19. Type of Inspection (activity code): E01
20. Event Number: 4117121
21. Primary or Mill

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 (1-888-734-3347), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW, 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 1 North belt switch at break 47 was turned off to shut the beltline down. The belt activated overriding the belt switch and starting the belt.
The roof is not adequately supported on the 1 North belt at break 45. The roof has fallen out from around approximately 15 bolts exposing up to 18 inches of bolt leaving the plates not adequately installed against the roof. At break 48, bolts have broken off on the offside of the belt leaving the area inadequately supported.
Break 45 has been dangered off preventing travel thru the area and break 48 has had additional support installed; therefore, the citation is terminated.
Mine Citation/Order

Section I—Violation Data

1. Date: 05/21/2007
2. Time (24 Hr. Clock): 0236
3. Citation/Order Number: 7268790
4. Served To: Earl Roles, Outby Maintenance Chief
5. Operator: PERFORMANCE COAL COMPANY
6. Mine: UPPER BIG BRANCH MINE-SOUTH
7. Mine ID: 46-08436
8. Condition or Practice: Float coal dust was present in the LBB No. 1 belt box on the structure and on energized components. This mine is a 103(i) spot inspection mine.

Section III—Termination Action

16. Termination Date: 05/21/2007
17. Action to Terminate: The accumulations were removed from the belt starter box.

Section IV—Automated System Data

19. Type of Inspection: E01
20. Event Number: 4117121
21. Primary or Minor Survey:
22. Signature:
23. AR Number: 23644

MSHA Form 7000-3a, 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 water supplied for the fire suppression system at the LBB No. 2 head was turned off on the outby Lil' Snappy valve.

Section III—Termination Action

The water was turned back on restoring coverage.
The carbon monoxide sensor No. 114 located at LBB No. 4 tail (No. 1 section) was last calibrated 41 days ago per the sensor and read 55 parts per million when tested.
The doors at Plumley Switch were both open with no one traveling thru either when observed.

<table>
<thead>
<tr>
<th>Section I - Violation Data</th>
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<tbody>
<tr>
<td>Date</td>
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<tr>
<td>05/21/2007</td>
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<table>
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<tr>
<th>Section II - Inspector's Evaluation</th>
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<tbody>
<tr>
<td>Violation</td>
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<tr>
<td>Safety</td>
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<table>
<thead>
<tr>
<th>Section III - Termination Action</th>
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<tbody>
<tr>
<td>Action to Terminate</td>
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</table>

<table>
<thead>
<tr>
<th>Section IV - Automated System Data</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type of Inspection (activity code)</td>
</tr>
<tr>
<td>Event Number</td>
</tr>
<tr>
<td>Primary or Mill</td>
</tr>
<tr>
<td>AR Number</td>
</tr>
</tbody>
</table>
The telephone supplied for the No. 1 section (029-030) does not activate a visual or audible alarm when activated by the dispatcher. The telephone will communicate from surface to the section.
The audible or visual alarm for the communication system of the MMU 029-0, 030-0, Section has been repaired and working properly when activated by the dispatcher at this time.
Mine Citation/Order

Mine Safety and Health Administration

1. Date Mo Da Yr 05/22/2007
2. Time (24 Hr. Clock) 1146
3. Citation/Order Number 7268795
4. Served To Charles Semenske, Fireboss
5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH (Contractor)
7. Mine ID 46-08436
8. Condition or Practice
9. Violation A. Health Safety ✓ Other
10. Section of Act
11. Part/Section of Title 30 CFR 75.400
12. Type of Action 104(a)
13. Type of Issuance (check one) Citation ✓ Order ¶ Safeguard ¶
14. Initial Action
15. Area or Equipment
16. Termination Due A. Date Mo Da Yr 05/23/2007
B. Time (24 Hr. Clock) 0800
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 4117121
21. Primary or Mill
22. Signature

Coal and coal fines were allowed to accumulate around the snub roller of the #3 belt tail. The off-side bearing is hot to the bare hand touch surrounded by combustible material. The coal is 14" deep and 9' long. 0.2% CH4 and 20.8% O2 was present. Also, there were approximately 46 rollers turning in or rubbing against coal accumulations wet to damp in nature. The belt is 3100 feet in length.
The roller was cleared on 5/22/07 and the accumulations have now been removed from the rollers; therefore, the citation is terminated.
Mine Citation/Order

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

Section I-Violation Data

1. Date: 05/22/2007
2. Time (24 Hr. Clock): 1130
3. Citation/Order Number: 7268796
4. Served To: Charles Semenske, Fireboss
5. Operator: PERFORMANCE COAL COMPANY
6. Mine: UPPER BIG BRANCH MINE-SOUTH
7. Mine ID: 46-08436
8. Condition or Practice:

The intake air split for the #1 section (primary escape way) can not be traveled in its entirety due to water over 18" deep, rib to rib, approximately 100' long at 65 break to 66 break.

Section II-Inspector's Evaluation

10. Gravity:
   A. Injury or Illness (has) (is): No Likelihood [ ]
   B. Injury or Illness could reasonably be expected to be:
   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)
   A. Citation [ ]
   B. Order [ ]
   C. 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: 05/24/2007
   B. Time (24 Hr. Clock): 0900

17. Action to Terminate

Section IV-Automated System Data

19. Type of Inspection (activity code): B01
20. Event Number: 4117121
21. Primary or Mill

22. Signature: [Redacted]
23. AR Number: 23644

See Continuation Form (MSHA Form 7000-3a) [ ]
The water has been over 18" deep per evidence but the area is now passable in the intake; therefore, the citation is terminated.
The transformer for the LBB #4 belt (SN# 8255-500-795) is not being maintained in a safe condition. A door on the side of the box measuring 2" by 2" could be easily opened and expose holes measuring 5" by 5" and 3" by 3" which would allow access to energized components.
The trailing cable for the No. 3 shuttle car, ET17505, operated in No. 1 section 030-0 MMU was set on 1500 amps with a No. 2 cable. The maximum allowed is 800 amps.
The centerline for the left return on No. 1 section at Survey Station 21307 is located in the left rib showing the mining projections are not being followed.
The mining projections have been discussed with the continuous mining machine operators on this section and the centerline is now accurate; therefore, the citation is terminated.
Mine Citation/Order 05/22/2007

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

Section I - Violation Data

1. Date Mo Da Yr 05/22/2007
2. Time (24 Hr. Clock) 1105
3. Citation/Order Number 7268800
4. Served To
Rick Niculau, (maintenance chief)
5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH
7. Mine ID 46-08436 (Contractor)
8. Condition or Practice
Only 2,712 cubic feet of air could be measured in the 4 Right crosscut where the roof bolter was operating.

9. Violation A. Health [ ] Safety [x] 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 [x] Permanently Disabling [ ] Fatal [ ]
C. Significant and Substantial: Yes [x] No [ ]
D. Number of Persons Affected: 002

11. Negligence (check one)
A. None [ ] B. Low [x] C. Moderate [ ] 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 [ ]

15. Area or Equipment

16. Termination Due
A. Date Mo Da Yr 05/22/2007
B. Time (24 Hr. Clock) 1120

Section III - Termination Action

17. Action to Terminate Adjustments were made to the ventilation system and 4,572 could be measured.

18. Terminated
A. Date Mo Da Yr 05/22/2007
B. Time (24 Hr. Clock) 1109

Section IV - Automated System Data

19. Type of Inspection (activity code) E01
20. Event Number 4117121
21. Primary or Mill
22. Signature

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The intake near No.1 section (opposite spad no. 2120 in the left return) was not travelable, in that water was allowed to accumulate over 18'' deep for a distance of 100'. This is the primary escapeway.

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

9. Violation  
A. Health ☑ Safety ☐ Other ☐  
B. Section of Act  
C. Part/Section of Title 30 CFR 75.364(b)(5)

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 Disable ☐[Redacted] ☐ Fatal ☐[Redacted] ☐  
C. Significant and Substantial: Yes ☑ No ☐[Redacted] ☐ D. Number of Persons Affected: 009  

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 of Equipment  

16. Termination Due  
A. Date Mo Da Yr 05/29/2007  
B. Time (24 Hr. Clock) 1200

17. Action to Terminate  
The water was pumped and the area is now passable.

18. Terminated  
A. Date Mo Da Yr 05/29/2007  
B. Time (24 Hr. Clock) 1350

19. Type of inspection (activity code) ☐[Redacted]  
20. Event Number 4117121  
21. Primary or Mill  
22. Signature ☐[Redacted]  
23. AR Number 23644
The roof control plan was not being followed, in that three sets of dates, times, and initials were present in the second complete row of bolts outby the No. 5 face on No. 1 section (030 MMU).
The firebosses have been talked to concerning going in by support and location.
**Mine Citation/Order**

**U.S. Department of Labor**

**Mine Safety and Health Administration**

<table>
<thead>
<tr>
<th>Section I - Violation Data</th>
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<td><strong>2. Time (24 Hr. Clock)</strong></td>
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<tr>
<td><strong>3. Citation/Order Number</strong></td>
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<thead>
<tr>
<th><strong>4. Served To</strong></th>
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</thead>
<tbody>
<tr>
<td>Bennie Presley, Block Superintendent</td>
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<table>
<thead>
<tr>
<th><strong>6. Mine</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>UPPER BIG BRANCH MINE-SOUTH</td>
</tr>
</tbody>
</table>

**Operator**

PERFORMANCE COAL COMPANY

**(Contractor)**

**8. Condition or Practice**

The Fairchild scoop T339-136 used on the No. 1 section 029/030 MMU had an inoperative lock on the batteries in that the lock handle was broken off. The lock was not lowered to allow the battery plug to lock.

<table>
<thead>
<tr>
<th><strong>9. Violation</strong></th>
<th><strong>A. Health Safety</strong></th>
<th><strong>B. Section of Act</strong></th>
<th><strong>C. Part/Section of Title 30 CFR</strong></th>
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**Section II - Inspector's Evaluation**

**10. Gravity:**

<table>
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<tr>
<th><strong>A. Injury or Illness (has) (is):</strong></th>
<th>No Likelihood</th>
<th>Unlikely</th>
<th>Reasonably Likely</th>
<th>Highly Likely</th>
<th>Occurred</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B. Injury or illness could reasonably be expected to be:</strong></td>
<td>No Lost Workdays</td>
<td>Lost Workdays Or Restricted Duty</td>
<td>Permanently Disabling</td>
<td>Deadly</td>
<td></td>
</tr>
<tr>
<td><strong>C. Significant and Substantial:</strong></td>
<td>Yes</td>
<td>No</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>D. Number of Persons Affected:</strong></td>
<td>009</td>
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**11. Negligence (check one)**

<table>
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<tr>
<th><strong>A. None</strong></th>
<th><strong>B. Low</strong></th>
<th><strong>C. Moderate</strong></th>
<th><strong>D. High</strong></th>
<th><strong>E. Reckless Disregard</strong></th>
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**12. Type of Action**

104(a)

**13. Type of Issuance (check one)**

<table>
<thead>
<tr>
<th><strong>Citation</strong></th>
<th><strong>Order</strong></th>
<th><strong>Safeguard</strong></th>
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**14. Initial Action**

<table>
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<tr>
<th><strong>A. Citation</strong></th>
<th><strong>B. Order</strong></th>
<th><strong>C. Safeguard</strong></th>
<th><strong>D. Written Notice</strong></th>
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**15. Area or Equipment**

**16. Termination Due**

<table>
<thead>
<tr>
<th><strong>A. Date</strong></th>
<th><strong>Mo Da Yr</strong></th>
<th><strong>05/30/2007</strong></th>
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<tbody>
<tr>
<td><strong>B. Time (24 Hr. Clock)</strong></td>
<td><strong>1215</strong></td>
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</table>

**Section III - Termination Action**

**17. Action to Terminate**

A new lock was installed.

<table>
<thead>
<tr>
<th><strong>18. Terminated</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A. Date</strong></td>
</tr>
<tr>
<td><strong>B. Time (24 Hr. Clock)</strong></td>
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</table>

**Section IV - Automated System Data**

| **19. Type of Inspection (activity code)** | **E01** |
| **20. Event Number** | **4117121** |

**21. Primary or Minor**

**22. Signature**

**23. AR Number**

23644

MSHA Form 7000-3, Mar 95 (revised) In accordance with the business operations Business Regulatory Enforcement Fairness Act of 1998, 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.
An opening in excess of .007 inches was found on the cable reel collector ring of the middle shuttle car, ET17504, operated on the No. 1 section 029/030 MMU.
The pump cable for the 110 volt energized pump at break No.126 was not maintained in a permissible condition in that the cable was not completely hung on insulators and was in contact with the rib and wooden rib boards at break No.129.
The cable has now been hung on insulators.
The break No.102 has about 20' long where the rib has rolled leaving about 12' of top unsupported. There are indications from tracks and a dated fireboss board that the fireboss had recently traveled through the area.
Timbers were installed at the cited area.
Mine Citation/Order

1. Date: 06/04/2007
2. Time (24 Hr. Clock): 1342
3. Citation/Order Number: 7268807

4. Served To: Bennie Presley, Block Superintendent
5. Mine: UPPER BIG BRANCH MINE-SOUTH
6. Mine ID: 46-08436 (Contractor)
7. Operator: PERFORMANCE COAL COMPANY

The man trip #7 has four inoperative sanders. This vehicle was taken underground this a.m.

---

### Section I - Violation Data

<table>
<thead>
<tr>
<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></td>
<td></td>
<td>75.1403-6(b)(3)</td>
</tr>
</tbody>
</table>

### Section II - Inspector's Evaluation

10. Gravity:
   - A. Injury or Illness (has) (is):
     - No Likelihood
     - Unlikely
     - Reasonably Likely (✓)
     - Highly Likely
     - Occurred
   - B. Injury or illness could reasonably be expected to be:
     - No Lost Workdays
     - Lost Workdays or Restricted Duty (✓)
     - Permanently Disabling
     - Fatal
   - C. Significant and Substantial:
     - Yes (✓)
     - No
   - D. Number of Persons Affected: 005

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

12. Initial Action: 104(a)
13. Type of Issuance (check one):
   - Citation (✓)
   - Order
   - Safeguard

14. Citation/Order Number: 4623817
15. Date: 05/03/1998

---

### Section III - Termination Action

16. Date: 06/04/2007
17. Time (24 Hr. Clock): 1800

---

### Section IV - Automated System Data

<table>
<thead>
<tr>
<th>A. Date</th>
<th>B. Time (24 Hr. Clock)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tr>
</tbody>
</table>

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MSHA Form 7000-8-3a (7/96) - 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 2110, Washington, DC 20410. 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 sanders are operating properly.
The Long-Airdox Shield Hauler SN 636-1012 was not maintained in a permissible condition in that there was an opening in excess of .005 inches on the lid of the tram motor.
Mine Citation/Order
Continuation

Section I-Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation [✓] □
2. Dated (Original Issue) Mo Da Yr 06/05/2007
3. Citation/Order Number 7268808-01
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

Additional time is granted due to location of machine.

Section III-Subsequent Action Taken

8. Extended To
A. Date Mo Da Yr 06/25/2007
B. Time (24 Hr. Clock) 0900
C. Vacated □ □
D. Terminated □
E. Modified □

Section IV-Inspection Data

9. Type of Inspection E01
10. Event Number 4117121

AR Number 23644
12. Date Mo Da Yr 06/21/2007
13. Time (24 Hr. Clock) 1200

MSHA Form 7000-3a, Mar 95 (revised)
The opening has been closed.
The AEEI Splitter SN 22910-206 at break No. 33 was not maintained in a permissible condition in that the stress clamp for the feed through cable was broken allowing removal of the tap terminating inductor that was installed.
**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>06/05/2007</td>
<td>7268809 - 01</td>
</tr>
</tbody>
</table>

**Section II: Justification for Action**

The splitter box has been repaired.

**Section III: Subsequent Action Taken**

- **A. Date**: __
- **B. Time (24 Hr. Clock)**: __

**Section IV: Inspection Data**

- **9. Type of Inspection**: E01
- **10. Event Number**: 4117121
- **AR Number**: 23644
- **12. Date**: 06/07/2007
- **13. Time (24 Hr. Clock)**: 1350

*MSHA Form 7000-3a, Mar 85 (revised)*
Float coal dust was present on the No. 2 belt from the tail to the head, including the connecting crosscuts, a distance of approximately 3600 feet, wet to dry in nature. Coal was accumulated under and against the belt in the takeup.
The belt was rock dusted rendering the float coal dust inert.
Mine Citation/Order

1. Date: 06/07/2007
2. Time (24 Hr. Clock): 1050
3. Citation/Order Number: 7268811

4. Served To: Bennie Presley, Block Superintendent
5. Operator: PERFORMANCE COAL COMPANY
6. Mine: UPPER BIG BRANCH MINE-SOUTH
7. Mine ID: 46-08436 (Contractor)

8. Condition or Practice:
   A. Health
   B. Safety
   C. Other

9. Violation:
   A. Float coal dust was present on the No. 3 belt from the tail to the head, including the connecting crosscuts, a distance of approximately 4700 feet, wet to dry in nature. Coal was accumulated under and against the belt in the takeup.

10. Section II—Inspector's Evaluation

   10a. Written Notice (103g)

   10b. Condition or Practice

   10c. Written Notice (103g)

   10d. Written Notice (103g)

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

12. Type of Action
   A. 104(a)

13. Type of Issuance (check one)
   A. Citation
   B. Order
   C. Safeguard
   D. Written Notice
   E. Citation/Order Number

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: 06/12/2007
   B. Time (24 Hr. Clock): 0800

17. Action to Terminate

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

19. Type of Inspection (activity)

20. Event Number: 4117121

21. Primary or Mill

22. Signature

MSHA Form 7000-3, Mar 65 (revised) In accordance with the provisions of the 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.
The belt was rock dusted rendering the float coal dust inert.
The rib was not adequately supported in the No. 2 belt at No. 81-82 break. The rib was cracked approximately 2 inches deep and the broken rib was approximately 20 feet long and 8 feet high.
The area was timbered and made safe to travel.
# Mine Citation/Order

**Section I—Violation Data**

| 1. Date | Mo Da Yr | 06/26/2007 |
| 2. Time (24 Hr. Clock) | 0905 |
| 3. Citation/Order Number | 7268816 |

**4. Served To**

Rick Nicolau, (maintenance chief)

**5. Operator**

PERFORMANCE COAL COMPANY

**6. Mine**

UPPER BIG BRANCH MINE-SOUTH

**7. Mine ID**

46-08436 (Contractor)

**8. Condition or Practice**

The Cat Forklift SN 4EM04289 has no operative lights on front or back.

### Citation/Order

<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>
</table>

<table>
<thead>
<tr>
<th>10. Gravity:</th>
<th>A. Injury or illness (has) (is); No Likelihood</th>
<th>Unlikely</th>
<th>Reasonably Likely</th>
<th>Highly Likely</th>
<th>Occurred</th>
</tr>
</thead>
<tbody>
<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>
<td>Permanently Disabling</td>
<td>Fatal</td>
<td></td>
</tr>
<tr>
<td>C. Significant and Substantial:</td>
<td>Yes</td>
<td>No</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**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

<table>
<thead>
<tr>
<th>14. Initial Action</th>
<th>A. Citation</th>
<th>B. Order</th>
<th>C. Safeguard</th>
<th>D. Written Notice</th>
</tr>
</thead>
<tbody>
<tr>
<td>E. Citation/Order Number</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>F. Dated</td>
<td>Mo Da Yr</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

**16. Termination Due**

| A. Date | Mo Da Yr | 06/26/2007 |
| B. Time (24 Hr. Clock) | 1000 |

**Section II—Inspector’s Evaluation**

| 17. Action to Terminate | Front and rear lights were restored to an operative condition. |

| 18. Terminated | A. Date | Mo Da Yr | 06/26/2007 |
| B. Time (24 Hr. Clock) | 1230 |

**Section III—Termination Action**

| 19. Type of Inspection (activity code) | E91 | 20. Event Number | 4117121 |
| 21. Primary or Mill |

| 22. Signature |

**Section IV—Automated System Data**

| 23. AR Number | 23644 |

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MSHA Form 7000-3, Mar 85 (revised)

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administrator 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 enforcement actions of MSHA, you may call 1-988-REG-FAIR (1-988-739-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 3rd Street, SW MC 2420, 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

7/24/07

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

Section I - Violation Data

<table>
<thead>
<tr>
<th>1. Date (Mo Da Yr)</th>
<th>2. Time (24 Hr. Clock)</th>
<th>3. Citation/Order Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>06/26/2007</td>
<td>12:12</td>
<td>7268817</td>
</tr>
</tbody>
</table>

4. Served To
Scott Halstead, Fireboss

5. Operator
PERFORMANCE COAL COMPANY

6. Mine
UPPER BIG BRANCH MINE-SOUTH

7. Mine ID
46-08436

8. Condition or Practice

Float coal dust & fine coal, black in color & damp to wet in nature was present on the No. 1 North belt from the head to the tail. No. 1 North belt is 4900' in length. 0% Methane was present.

Section II - Inspector's Evaluation

9. Violation
A. Health Safety [✓]
B. Section of Act
C. Part/Section of Title 30 CFR

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 [✓]

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) 06/28/2007
B. Time (24 Hr. Clock) 12:00

Section III - Termination Action

17. Action to Terminate

18. Terminated
A. Date (Mo Da Yr) 06/28/2007
B. Time (24 Hr. Clock) 12:00

Section IV - Automated System Data

19. Type of Inspection (activity code)
E01

20. Event Number 4117121

21. Primary or Mill

22. Signature

MSHA Form 7000-3a, 1996 (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-FAR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW, MC 2129, 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.
Additional rock dust has been applied to the cited area rendering the float coal dust inert.
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) 08/07/2006 3. Citation/Order Number 7256487 - 03

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 area has now been sealed; therefore, the order is terminated.

Section III—Subsequent Action Taken

1. Extended To

2. B. Time (24 Hr. Clock)

3. C. Vacated

4. D. Terminated [✔]

5. E. Modified

Section IV—Inspection Data

1. Type of Inspection E01

2. 10. Event Number 4117121

3. AR Number 23644

4. 12. Date 04/26/2007

5. 13. Time (24 Hr. Clock) 1245

See Continuation Form [ ]
The revision has been received and approved by the district manager; therefore, the citation is terminated.
Mine Citation/Order

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

Section I - Violation Data

1. Date Mo Da Yr 04/10/2007
2. Time (24 Hr. Clock) 1038
3. Citation/Order Number 7263951

4. Served To

David Taraczkozy (Donut) Chief Electrician

5. Operator PERFORMANCE COAL COMPANY

6. Mine

UPPER BIG BRANCH MINE-SOUTH

7. Mine ID 46-08436 (Contractor)

8. Condition or Practice

The door on the belt starter box for the No.2 LBB belt drive is not secured to prevent contact with energized 480 volt A.C. components

9. Violation

A. Health
B. Safety
C. Other

B. Section of Act

C. Part/Section of Title 30 CFR

75.512

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: 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

16. Termination Due

A. Date Mo Da Yr 04/10/2007
B. Time (24 Hr. Clock) 1050

17. Action to Terminate

The operator secured the door.

18. Terminated

A. Date Mo Da Yr 04/10/2007
B. Time (24 Hr. Clock) 1045

19. Type of Inspection

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

104(a)

20. Event Number 4117121

21. Primary or Mill

22. Signature

23. AR Number 23644

MSHA Form 7000-3, Mar 85 (Revised)

In accordance with the provisions of the Regulatory Enforcement Fairness Act of 1998, 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.
Mine Citation/Order

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

Section I - Violation Data

1. Date 04/10/2007

2. Time (24 Hr. Clock) 01038

3. Citation/Order Number 7263951

4. Served To
David Taraczkozy (Donut) Chief Electrician

5. Operator PERFORMANCE COAL COMPANY

6. Mine UPPER BIG BRANCH MINE-SOUTH

7. Mine ID 46-08436 (Contractor)

The door on the belt starter box for the No.2 LBB belt drive is not secured to prevent contact with energized 480 volt A.C. components.

Section II - Inspector's Evaluation

9. Violation A. Health ☑ Safety ☑ Other ☑

B. Section of Act

C. Part/Section of Title 30 CFR 75.512

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: 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 ☐ D. Written Notice ☐

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

15. Area or Equipment

16. Termination Due
A. Date 04/10/2007

B. Time (24 Hr. Clock) 01050

Section III - Termination Action

The operator secured the door.

17. Action to Terminate

18. Terminated
A. Date 04/10/2007

B. Time (24 Hr. Clock) 01045

Section IV - Automated System Data

19. Type of Inspection (activity code) E01

20. Event Number 4117121

21. Primary or Mill

22. Signal 23644

See Continuation Form (MSHA Form 7000-5a) ☐

MSHA Form 7000-3, Mar 89 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Ombudsman 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-FAR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 400 3rd Street, SW, NC 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.
The door on the belt starter box for the No. 2 LBB belt drive is not secured to prevent contact with energized 480 volt A.C. components.
Mine Citation/Order

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

Mine Citation/Order

Mine Safety and Health Administration

Section I - Violation Data

1. Date Mo Da Yr 04/10/2007
2. Time (24 Hr. Clock) 1038
3. Citation/Order Number 7263951

4. Served To
David Taraczkozy (Donut) Chief Electrician

5. Operator
PERFORMANCE COAL COMPANY

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

7. Mine ID 46-08436

8. Condition or Practice
The door on the belt starter box for the No.2 LBB belt drive is not secured to prevent contact with energized 480 volt A.C. components

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

B. Section of Act

C. Part/Section of Title 30 CFR 75.512

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: 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

16. Termination Due
A. Date Mo Da Yr 04/10/2007
B. Time (24 Hr. Clock) 1050

17. Action to Terminate
The operator secured the door.

18. Terminated
A. Date Mo Da Yr 04/10/2007
B. Time (24 Hr. Clock) 1045

19. Type of Inspection
F01

Event Number 4117121

20. Primary or Mill

21. AR Number 23644

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 to 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

Section I--Violation Data

1. Date  Mo Da Yr  04/10/2007
2. Time (24 Hr. Clock)  1038
3. Citation/Order Number  7263951

4. Served To
David Taraczkozy (Donut) Chief Electrician

5. Operator
PERFORMANCE COAL COMPANY

6. Mine
UPPER BIG BRANCH MINE-SOUTH

7. Mine ID  46-08436

8. Condition or Practice
The door on the belt starter box for the No.2 LBB belt drive is not secured to prevent contact with energized 480 volt A.C. components

9. Violation
A. Health
B. Section of Act
C. Part/Section of Title 30 CFR

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:  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  D. Written Notice

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

15. Area or Equipment

16. Termination Due
A. Date  Mo Da Yr  04/10/2007
B. Time (24 Hr. Clock)  1050

17. Action to Terminate
The operator secured the door.

18. Terminated
A. Date  Mo Da Yr  04/10/2007
B. Time (24 Hr. Clock)  1045

Section IV--Automated System Data

19. Type of Inspection (activity code)  EO1
20. Event Number  4117121
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 1995, 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 door on the belt starter box for the No.2 LBB belt drive is not secured to prevent contact with energized 480 volt A.C. components.
Mine Citation/Order  

**VACATED**

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

**Section I-Violation Data**

<table>
<thead>
<tr>
<th>1. Date</th>
<th>Mo Da Yr</th>
<th>2. Time (24 Hr. Clock)</th>
<th>3. Citation/Order Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>04/10/2007</td>
<td>1038</td>
<td>7263951</td>
<td></td>
</tr>
</tbody>
</table>

4. Served To  
David Taraczkozy (Donut) Chief Electrician

6. Mine  
UPPER BIG BRANCH MINE-SOUTH

8. Condition or Practice  
The door on the belt starter box for the No.2 LBB belt drive is not secured to prevent contact with energized 480 volt A.C. components

**Section II-Inspector's Evaluation**

9. Violation  
A. Health  
B. Section of Act  
C. Part/Section of Title 30 CFR  
D. Written Notice (103g)  

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

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

**Section III-Termination Action**

16. Termination Due  
A. Date | Mo Da Yr | 04/10/2007 | B. Time (24 Hr. Clock) | 1050 |

17. Action to Terminate  
The operator secured the door.

**Section IV-Automated System Data**

<table>
<thead>
<tr>
<th>19. Type of Inspection (activity code)</th>
<th>20. Event Number</th>
<th>21. Primary or Mill</th>
</tr>
</thead>
<tbody>
<tr>
<td>E01</td>
<td>4117121</td>
<td></td>
</tr>
</tbody>
</table>

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 door on the belt starter box for the No.2 LBB belt drive is not secured to prevent contact with energized 480 volt A.C. components.
Mine Citation/Order

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

Section I—Violation Date
1. Date: Mo Da Yr 04/10/2007
2. Time (24 Hr. Clock): 1038
3. Citation/Order Number: 7263951

4. Served To:
   David Taraczkozy (Donut) Chief Electrician
5. Operator: PERFORMANCE COAL COMPANY
6. Mine: UPPER BIG BRANCH MINE-SOUTH
7. Mine ID: 46-08436

8. Condition or Practice: The door on the belt starter box for the No.2 LBB belt drive is not secured to prevent contact with energized 480 volt A.C. components.

Section II—Inspector's Evaluation
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: 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

Section III—Termination Action
16. Termination Due
   A. Date: Mo Da Yr 04/10/2007
   B. Time (24 Hr. Clock): 1050

17. Action to Terminate: The operator secured the door.

Section IV—Automated System Data
18. Terminated
   A. Date: Mo Da Yr 04/10/2007
   B. Time (24 Hr. Clock): 1045

19. Type of Inspection (activity code) E01
20. Event Number: 4117121
21. Primary or Mill

22. Signature: [Redacted]

MSHA Form 7000-3, Mar 05 (ranged) The Office of the Administrator, Office of Regulatory Enforcement Fairness 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 20410. 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.
Upon further review at conference, this citation vacated as follows.

Based upon present case law this is not a violation of 30 CFR. Requiring additional locks beyond what the manufacturer provided is rule making according to the ALJ decision.
**Section I -- Subsequent Action/Continuation Data**

1. Subsequent Action 1a. Continuation [X]
2. Dated (Original Issue) 04 10 07
3. Citation/Order Number 7263951

4. Served To By Certified Mail
   **Greg Fernett**
   Performance Coal Company
5. Operator

6. Mine
   Upper Big Branch Mine - South
7. Mine ID 46084369 (contractor)

**Section II -- Justification for Action**

Upon further review at conference, this citation vacated as follows.

Based upon present case law this is not a violation of 30 CFR. Requiring additional locks beyond what the manufacturer provided is rule making according to the ALJ decision.

**Section III -- Subsequent Action Taken**

- Extended To
  - A. Date 02
  - B. Time (24 Hr Clock) 00
  - C. Vacated [X]
  - D. Terminated [ ]
  - E. Modified [ ]

**Section IV -- Inspection Data**

- Type of Inspection T 02
- 10. Event Number 9832248
- AR Number 12. Date 01 17 08
- 13. Time (24 Hr Clock) 10 15

MSHA Form 7000-3a, Mar 00 ( rev 01)
Upon further review at conference, this citation vacated as follows.

Based upon present case law this is not a violation of 30 CFR. Requiring additional locks beyond what the manufacturer provided is rule making according to the ALJ decision.
Upon further review at conference, this citation vacated as follows.

Based upon present case law this is not a violation of 30 CFR. Requiring additional locks beyond what the manufacturer provided is rule making according to the ALJ decision.
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Based upon present case law this is not a violation of 30 CFR. Requiring additional locks beyond what the manufacturer provided is rule making according to the ALJ decision.
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)  
   0   4   1   0   7  

3. Citation/Order Number  
   7   2   6   3   9   5   1   0   1  

4. Served To  
   By Certified Mail  
   Greg Fernett  
   Performance Coal Company  

5. Operator  
   [ ]  

6. Mine  
   [ ]  
   Upper Big Branch Mine - South  

Section II -- Justification for Action  

Upon further review at conference, this citation vacated as follows.  

Based upon present case law this is not a violation of 30 CFR. Requiring additional locks beyond what the manufacturer provided is rule making according to the ALJ decision.  

Section III -- Subsequent Action Taken  

8. Extended To  
   A. Date  
   [ ]  
   B. Time (24HrClock)  
   C. Vacated [ ]  
   D. Terminated [ ]  
   E. Modified [ ]  

Section IV -- Inspection Data  

9. Type of Inspection  
   [ ]  
   10. Event Number  
   98322468  

11. AR Number  
   [ ]  
   12. Date  
   2   0   8   3   7  
   13. Time (24 Hr.Clock)  
   1   0   1   5  

See Continuation Form [ ]
Upon further review at conference, this citation vacated as follows.

Based upon present case law this is not a violation of 30 CFR. Requiring additional locks beyond what the manufacturer provided is rule making according to the ALJ decision.
Plan Review

1. MSHA Office 0401 - Mt. Hope, WV
2. Mine ID 46-08436

3. Mine Name
UPPER BIG BRANCH MINE-SOUTH

4. Company Name
PERFORMANCE COAL COMPANY

Roof Control
✓ Adequate □ Deficiencies in Plan (Briefly Describe)

Plan appears adequate if followed. Plans discussed with Rick Hodge, Superintendent and Bill Harless, Mine Foreman as well as roof bolter operators, miner operators, section foremen, and mine examiners.

Ventilation
✓ Adequate □ Deficiencies in Plan (Briefly Describe)

Plans appear adequate if followed. Citations were issued for making changes without approval and methane and dust control plans not being followed. Plans were discussed with Rick Hodge, Superintendent; Bill Harless, Mine Foreman; mine examiners; section foremen; miner operators and roof bolter operators.

Date
7-10-07

Supervisor Signature

Date
7-10-07

MSHA Form 2000-204, Feb. 89 (Revised Jan. 90)
The 1 North belt switch at break 47 was turned off to shut the beltline down. The belt activated, overriding the belt switch and starting the belt.
The roof is not adequately supported on the 1 North belt at break 45. The roof has fallen out from around approximately 15 bolts exposing up to 18 inches of bolt leaving the plates not adequately installed against the roof. At break 48, bolts have broken off on the offside of the belt leaving the area inadequately supported.
The methane detectors in use at this mine have not been calibrated every 31 days as required. Only 2 were calibrated in February and 3 in March per records. Detector 024 was calibrated 1/29/07 and again on 4/12/07 per records. This mine is on a 15-day methane spot inspection schedule.
There are 3 open breaks located in the No. 2 section 041 MMU 6-7. The 2nd break did not have a ventilation control present and the 3rd break had a stopping which had been stacked but had not been plastered (88 21267).