1. Action:  
a. New Entry ☐  b. Update ☑
4. Date Event Started: 1/5/2009
5. Date Event Finished: 3/30/2009
7a. Organization Code (Mine Assignment) 20401
b. Work Group Identifier 01
8a. Organization Code (AR Assignment) 20401
b. Work Group 01
2. Activity Code: E01
4. Event Number: 4119932
9. Company Name PERFORMANCE COAL COMPANY
10. Mine Name UPPER BIG BRANCH MINE-SOUTH

11. Report Type (check)
   a. First
   b. Interim
   c. Last
   d. Not Applicable
   e. Outby Areas ☑
   f. Shals/ Slopes
   g. Surface Areas (UG)
   h. Surface Workings
   i. Company Records ☑
   j. AFT
   k. Major Construction ☐
   (1) Shaft/ Slope Sinking
   (2) Impoundment Construction
   (3) Buildings
   (4) Dragline/ Shovel:
   (5) Other
   (6) Miscellaneous

13. Number of Samples Collected
   a. Air Samples 18
   b. Rock Dust Spot 0
   c. Rock Dust Survey 4
   d. Respirable Dust 26
   e. Noise 0
   f. Other 0

14. Impoundments/Refuse Piles:
   a. Number
   b. FHC
   c. Configuration

15. Prime Independent Contractor Codes (Major Construction)

16. Inspection Results
   a. This Inspection
      (1) New Issuance 28
      (2) Terminations/Vacations 8192
      (3) Modifications/Extensions 10/14
      (4) Left Pending 2
   b. Previously Issued
      (1) Modifications/Extensions 0/1
      (2) Terminations/Vacations 5/0

17. Remarks:
   A7442, A7408, A4771, A1553, A4727, A1561, A7464, B1230, B1223, A7434, A7414, A7404, A7453, A7427, B1210, B1212, A1575, A7468

18. Signature and Card Number of Authorized Representative/ Right of Entry Person(s) Responsible for Activity
   a.
   b.
   c.
   d.

19. Key Entered By
   Date

MSHA Form 2000-22. Oct. 85 (Revised) Previous editions are Obsolete
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Key Codes: 1- Owl Shift, 2- Day Shift & 3- Evening Shift (Mark "X" in appropriate Block to Indicate Shift)
# Mine Activity Data

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

**2. Activity Code:** E01

**3. Event Number:** 4119932

**4. Date Event Started:** 1/5/2009

**5. Date Event Finished:**

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

**7a. Organization Code (Mine Assignment):** 20401

**7b. Work Group Identifier:** 01

**8a. Organization Code (AR Assignment):** 20400

**8b. Work Group:** 09

**9. Company Name:** PERFORMANCE COAL COMPANY

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

**11. Report Type (check):**
- a. First [ ]
- b. Interim [ ]
- c. Last [ ]
- d. Not Applicable [ ]
- e. Organization Code (Mine Assignment): 20401
- f. Work Group Identifier: 01
- g. Work Group: 09
- h. Company Name: PERFORMANCE COAL COMPANY
- i. Mine Name: UPPER BIG BRANCH MINE-SOUTH

**12. Area of Inspections:**
- a. Active Sections 0
- b. Idle Sections 0

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

**14. Impoundments/Refuse Piles:**
- a. Number
- b. FHC
- c. Configuration

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

**16. Inspection Results:**

**17. Remarks:**
Interviewing of the 060-0 MMU Crew, about Respirable dust and Ventilation Plan parameters.

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

<table>
<thead>
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<th>a.</th>
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**19. Key Entered By Date**

MSHA Form 2000-22. Oct. 85 (Revised) Previous editions are Obsolete
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Key Codes: 1- Owl Shift, 2- Day Shift & 3- Evening Shift (Mark "X" in appropriate block to indicate shift)
The dust collection system provided on the #3 Section MMU 061-0, dual boom, roof bolting machine was not being maintained as approved. An examination of the dust collection boxes revealed that the rubber latch on the left (operator's) side of the machine was broken. This condition could allow leakage around the dust box door, compromising the collection efficiency of the dust collector.
The dust box has been repaired.
The operator has failed to mark the last three mandosors along the primary escapeway on the #3 section with a sign so that miners traveling the escapeway can easily identify them.
The mandoors have been marked with signs.
The #1 shuttle car on the #3 section is not being maintained in a safe operating condition. The inby tram peddle is taped in the upright position where it could be accidentally depressed causing the machine to tram in an unexpected direction.

- **Violation:**
  - A. Health
  - B. Safety
  - C. Other

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

- **Citation/Order Number:**
  - 8074706

- **Mine ID:**
  - 46-08436

- **Operator:**
  - PERFORMANCE COAL COMPANY

- **Mine:**
  - UPPER BIG BRANCH MINE-SOUTH

- **Date Served:**
  - May, Mine foreman

- **Time:**
  - (24 Hr. Clock)
  - 1018

- **Violation Section:**
  - 75.1725(a)

- **Gravity:**
  - A. Injury or Illness (has/has not):
    - 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

- **Type of Action:**
  - 104(a)

- **Area or Equipment:**

- **Termination Due:**
  - A. Date:
  - B. Time (24 Hr. Clock)
  - 1100

- **Action to Terminate:**
  - The foot pedal is no longer taped in the upright position.
Add the sentence, "The operator removed the shuttle car from service until repairs were made."
The operator is failing to ensure that all miners on the #3 section are provided with an identification check tag securely fastened to their mine belt.
Add the sentence "The left side shuttle car operator does not have a ID tag on his belt."
Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation ✓
2. Dated (Original Issue) 01/12/2009
3. Citation/Order Number 8074707-02

4. Served To
Gary May, 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 miner now has an ID tag fixed to his belt.

Section III--Subsequent Action Taken

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

9. Type of Inspection E01
10. Event Number 4119932

11. Signature [Redacted]
AR Number [Redacted]
12. Date Mo Da Yr 01/20/2009
13. Time (24 Hr. Clock) 1205

MSHA Form 7000-3a, Mar 85 (revised)
The cable on the #2 shuttle car is not being maintained adequately insulated and fully protected. The outer jacket of the cable is damaged in two places exposing the power leads inside. In one place the insulation on the power leads is damaged, in the other there is no apparent damage to the power leads.
The operator is failing to maintain trailing cables clamped to machines in a manner to protect the cables from damage and prevent strain on the electrical connections. On the #2 shuttle car, on the #3 section, the trailing cable is pulled out from under the restraining clamp damaging the cable.
The #2 shuttle car on the #3 section is not being maintained in a safe operating condition. The inby tram peddle is taped in the upright position where it could be accidentally depressed causing the machine to tram in an unexpected direction.

Management removed the shuttle car from service.
The operator is failing to comply with page 11 of the approved roof control plan. The right hand crosscut in the belt entry, 1 break in by spad # 22954 is 28 1/2 foot wide where it turns in. The approved roof plan allows sections on 20 foot cuts to have crosscuts 24 foot wide where they turn in.
There are not any up to date dates, times or initials present at the #2 scoop charger on the #3 section to show that pre-shift examination of the area has been conducted.

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**Section I--Violation Data**

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

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<th>A. Health Safety</th>
<th>B. Section of Act</th>
<th>C. Part/Section of Title 30 CFR</th>
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**Gravity:**

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

**Type of Action**

- 10(a)

**Initial Action**

- A. Citation [ ] B. Order [ ] C. Safeguard [ ] D. Written Notice [ ]
- E. Citation/Order Number
- F. Dated Mo Da Yr

**Area or Equipment**

**Section III--Termination Action**

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**Section IV--Automated System Data**

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The batteries on charge at the #2 locomotive charger, on the surface, do not have a frame ground hooked up between the charger and the batteries.
The operator is failing to ensure that the compressed gas is being properly stored on the surface. Ten compressed oxygen cylinders in the storage area are not secured against falling.
The compressed gas storage area on the surface is not provided with a fire extinguisher.

See Continuation Form (MSHA Form 7000-3a)

### Section I - Violation Data

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<td>3. Citation/Order Number</td>
<td>8074715</td>
<td></td>
</tr>
<tr>
<td>4. Served To</td>
<td>Andy Coalson, Mineforeman</td>
<td></td>
</tr>
<tr>
<td>5. Operator</td>
<td>PERFORMANCE COAL COMPANY</td>
<td></td>
</tr>
<tr>
<td>6. Mine</td>
<td>UPPER BIG BRANCH MINE-SOUTH</td>
<td></td>
</tr>
<tr>
<td>7. Mine ID</td>
<td>46-08436</td>
<td></td>
</tr>
<tr>
<td>8. Condition or Practice</td>
<td>8u. Written Notice (103g)</td>
<td></td>
</tr>
</tbody>
</table>

### Section II - Inspector's Evaluation

<table>
<thead>
<tr>
<th>9. Violation</th>
<th>A. Health Safety</th>
<th>B. Section of Act</th>
<th>C. Part/Section of Title 30 CFR</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>77.1109(a)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>10. Gravity:</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Injury or illness (has) (is):</td>
</tr>
<tr>
<td>B. Injury or illness could reasonably be expected to be:</td>
</tr>
<tr>
<td>C. Significant and Substantial:</td>
</tr>
<tr>
<td>D. Number of Persons Affected: 001</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 | 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 | 01/13/2009 |
| B. Time (24 Hr. Clock) | 0900 |

| 17. Action to Terminate |
| A fire extinguisher has been provided. |

| 18. Terminated |
| A. Date | Mo Da Yr | 01/13/2009 |
| B. Time (24 Hr. Clock) | 0826 |

### Section IV - Automated System Data

| 19. Type of Inspection (activity code) | P01 |
| 20. Event Number | 4119932 |
| 21. Primary or Mill |

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

<table>
<thead>
<tr>
<th>23. AR Number</th>
</tr>
</thead>
</table>

MSHA Form 7000-3, Apr 08 (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 2130, 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 Continuation

1. Subsequent Action 1a. Continuation: ✓
2. Dated (Original Issue): 01/13/2009
3. Citation/Order Number: 8074715 - 01
4. Served To: Andy Coalson, Mine Foreman
5. Operator: PERFORMANCE COAL COMPANY
6. Mine: UPPER BIG BRANCH MINE-SOUTH
7. Mine ID: 46-08436

Section II—Justification for Action

<table>
<thead>
<tr>
<th>Change</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>9. C. Part/Section</td>
<td>77.1109(a)</td>
<td>77.1109</td>
</tr>
</tbody>
</table>

Reason: Inadvertently cited wrong section of law.

Section III—Subsequent Action Taken

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

Section IV—Inspection Data

<table>
<thead>
<tr>
<th>9. Type of Inspection</th>
<th>E01</th>
</tr>
</thead>
<tbody>
<tr>
<td>10. Event Number</td>
<td>4119932</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>11. Signature</th>
<th>AR Number</th>
<th>12. Date</th>
<th>Mo</th>
<th>Da</th>
<th>Yr</th>
<th>13. Time (24 Hr. Clock)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>01/20/2009</td>
<td></td>
<td></td>
<td></td>
<td>0532</td>
</tr>
</tbody>
</table>

See Continuation Form

MSHA Form 7000-3a, Mar 85 (revised)
The operator is failing to comply with an approved revision to the mine ventilation plan. The operator has failed to knock out 1/3 of a stopping every 600 feet to make the # 7 entry common air with the # 5 and 6 entry. This condition exists for approximately 6,800 feet.
The operator has knocked 1/3 of a stopping out every 600 feet.
The operator is failing to comply with the section specific page of the methane dust control plan for the 040-0 MMU. The continuous miner was observed operating in the #5 entry with only 3,360 cfm of air present behind the line curtain. The plan calls for at least 6,000 cfm to be maintained at all times.

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

<table>
<thead>
<tr>
<th>9. Violation</th>
<th>A. Health Safety</th>
<th>B. Section of Act</th>
<th>C. Part/Section of Title 30 CFR</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>75.370(a)(1)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>10. Gravity: 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>
</tr>
<tr>
<td>-------------------------------------------------------------</td>
<td>---------</td>
<td>------------------</td>
<td>--------------</td>
<td>----------</td>
</tr>
<tr>
<td>C. Significant and Substantial: Yes</td>
<td>No</td>
<td>D. Number of Persons Affected: 002</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

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

<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>
<th>E. Citation/Order Number</th>
<th>F. Dated Mo Da Yr</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| 15. Area or Equipment | |
|----------------------| |

<table>
<thead>
<tr>
<th>16. Termination Due</th>
<th>A. Date</th>
<th>B. Time (24 Hr. Clock)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>01/13/2009</td>
<td>1130</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Section II-Termination Action</th>
</tr>
</thead>
</table>

| 17. Action to Terminate | The ventilation was adjusted and now 8,190 cfm is present. |

<table>
<thead>
<tr>
<th>18. Terminated</th>
<th>A. Date</th>
<th>B. Time (24 Hr. Clock)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>01/13/2009</td>
<td>1110</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Section IV-Automated System Data</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>19. Type of Inspection (activity code)</th>
<th>E01</th>
<th>20. Event Number</th>
<th>4119932</th>
<th>21. Primary or Mill</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| 22. Signature | |
|---------------| |

| 23. AR Number | |
|---------------| |

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW, MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.
The operator is failing to properly maintain the dry chemical fire suppression system for the #1 scoop charger on the #2 section. The actuator bottle in the charger insert does not have a palm button.
The missing palm button has been replaced.
The operator is failing to maintain the dry chemical fire suppression system on the #2 scoop on the #2 section. The CO2 actuator bottle in the deck has been discharged.
The damaged CO2 cylinder has been replaced.
The operator is failing to prevent the accumulation of combustible materials on electrical equipment on the #2 section. Loose coal and hydraulic oil has been allowed to accumulate on, around and under the electrical motors and other components of the section feeder.
The mine operator has failed to provide the forklift charger on the #3 section with a fire extinguisher.

The portable fire extinguisher has been provided at the forklift charger.
The operator is failing to maintain the fire suppression system on the forklift, on the #1 section, in a proper operating condition. The fire suppression spray nozzle, located at the battery end is damaged so that it will not spray the fire suppression chemical in the proper direction.
**Section I--Subsequent Action/Continuation**

<table>
<thead>
<tr>
<th>1. Subsequent Action 1a. Continuation</th>
<th>2. Dated (Original Issue)</th>
<th>3. Citation/Order Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>☑</td>
<td>01/20/2009</td>
<td>8074724 - 01</td>
</tr>
</tbody>
</table>

4. Served To

Gary May, Mine foreman

6. Mine

**UPPER BIG BRANCH MINE-SOUTH**

**Section II--Justification for Action**

<table>
<thead>
<tr>
<th>Change</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>8. Condition Or Practice</td>
<td>Reason</td>
<td>Change &quot;#1 Section&quot; to read &quot;#2 section&quot;</td>
</tr>
</tbody>
</table>

**Section III--Subsequent Action Taken**

8. Extended To

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

**Section IV--Inspection Data**

9. Type of Inspection

<table>
<thead>
<tr>
<th>E01</th>
</tr>
</thead>
</table>

10. Event Number

| 4119932 |

11. Signatures

| [Redacted] |

12. Date Mo Da Yr

| 01/20/2009 |

13. Time (24 Hr. Clock)

| 1755 |

MSHA Form 7000-3a, Mar 85 (revised)
Due to injury of the inspector citation is extended until 2/6/09.
The fire suppression system has been fixed.
Mine Citation/Order

<table>
<thead>
<tr>
<th>Violation</th>
<th>A. Health Safety</th>
<th>B. Section of Act</th>
<th>C. Part/Section of Title 30 CFR</th>
</tr>
</thead>
<tbody>
<tr>
<td>9.</td>
<td></td>
<td></td>
<td>75.360(e)</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
   A. Citation
   B. Order
   C. Safeguard
   D. Written Notice

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
   B. Time (24 Hr. Clock)

17. Action to Terminate:
   The area has been examined and DTI'S are now present.

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

Section IV--Automated System Data

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

20. Event Number
   4119932

21. Primary or Mill

22. Signature

23. AR Number

MSHA Form 7000-3, Apr 08 (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.
## Section I--Subsequent Action/Continuation Data

<table>
<thead>
<tr>
<th>1. Subsequent Action Ta. Continuation</th>
<th>2. Dated (Original Issue)</th>
<th>3. Citation/Order Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>☑</td>
<td>01/20/2009</td>
<td>8074725 - 01</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>4. Served To</th>
<th>5. Operator</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gary May, Mine foreman</td>
<td>PERFORMANCE COAL COMPANY</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>UPPER BIG BRANCH MINE-SOUTH</td>
<td>46-08436</td>
</tr>
</tbody>
</table>

## Section II--Justification for Action

<table>
<thead>
<tr>
<th>Change From</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>&quot;#1 section&quot;</td>
<td>Change &quot;#1 section&quot; to read &quot;#2 section&quot;.</td>
</tr>
</tbody>
</table>

## Section III--Subsequent Action Taken

<table>
<thead>
<tr>
<th>8. Extended To</th>
<th>9. Type of Inspection</th>
<th>10. Event Number</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>E01</td>
<td>4119932</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>11. Signature</th>
<th>12. Date</th>
<th>13. Time (24 Hr. Clock)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>01/20/2009</td>
<td>1756</td>
</tr>
</tbody>
</table>
Mine Citation/Order

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

Section I--Violation Data

1. Date  01/21/2009  2. Time (24 Hr. Clock)  0925  3. Citation/Order Number  8074726

4. Served To
Bill Harless, Mine foreman

6. Mine
UPPER BIG BRANCH MINE-SOUTH

5. Operator
PERFORMANCE COAL COMPANY

7. Mine ID  46-08436

8a. Written Notice (103g)  

---

The operator is failing to properly maintain the CO monitoring system on the #1 section. The CO monitor at the #1 section belt tail piece is unhooked and would not function in the event of a fire.

Section II--Inspector's Evaluation

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

75.1103-4(a)(1)

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

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

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

D. Number of Persons Affected: 004

12. Type of Action  104(a)

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

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

15. Area or Equipment

16. Termination Due
A. Date  01/21/2009  B. Time (24 Hr. Clock)  1000

Section III--Termination Action

17. Action to Terminate
The CO monitor is now functioning.

Section IV--Automated System Data

19. Type of Inspection (activity code)
   E01

20. Event Number  4119932

22. Signature  

23. AR Number  

---

MSHA Form 7000-2, Apr 08 (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.
4. Served
Bill Harless, Mine foreman

6. Mine
UPPER BIG BRANCH MINE-SOUTH

8. Condition or Practice
The operator is failing to comply with page one, item one of the approved emergency response plan. The operator is failing to maintain two separate means of communication on the # 1 section. The secondary communication system would not function when tested.

9. Violation
A. Health D Safety ✓ Other □
B. Part/Section of Title 30 CFR 316(b)

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

11. Negligence (check one) C. Moderate ✓

12. Type of Action 104(a)

13. Type of Issuance (check one) D Citation ✓ Order D Safeguard D Written Notice D

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

15. Area or Equipment

16. Termination Due
A. Date Mo Da Yr 01/21/2009
B. Time (24 Hr. Clock) 1130

19. Type of Inspection (activity code) B01

22. Signature

23. AR Number
Due to injury of the inspector citation is extended until 2/6/09.
## Mine Citation/Order Continuation

<table>
<thead>
<tr>
<th>Section I—Subsequent Action/Continuation Data</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Subsequent Action 1a. Continuation</td>
</tr>
<tr>
<td>✔</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>4. Served To</th>
<th>5. Operator</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bill Harris, Mine Foreman</td>
<td>PERFORMANCE COAL COMPANY</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>UPPER BIG BRANCH MINE-SOUTH</td>
<td>46-08436</td>
</tr>
</tbody>
</table>

## Section II—Justification for Action

The phone is now operational.
There are not any up to date, dates, times and initials at the KVA box located at the new belt head construction area on the #1 section, to prove when a pre-shift examination was conducted of the area.
The #2 scoop on the #1 section is not being maintained in an approved permissible condition. The scoop head lights will not always function when the switch is turned on.
Due to injury of the inspector citation is extended until 2/6/09.
The light switch has been repaired.
There are not any up to date Dates, Times or Initials present at the #4 North mains tailpiece to prove an preshift examination of the area had been conducted of the area for the third shift on 1/21/09 or the day shift on 1/22/09. This is the fourth time this standard has been cited this quarter.
The operator is failing to maintain the #4 North Mains belt in a safe operating condition. Just outby the belt drive the belt is running off and has cut into the structure so that 3 bottom rollers have broken off. The structure is out of level in this area to the extent that the bottom belt is rubbing against 4 cross members.

The operator removed this belt from service until the necessary repairs were made.

The belt structure has been adjusted and the belt trained to run correctly.
The operator is failing to keep the #4 North Mains belt free of accumulations of combustible materials. Coal, float coal and float coal dust has been allowed to accumulate under and around the #4 belt from the inline belt drive to the remote discharge roller. A distance of 10 breaks. Accumulations up to 24" in depth has accumulated under the belt. 10 bottom rollers have accumulations up to the roller. At the discharge roller on each rib there is a pile of coal 30' long by 3' wide and 3' high.
Due to injury of the inspector citation is extended until 2/6/09.
The accumulations have been cleaned up.
The operator is failing to comply with the approved smokers program on the #3 section. There is no written record of a smoke search being performed on the #3 section for the week of 1/25/09.
The dayshift has conducted and recorded a smoke search on #3 section.
The operator is failing to post copies of all respirable dust samples taken at the mine. The operator has failed to post the results for the oct-nov-dec 2008 sampling cycle.

### Section 1VIolation Data

<table>
<thead>
<tr>
<th>1. Date</th>
<th>Mo Da Yr</th>
<th>4. Served To</th>
</tr>
</thead>
<tbody>
<tr>
<td>02/02/2009</td>
<td></td>
<td>Homer Wallace, supt.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2. Time (24 Hr. Clock)</th>
<th>5. Operator</th>
</tr>
</thead>
<tbody>
<tr>
<td>0932</td>
<td>PERFORMANCE COAL COMPANY</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>UPPER BIG BRANCH MINE-SOUTH</td>
<td>46-08436</td>
</tr>
</tbody>
</table>

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

### Section II Inspector's Evaluation

<table>
<thead>
<tr>
<th>9. Violation</th>
<th>A. Health Safety</th>
<th>B. Section of Act</th>
<th>C. Part/Section of Title 30 CFR</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>70.210(b)</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>10. Gravity:</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Injury or Illness (has) (is): No Likelihood ✓</td>
</tr>
<tr>
<td>B. Injury or illness could reasonably be expected to be: No Lost Workdays ✓</td>
</tr>
<tr>
<td>C. Significant and Substantial: Yes</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>11. Negligence (check one)</th>
<th>12. Type of Action: 104(a)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. None</td>
<td>B. Low</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>14. Initial Action</th>
<th>15. Area or Equipment</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Citation</td>
<td></td>
</tr>
<tr>
<td>B. Order</td>
<td></td>
</tr>
<tr>
<td>C. Safeguard</td>
<td></td>
</tr>
<tr>
<td>D. Written Notice</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>16. Termination Due</th>
<th>A. Date</th>
<th>B. Time (24 Hr. Clock)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Date</td>
<td>Mo Da Yr</td>
<td>02/03/2009</td>
</tr>
<tr>
<td>B. Time (24 Hr. Clock)</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>17. Action to Terminate</th>
</tr>
</thead>
</table>

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

### 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>4119932</td>
<td></td>
</tr>
</tbody>
</table>

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

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MSHA Form 7000-3a, Part 16 (Reserved.) 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, 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.
The latest copies of respirable dust results have been posted.
The operator is failing to maintain a written record of the results of the monthly examination of surface high voltage circuit breakers. There is not any record of the UBB Lower substation being examined in November 2008.

### Section II—Inspector’s Evaluation

#### 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:** 000

#### Type of Action
- **104(a)**

#### Initial Action
- **A. Citation ☑**
- **B. Order ☐**
- **C. Safeguard ☐**
- **D. Written Notice ☐**

### Section III—Termination Action

**Action to Terminate:**
The substation has since been examined and the results recorded in the book.

### Section IV—Automated System Data

<table>
<thead>
<tr>
<th>Type of Inspection (activity code)</th>
<th>Event Number</th>
<th>Primary or Mill</th>
</tr>
</thead>
<tbody>
<tr>
<td>E01</td>
<td>4119932</td>
<td></td>
</tr>
</tbody>
</table>

**Signatures:**

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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>Mo Da Yr</th>
<th>2. Time (24 Hr. Clock)</th>
<th>3. Citation/Order Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>02/02/2009</td>
<td>1043</td>
<td></td>
<td>8074736</td>
</tr>
</tbody>
</table>

4. Served To
Homer Wallace, supt.

5. Operator
PERFORMANCE COAL COMPANY

6. Mine
UPPER BIG BRANCH MINE-SOUTH

8a. Written Notice (103g) [ ]

The operator is failing to maintain a map that meets the requirements of CFR 75.1200. The available map does not show the intake or return or direction of airflow for the #3 section. The map also does not show the "south" fan and is over 20 breaks behind showing the stoppings or madoors on the #3 section.

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

Section II—Inspector's Evaluation

<table>
<thead>
<tr>
<th>9. Violation</th>
<th>A. Health Safety [ ] Other [ ]</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></td>
<td>75.1200</td>
</tr>
</tbody>
</table>

10. Gravity:

A. Injury or Illness (has) (%): 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: 000

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 [ ]

E. Citation/Order Number

F. Dated Mo Da Yr

14. Initial Action

A. Citation [ ] B. Order [ ] C. Safeguard [ ] D. Written Notice [ ]

15. Area or Equipment

16. Termination Due

A. Date Mo Da Yr
02/07/2009

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

4119932

21. Primary or Mill

22. Signature

23. AR Number

MSHA Form 7000-3, Apr 08 (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 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.
An up to date 75.1200 map has been provided.
The operator is failing to maintain a complete record of the calibration of the methane monitors in service underground. There is no record of the methane monitors on the continuous miners on the #3 section being calibrated for the month of January 2009.
The CO monitor is now functional.
Modify subsequent action 8074737-01 to read "The methane monitors have been calibrated and the results recorded."
Mine Citation/Order

1. Date: 02/02/2009
2. Time (24 Hr. Clock): 11:23
3. Citation/Order Number: 8074738

5. Operator: PERFORMANCE COAL COMPANY
6. Mine: UPPER BIG BRANCH MINE-SOUTH
7. Mine ID: 46-08436 (Contractor)

The operator is failing to maintain a map showing the location of all known roof falls in the mine.

<table>
<thead>
<tr>
<th>9. Violation</th>
<th>A. Health Safety ✓</th>
<th>B. Section of Act</th>
<th>C. Part/Section of Title 30 CFR</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>75.223(b)</td>
</tr>
</tbody>
</table>

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood ✓
B. Injury or Illness could reasonably be expected to be: No Lost Workdays ✓
C. Significant and Substantial: Yes ✓
D. Number of Persons Affected: 000

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: 02/08/2009

15. Area or Equipment

16. Termination Due: 02/08/2009
17. Action to Terminate

18. Terminated: 0800

19. Type of Inspection (activity code): E01
20. Event Number: 4119932
21. Primary or Mill
22. Signature
23. AR Number

MSHA Form 7000-3, Apr 08 (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 2130, 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 up to date roof fall map has been provided.
The operator is failing to maintain a record of all contractors who have or are expected to work on mine property that contains the following information:
1) The independent contractors trade name, business address and business phone number.
2) A description of the nature of work to be performed.
3) The MSHA id number
4) The independent contractors address of record for the service of citations and other documents involving the contractor.

MSHA Form 7000-3, Apr 08 (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.
An up to date contractor register has been provided.
The KVA box for the #3 section's #2 belt drive is not being maintained in a safe operating condition. The lid over the breaker section is not bolted down securely.

Management removed the KVA from service until repairs were made.
The operator is failing to maintain the life line in the #3 section primary escapeway installed securely attached and so as to provide tactile feedback to the emergency breathable air shelter.
The operator is failing to comply with page one, item one of the approved emergency response plan. The operator is failing to maintain two separate means of communication on the # 1 section. The secondary communication system would not function when tested.
This citation is extended due to the mine fan being down.
The intake phone is now functioning.
The operator is failing to comply with an approved revision to the mine ventilation plan. The operator has failed to knock out 1/3 of a stopping every 600 feet to make the intake entries from the top of LBB mains to the overcast at 78 break on the new North mains entry common air.
The airways have been made common by knocking a stopping every 500'.
The operator is failing to construct permanent ventilation controls of noncombustible materials. The intake split regulator at 20 break on LBB mains is constructed out of ventilation curtain.
The ventilation curtain has been removed.

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

1. Subsequent Action 1a. Continuation [✓]  
2. Dated (Original Issue) 02/11/2009  
3. Citation/Order Number 8074755 - 01  
4. Served To  
Andy Coalson, Mine Foreman  
5. Operator PERFORMANCE COAL COMPANY  
6. Mine UPPER BIG BRANCH MINE-SOUTH  
7. Mine ID 46-08436  
(Contractor)  

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**Section II—Justification for Action**

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**Section III—Subsequent Action Taken**

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

**Section IV—Inspection Data**

9. Type of Inspection E01  
10. Event Number 4119932  
11. Signature [✓]  
AR Number  
12. Date Mo Da Yr 02/23/2009  
13. Time (24 Hr. Clock) 1420  

MSHA Form 7000-2a, Mar 85 (revised)
The operator is failing to maintain and repair seals to protect miners from the hazards of sealed areas. The #59 seal in Set #13 is not being properly maintained. The seal has a crack 8' long by 1/8" wide running at a 45% angle from the bottom to the top of the seal. This crack is allowing air to travel freely in and out of the sealed area freely depending on barometric pressure.
A contract company has been contacted and is making arrangements to build the damaged seal.
The operator has submitted a seal construction plan to MSHA.
The seal plan submitted to MSHA has been approved. The operator is waiting for approval from the state before starting construction of the new seal.
The state has approved the seal plan and operator is making arrangements with the contractor to start construction.
The seal has been constructed, and the operator is waiting for parts for the water trap.
THE OPERATOR HAS INSTALLED A NEW SEAL AT THIS LOCATION.
Mine Citation/Order

1. Date Mo Da Yr 02/17/2009
2. Time (24 Hr. Clock) 1420
3. Citation/Order Number 8074758

4. Served To Homer Wallace, Supt.
5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH
7. Mine ID 46-08436 (Contractor)

8. Condition or Practice
   The operator is failing to maintain proper berms along elevated haulways. The guardrail, being used as a berm, from the shop building to the longwall shield storage area is not being maintained. The guardrail has rusted completely through in numerous places and the I beam support posts have rusted completely through in multiple locations. These conditions reduce the structural integrity and effectiveness of the guardrail.

9. Violation
   A. Health [ ] Safety [x] Other [ ]
   B. Section of Act
   C. Part/Section of Title 30 CFR 77.1605(k)

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

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

12. Type of Action 104(a)
13. Type of Issuance (check one) Citation [x] Order [ ] Safeguard [ ] Written Notice [ ]
14. Initial Action A. Citation [ ] B. Order [ ] C. Safeguard [ ] D. Written Notice [ ]
15. Area or Equipment

16. Termination Due
    A. Date Mo Da Yr 02/20/2009
    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 4119932
21. Primary or Mill

22. Signature

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The operator has put the contract out for bid and is waiting for answers from the contract companies.
The operator has hired a contractor and work will begin repairing the guardrail on 3/12/2009.
The guardrail has been replaced.
The operator is failing to cover wood used in the construction if stoppings with a non combustible sealant. The stopping at break 62 in the return of the #1 section does not have the wood covered with a non combustible sealant.
The exposed wood has been plastered.
The operator is failing to ensure that all crews working outby are supplied with a 3 gas detector. The 2 man track crew observed working at the mouth of the #1 section did not have a 3 gas detector with them.
The wrong section of law was inadvertently cited. This modifies the section changed from the Mine Act to the Code of Federal Regulations.
The operator is failing to maintain the abandoned faces on the old north mains in a condition where a complete weekly examination can be conducted. The #4, 5 and 6 entries are flooded with water over 14" deep. This condition prevents an examiner from traveling to the deepest part of each face to make checks for methane and proper air movement.
The water has been pumped down.
The operator is failing to maintain stoppings on the Old North Mains to serve the purpose for which they were built. The return stopping at break 161, between the #2 and 3 entries, is crushed out. A piece of ventilation curtain has been placed over the crushed out area sometime previously.

**Section I—Violation Data**

1. Date: 02/25/2009
2. Time (24 Hr. Clock): 1055
3. Citation/Order Number: 8074780

4. Served To:
   - Scott Halstead, Weekly Examiner

5. Operator:
   - PERFORMANCE COAL COMPANY

6. Mine:
   - UPPER BIG BRANCH MINING-SOUTH

7. Mine ID: 46-08436 (Contractor)

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

9. Violation:
   - A. Health Safety [ ]
   - B. Section of Act: C. Part/Section of Title 30 CFR
   - C. 75.333(h)

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

16. Termination Due:
    - A. Date: 03/06/2009
    - B. Time (24 Hr. Clock): 0800

17. Action to Terminate

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

19. Type of Inspection (activity code):
    - E01

20. Event Number:
    - 4119932

21. Primary or Mill:

22. Signature:

23. AR Number:

MSHA Form 7000-3, Apr 08 (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-RED-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW, MC 2126, 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 stopping has been rebuilt.
The mine operator is failing to provided fire extinguisher at permanent electrical installation. The D-Box located near DPP #1 on LBB mains is not provided with a charged fire extinguisher.
The D box has been provided with a fire extinguisher.
The operator has failed to support the power cable for the D-Box on LBB Main, near DDP #1 on insulators.

### Section I--Violation Data

<table>
<thead>
<tr>
<th>1. Date</th>
<th>03/03/2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. Time</td>
<td>10:46</td>
</tr>
<tr>
<td>3. Citation/Order Number</td>
<td>8074799</td>
</tr>
</tbody>
</table>

### 4. Served To

Bill Harless, Mine Foreman

### 6. Mine

UPPER BIG BRANCH MINE-SOUTH

### 8. Condition or Practice

8. Written Notice (103g)

### Violation

A. Health

B. Section of Act

C. Part/Section of Title 30 CFR

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Operator has failed to support the power cable for the D-Box on LBB Main, near DDP #1 on insulators.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>C.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Section II--Inspector's Evaluation

10. Gravity:

<table>
<thead>
<tr>
<th>A. Injury or Illness (has) (a):</th>
</tr>
</thead>
<tbody>
<tr>
<td>No Likelihood</td>
</tr>
<tr>
<td>Unlikely</td>
</tr>
<tr>
<td>Reasonably Likely</td>
</tr>
<tr>
<td>Highly Likely</td>
</tr>
<tr>
<td>Occurred</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B. Injury or illness could reasonably be expected to be:</th>
</tr>
</thead>
<tbody>
<tr>
<td>No Lost Workdays</td>
</tr>
<tr>
<td>Lost Workdays Or Restricted Duty</td>
</tr>
<tr>
<td>Permanently Disabling</td>
</tr>
<tr>
<td>Fatal</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>C. Significant and Substantial:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
</tr>
<tr>
<td>No</td>
</tr>
</tbody>
</table>

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

### 11. Negligence (check one)

| A. None  |
| B. Low  |
| C. Moderate  |
| D. High  |
| E. Reckless Disregard  |

### 12. Type of Action

A. Citation

B. Order

C. Written Notice

D. Safeguard

E. Other

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

### 14. Initial Action

A. Citation

B. Order

C. Safeguard

D. Written Notice

E. Other

### 15. Area or Equipment

### Section III--Termination Action

### 16. Termination Due

A. Date       | 03/04/2009 |
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>B. Time</td>
<td>08:00</td>
</tr>
</tbody>
</table>

### 17. Action to Terminate

### Section IV--Automated System Data

<table>
<thead>
<tr>
<th>19. Type of Inspection (activity code)</th>
<th>E01</th>
</tr>
</thead>
<tbody>
<tr>
<td>20. Event Number</td>
<td>4119932</td>
</tr>
</tbody>
</table>

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

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

<table>
<thead>
<tr>
<th>23. AR Number</th>
</tr>
</thead>
</table>

---

MSHA Form 7000-3, Apr 08 (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 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 length of the cable has been hung on insulators.
Mine Citation/Order

1. Date: 03/03/2009
2. Time: 1127
3. Citation/Order Number: 8074800

4. Served To:
   Bill Harless, Mine Foreman
5. Operator:
   PERFORMANCE COAL COMPANY (Contractor)
6. Mine:
   UPPER BIG BRANCH MINE-SOUTH
7. Mine ID: 46-08436

8. Condition or Practice:
   There are any up to date Dates, Times, Initials present at the KVA Box located at the old LBB #6 Head, to prove that a preshift examination had been conducted of the area.

9. Violation:
   A. Health Safety
   B. Section of Act
   C. Part/Section of Title 30 CFR
   75.360(e)

10. Gravity:
    A. Injury or Illness (has/has not):
        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
    Written Notice

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

15. Area or Equipment

16. Termination Due:
    A. Date: 03/03/2009
    B. Time: 1230

17. Action to Terminate:
    The area has been examined and up to date DTI's are now present.

18. Terminated:
    A. Date: 03/03/2009
    B. Time: 1130

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

2. Dated (Original issue) 03/03/2009

3. Citation/Order Number 8074800 - 01

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

8. Condition Or Practice

Reason To change the first sentence to read "There are not any up to date Dates, Times and Initials present at the KVA box located at the old LBB #6 head, to prove a preshift exam of the area had been conducted."

Section III--Subsequent Action Taken

8. Extended To Mo Da Yr

B. Time (24 Hr. Clock) [ ]

C. Vacated [ ]

D. Terminated [ ]

E. Modified [ ]

Section IV--Inspection Data

9. Type of inspection E01

10. Event Number 4119932

11. Signature [ ]

AR Number [ ]

12. Date Mo Da Yr

03/03/2009

13. Time (24 Hr. Clock) 1532

MSHA Form 7000-3a, Mar 85 (revised)
The operator is failing to maintain the life line in the secondary escape way on the #1 Section for the entire length of the escape way. The life line is 2 cross cuts out by the working section.
Mine Citation/Order

Section I--Violation Data

1. Date: 03/04/2009
2. Time (24 Hr. Clock): 1018
3. Citation/Order Number: 8074802

4. Served To: Bill Harless, Mine Foreman
5. Operator: PERFORMANCE COAL COMPANY
6. Mine: UPPER BIG BRANCH MINE-SOUTH
7. Mine ID: 46-08436
8. Condition or Practice: The operator is failing to maintain the life line in the primary escape way on the #1 Section for the entire length of the escape way. The life line is 2 cross cuts out by the working section.

See Continuation Form (MSHA Form 7000-3a)

9. Violation:
   A. Health [✓]  Safety [✓]  Other [ ]
   B. Section of Act:
   C. Part/Section of Title 30 CFR: 75.380(d)(7)(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: 010

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

12. Type of Action: 104(a)

13. Type of Issuance (check one):
    A. Citation [✓]  Order [ ]  Safeguard [ ]  Written Notice [ ]
    E. Citation/Order Number:
    F. Dated: 03/04/2009

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

15. Area or Equipment:

16. Termination Due:
    A. Date: 03/04/2009
    B. Time (24 Hr. Clock): 1030

Section III--Termination Action

17. Action to Terminate:
    The life line has been extended to the working section.

18. Terminated:
    A. Date: 03/04/2009
    B. Time (24 Hr. Clock): 1105

Section IV--Automated System Data

19. Type of Inspection (activity code): E01
20. Event Number: 4119932
21. Primary or Mill:
22. Signature [ ]
23. AR Number [ ]

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The operator is failing to provide a complete stopping line between belt haulage way and the intake entry. The intake stoppings located at #72 and #73 crosscuts have been dry stacked but not plastered.

The stoppings have been plastered.
Mine Citation/Order

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

<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>03/04/2009</td>
<td>1025</td>
<td></td>
<td>8074804</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 |

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

The operator is failing to maintain the #1 Section free from accumulation of combustible materials. The 1 to 2 crosscut has not been cleaned or dusted for a distance of 80 feet. Coal has accumulated in the entry and on the rib up to 20 inches in depth. The #3 entry had not been cleaned or dusted for a distance of 120 feet from the face. Coal has accumulated in the entry and on the rib up to 20 inches in depth. The section is wet.
The accumulation has been cleaned up.
The operator is failing to comply with page 7 of the approved mine ventilation plan on the #1 Section. The right continuous miner was observed in the 2 left crosscut using improper ventilation procedure. The exhausting line curtain using to ventilate the continuous miner was extending from the miner outby to a check curtain half way down the block. This exposes the center shuttle car operator to the return air from the miner.
8. Condition or Practice

Reason: Remove the sentence "The operator is failing to comply with page 7 of the approved dust control plan." Add the sentence "The operator is failing to comply with the approved methane/dust control plan on the 029 MMU." Change the last sentence to read "This exposes the miner to the visible dust in the return air of the continuous miner."

---

Section III--Subsequent Action Taken

8. Extended To

<table>
<thead>
<tr>
<th>A. Date</th>
<th>Mo</th>
<th>Da</th>
<th>Yr</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

B. Time (24 Hr. Clock)

C. Vacated
D. Terminated
E. Modified

Section IV--Inspection Data

9. Type of Inspection

| E01 |

10. Event Number

| 4119932 |

11. Signature

| [Redacted] |

AR Number

| [Redacted] |

12. Date

<table>
<thead>
<tr>
<th>Mo</th>
<th>Da</th>
<th>Yr</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>03/05/2009</td>
</tr>
</tbody>
</table>

13. Time (24 Hr. Clock)

| 0547 |
The operator is failing to maintain permanent stoppings to serve the purpose for which they were built. The return stopping at spad #23112 has a hole 1' x 2' in the lower right hand corner and the wood used in the construction has not been plastered.

---

### Section I--Violation Data

<table>
<thead>
<tr>
<th>1. Date</th>
<th>03/04/2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. Time</td>
<td>1055</td>
</tr>
<tr>
<td>3. Citation/Order Number</td>
<td>8074806</td>
</tr>
<tr>
<td>4. Served To</td>
<td>Bill Harless, Mine Foreman</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>46-08436</td>
</tr>
<tr>
<td>8. Condition or Practice</td>
<td>See Continuation Form (MSHA Form 7000-3a)</td>
</tr>
</tbody>
</table>

### Section II--Inspector's Evaluation

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

<table>
<thead>
<tr>
<th>10. Gravity:</th>
<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>
<td></td>
</tr>
<tr>
<td>C. Significant and Substantial:</td>
<td>Yes ☐</td>
<td>No ☑</td>
<td>D. Number of Persons Affected:</td>
<td>001</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>12. Type of Action</th>
<th>104(a)</th>
</tr>
</thead>
<tbody>
<tr>
<td>13. Type of Issuance (check one)</td>
<td>Citation ☑</td>
</tr>
<tr>
<td>14. Initial Action</td>
<td>A. Citation ☐</td>
</tr>
<tr>
<td>15. Area or Equipment</td>
<td></td>
</tr>
</tbody>
</table>

### Section III--Termination Action

**The stopping has been repaired and the wood plastered.**

<table>
<thead>
<tr>
<th>16. Termination Due</th>
<th>A. Date</th>
<th>03/04/2009</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>B. Time (24 Hr. Clock)</td>
<td>1200</td>
</tr>
</tbody>
</table>

### Section IV--Automated System Data

<table>
<thead>
<tr>
<th>19. Type of Inspection (activity code)</th>
<th>001</th>
</tr>
</thead>
<tbody>
<tr>
<td>20. Event Number</td>
<td>4119932</td>
</tr>
<tr>
<td>21. Primary or Mill</td>
<td></td>
</tr>
<tr>
<td>22. Signature</td>
<td></td>
</tr>
<tr>
<td>23. AR Number</td>
<td></td>
</tr>
</tbody>
</table>

---

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Mine Citation/Order U.S. Department of Labor
Mine Safety and Health Administration

Section I--Violation Data

<p>| | | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Date</td>
<td>Mo Da Yr</td>
<td>2. Time (24 Hr. Clock)</td>
<td>3. Citation/Order Number</td>
<td></td>
</tr>
<tr>
<td></td>
<td>03/04/2009</td>
<td>11:10</td>
<td>8074807</td>
<td></td>
</tr>
</tbody>
</table>

4. Served To
Bill Harless, Mine Foreman

5. Operator
PERFORMANCE COAL COMPANY

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

7. Mine ID
46-08436

8. Condition or Practice
The operator is failing to comply with the approved roof control plan on the #1 Section. In the #1 entry at spad #23114 the entry is 22 to 23 feet wide for the entire length of the block.

Section II--Inspector's Evaluation

<p>| | | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>9. Violation</td>
<td>A. Health Safety</td>
<td>B. Section of Act</td>
<td>C. Part/Section of Title 30 CFR</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>75.220(a)(1)</td>
<td></td>
</tr>
</tbody>
</table>

10. Gravity:

<p>| | | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Injury or Illness (has) (is):</td>
<td>No Likelihood</td>
<td>Unlikely</td>
<td>Reasonably Likely</td>
<td>Highly Likely</td>
</tr>
<tr>
<td>B. Injury or Illness could reasonably be expected to be:</td>
<td>No Lost Workdays</td>
<td>Lost Workdays Or Restricted Duty</td>
<td>Permanently Disabling</td>
<td>Fatal</td>
</tr>
<tr>
<td>C. Significant and Substantial:</td>
<td>Yes</td>
<td>No</td>
<td></td>
<td></td>
</tr>
<tr>
<td>D. Number of Persons Affected:</td>
<td>001</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

11. Negligence (check one)

<p>| | | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>A. None</td>
<td>B. Low</td>
<td>C. Moderate</td>
<td>D. High</td>
<td>E. Reckless Disregard</td>
</tr>
</tbody>
</table>

12. Type of Action

<p>| | | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>104(a)</td>
<td>Citation</td>
<td>Order</td>
<td>Safeguard</td>
<td>Written Notice</td>
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</tbody>
</table>

13. Type of Issuance (check one)

<p>| | | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
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<tbody>
<tr>
<td>A. Citation</td>
<td>B. Order</td>
<td>C. Safeguard</td>
<td>D. Written Notice</td>
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</table>

14. Initial Action

<p>| | | | | |</p>
<table>
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</thead>
<tbody>
<tr>
<td>E. Citation/Order Number</td>
<td>F. Dated Mo Da Yr</td>
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</table>

15. Area or Equipment

<p>| | | |</p>
<table>
<thead>
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<tbody>
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</table>

16. Termination Due

<p>| | | | |</p>
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<tr>
<th></th>
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<tbody>
<tr>
<td>A. Date Mo Da Yr</td>
<td>B. Time (24 Hr. Clock)</td>
<td>1500</td>
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</table>

Section III--Termination Action

17. Action to Terminate

<p>| | | |</p>
<table>
<thead>
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<tbody>
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</table>

Section IV--Automated System Data

<p>| | | | | |</p>
<table>
<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td>19. Type of Inspection (activity code)</td>
<td>20. Event Number</td>
<td>21. Primary or Mill</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>4119932</td>
<td></td>
<td></td>
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</table>

22. Signature

<p>| | |</p>
<table>
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</table>

MSHA Form 7000-3, Apr 08 (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 wide area has been timbered down to less than 20' in width.
The operator is failing to comply with the approved roof control plan on the #1 Section. The operator is failing to set additional supports along the belt entry, which is being mined 22' wide. At break #66 for a distance of 70' no additional support has been set. Along the length of the belt an additional 27-55 ton sand jacks being used for support are missing.
Mine Citation/Order Continuation

<table>
<thead>
<tr>
<th>1. Subsequent Action</th>
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<th>3. Citation/Order Number</th>
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</thead>
<tbody>
<tr>
<td>✓</td>
<td>03/04/2009</td>
<td>8074808 - 01</td>
</tr>
</tbody>
</table>

4. Served To
Bill Harless, Mine Foreman

6. Mine
UPPER BIG BRANCH MINE-SOUTH

Section II - Justification for Action

Work is being performed but additional time is needed.

Section III - Subsequent Action Taken

<table>
<thead>
<tr>
<th>8. Extended To</th>
<th>A. Date</th>
<th>B. Time (24 Hr. Clock)</th>
<th>C. Vacated</th>
<th>D. Terminated</th>
<th>E. Modified</th>
</tr>
</thead>
<tbody>
<tr>
<td>03/15/2009</td>
<td>0800</td>
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</tbody>
</table>

9. Type of Inspection | E01 |

10. Event Number | 4119932 |

11. Signature | [Redacted] | AR Number |

12. Date | 03/10/2009 |

13. Time (24 Hr. Clock) | 1409 |

MSHA Form 7000-3a, Mar 85 (revised)
The missing jacks have been set.
There are not any up to date Dates, Times and Initials present at the #2 Head and KVA on the #1 Section, to prove that a preshift examination of the area has been conducted. This is the 6th time this condition has been cited this quarter.

The area has been examined and up to date DTI's are now present.

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW, MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.
The operator failed to make an adequate preshift examination of the #1 Section. The preshift examiner failed to report that the 1 to 2 crosscut had not been cleaned or dusted for a length of 80', and also that the #3 entry had not been cleaned or dusted for a distance of 120' from the face. These conditions were obvious and extensive and should have been found by the preshift examiner.
An adequate preshift examination has been conducted and has been recorded in the pre-shift book.
The operator is failing to maintain a map that meets the requirements of CFR 75.1200. The map available fails to show permanent ventilation controls on the Old North Mains in their proper location. The map shows 3 stoppings across the old face, between the 2 stopping lines, 1 x cut out by the face. The 3 stoppings are actually 8 x cuts out by the face.
An updated map has been provided showing ventilation controls in the proper location has been provided.
The operator is failing to maintain a map that meets the requirements of CFR 75.372(a)(1). The map approved in February 2009 fails to show permanent ventilation controls on the Old North Mains in their proper location. The map shows 3 stoppings across the old face, between the 2 stopping lines, 1 x cut out by the face. The 3 stoppings are actually 8 x cuts out by the face. This condition was present when the last map was submitted for approval. The operator is required to submit 3 copies of a map showing the correct location of all ventilation controls and meeting all other requirements of 75.372 to the district manager.
The operator has submitted a map meeting the requirements of 75.372 to MSHA that shows ventilation controls in the correct location.
The operator is failing to secure the compressed gas cylinders being stored on the surface against falling. The compressed oxygen and acetylene cylinders being stored on the surface next to the mine office are not secured in any way to prevent them from falling. This is the second time this condition has been cited this quarter.
The operator is failing to make a weekly examination for hazardous conditions in all intake airways. The 1st intake split going to LBB Mains has not been examined since 3/8/08. This is the last dates, times and initials that could be found in the airway. The operator could not produce a written record of an examination of this area.
Mine Citation/Order

Section I--Violation Data

1. Date 03/10/2009
2. Time (24 Hr. Clock) 1105
3. Citation/Order Number 8074817

4. Served To
Bill Harless, Mine Foreman

5. Operator
PERFORMANCE COAL COMPANY

6. Mine
UPPER BIG BRANCH MINE-SOUTH

7. Mine ID 46-08436

8. Condition or Practice
The operator is failing to maintain the life line in the secondary escape way, on the #1 Section, for the entire length of the escape way. The life line is torn down and separated one crosscut near break #70.

Section II--Inspector's Evaluation

9. Violation
A. Health Safety ☑
B. Section of Act
C. Part/Section of Title 30 CFR
75.380(d)(7)(i)

10. Gravity:
A. Injury or Illness (has) (is): Reasonably Likely ☑
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)
Citation ☑

14. Initial Action
A. Citation ☐
B. Order ☐
C. Safeguard ☐
D. Written Notice ☐
F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due
A. Date 03/10/2009
B. Time (24 Hr. Clock) 1135

Section III--Termination Action

17. Action to Terminate

Section IV--Automated System Data

19. Type of Inspection (activity code) E01
20. Event Number 4119932
21. Primary or Mill

22. Signature

23. AR Number

MSHA Form 7000-3, Apr 08 (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.
## Mine Citation/Order

### Continuation

<table>
<thead>
<tr>
<th>Section I—Subsequent Action/Continuation Data</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Subsequent Action 1a. Continuation</td>
</tr>
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<td>[✓]</td>
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<table>
<thead>
<tr>
<th>4. Served To</th>
<th>5. Operator</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bill Harless, Mine Foreman</td>
<td>PERFORMANCE COAL COMPANY</td>
</tr>
</tbody>
</table>

### Mine Information

**UPPER BIG BRANCH MINE-SOUTH**

### Justification for Action

The life line has been repaired.

### Subsequent Action Taken

<table>
<thead>
<tr>
<th>B. Extended To</th>
<th>A. Date Mo Da Yr</th>
<th>B. Time (24 Hr. Clock)</th>
<th>C. Vacated</th>
<th>D. Terminated</th>
<th>E. Modified</th>
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### 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>4119932</td>
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</table>

### Event Information

<table>
<thead>
<tr>
<th>11. Signature</th>
<th>AR Number</th>
<th>12. Date Mo Da Yr</th>
<th>13. Time (24 Hr. Clock)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>03/16/2009</td>
<td>1230</td>
</tr>
</tbody>
</table>

MSHA Form 7000-3a, Mar 85 (revised)
The operator is failing to provide really operational fire valves at 300 feet intervals along the #2 Belt on the #1 Section. The fire valve located at break #73 has female fitting on the fire valve that would prevent the immediate attachment of a fire hose.
The fire valve has been repaired.
The operator is failing to maintain return stoppings on the #1 Section in a condition to serve the purpose for which they were built. The return stopping at break #73 has a 1'x1' hole at the bottom left corner and 1'x6" hole in the bottom right corner. The return stopping at #74 break has a 1'x2' hole in the bottom right hand corner.

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### Section I - Violation Data

1. Date | Mo Da Yr |
<table>
<thead>
<tr>
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<tbody>
<tr>
<td>03/10/2009</td>
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</tbody>
</table>

2. Time (24 Hr. Clock) | 1140 |

3. Citation/Order Number | 8074819 |

4. Served To | Bill Harless, Mine Foreman |

5. Operator | PERFORMANCE COAL COMPANY |

6. Mine | UPPER BIG BRANCH MINE-SOUTH |

7. Mine ID | 46-08436 |

8. Condition or Practice | 

9. Violation | A. Health Safety [ ]

Section II - Inspector's Evaluation

10. Gravity: | A. Injury or Illness (has) [ ]:

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

C. Significant and Substantial: | Yes [ ]

D. Number of Persons Affected: | 001 |

11. Negligence (check one) | A. None [ ]

B. Low [ ]

C. Moderate [ ]

D. High [ ]

E. Reckless Disregard [ ]

12. Type of Action | 104(a) |

13. Type of Issuance (check one) | Citation [ ]

Order [ ]

Safeguard [ ]

Written Notice [ ]

14. Initial Action | A. Citation [ ]

B. Order [ ]

C. Safeguard [ ]

D. Written Notice [ ]

E. Citation/Order Number |

F. Dated | Mo Da Yr |

15. Area or Equipment |

16. Termination Due | A. Date | Mo Da Yr |

| 03/11/2009 |
| 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 | 4119932 |

21. Primary or Mill |

22. Signature |

23. AR Number |

---

MSHA Form 7000-3, Apr 08 (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 4310, 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.
1. Subsequent Action 1a. Continuation

2. Dated (Original Issue) 03/10/2009

3. Citation/Order Number 8074819-01

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 stoppings have been repaired.

Section III—Subsequent Action Taken

8. Extended To

9. Type of Inspection E01

10. Event Number 4119932

11. Signature

12. Date 03/16/2009

13. Time (24 Hr. Clock) 1232
The operator is failing to provide adequate fire protection at permanent electrical installations on the #2 section. The mantrip charger located on the spur track at break #63 is not provided with a fire extinguisher.
There are not any up to date Dates, Times and Initials present at the 4 head KVA on the #2 section present to prove that a preshift examination of the area has been conducted. This is the 7th time this condition has been cited this quarter.
Mine Citation/Order

1. Date: Mo Da Yr 03/11/2009
2. Time (24 Hr. Clock): 1305
3. Citation/Order Number: 8074822
4. Served To: Andy Coalson, Mine Foreman
5. Operator: PERFORMANCE COAL COMPANY
6. Mine: UPPER BIG BRANCH MINE-SOUTH
7. Mine ID: 46-08436 (Contractor)
8. Condition or Practice:
The operator is failing to properly secure compressed gas cylinders against falling on the #2 section. There are a compressed oxygen and acetylene cylinders, at the 4 head set up that are leaning against the coal rib, in an upright position, with the torches hoses connected, that have not been secured against falling.

9. Violation:
   A. Health [x]
   B. Section of Act
   C. Part/Section of Title 30 CFR 75.1106-3(a)(2)
10. Gravity:
    A. Injury or Illness (has) (is): Yes [x] No
    B. Injury or Illness could reasonably be expected to be:
       No Lost Workdays [x] Lost Workdays Or Restricted Duty No
       Permanently Disabling [x] Fatal No
    C. Significant and Substantial:
       Yes [x] No
    D. Number of Persons Affected: 004
11. Negligence (check one):
12. Type of Action 104(a)
13. Type of Issuance (check one) Citation [x] Order [ ] Safeguard [ ] Written Notice [ ]
14. Initial Action:
    A. Citation [x] B. Order [ ] C. Safeguard [ ] D. Written Notice [ ]
    E. Citation/Order Number
    F. Dated: Mo Da Yr
15. Area or Equipment:
16. Termination Due
    A. Date: Mo Da Yr 03/11/2009
    B. Time (24 Hr. Clock): 1315
17. Action to Terminate: The bottles have been secured against falling.
18. Terminated
    A. Date: Mo Da Yr 03/11/2009
    B. Time (24 Hr. Clock): 1310
19. Type of Inspection (activity code) E01
20. Event Number: 4119932
21. Primary or Mill
22. Signature
23. AR Number

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There are not any up to date Dates, Times and Initials present at the #1 scoop charger on the #2 section present to prove that a preshift examination of the area has been conducted. This is the 8th time this condition has been cited this quarter.
The #1 scoop charger on the #2 section, does not have a frame ground hooked up between the charger and the batteries on charge.
There are not any up to date Dates, Times and Initials present at the #3 scoop charger on the #2 section present to prove that a preshift examination of the area has been conducted. This is the 9th time this condition has been cited this quarter.
The operator is failing to maintain all fire fighting equipment in a usable condition on the #2 section. At the #3 scoop charger, one of the palm buttons is missing from an actuator bottle.
The palm button has been replaced.
There are not any up to date Dates, Times and Initials present at the Strata lifeshelter on the #2 section present to prove that a preshift examination of the area has been conducted. This is the 10th time this condition has been cited this quarter.
The mantrip charger on the spur track at break 63, on the #2 section is not provided with a frame ground.
The charger has been provided with a frame ground.
The 12-12 Joy left side continuous miner on the 029 MMU is not being maintained in a permissible condition. The methane monitor junction box has an opening in excess of .005". .25% CH4 was detected.
The left side Fletcher roof bolter on the 029 MMU is not being maintained in a safe operating condition. The operators side inch tram levers are not identified as to their function. This condition could result in the machine acting in an unexpected manner.
<table>
<thead>
<tr>
<th>Mine Citation/Order Continuation</th>
<th>U.S. Department of Labor Mine Safety and Health Administration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section I--Subsequent Action/Continuation Data</td>
<td></td>
</tr>
<tr>
<td>1. Subsequent Action</td>
<td>2. Dated (Original Issue)</td>
</tr>
<tr>
<td>✓</td>
<td>Mo Da Yr</td>
</tr>
<tr>
<td>4. Served To</td>
<td>5. Operator</td>
</tr>
<tr>
<td>Bill Graham, Chief electrician</td>
<td>PERFORMANCE COAL COMPANY</td>
</tr>
<tr>
<td>UPPER BIG BRANCH MINE-SOUTH</td>
<td>46-08436</td>
</tr>
<tr>
<td>Section II--Justification for Action</td>
<td></td>
</tr>
<tr>
<td>Change From To</td>
<td></td>
</tr>
<tr>
<td>8. Condition Or Practice</td>
<td></td>
</tr>
<tr>
<td>Reason Add the sentence, &quot;The operator removed from service until repairs were made.&quot;</td>
<td></td>
</tr>
<tr>
<td>Section III--Subsequent Action Taken</td>
<td></td>
</tr>
<tr>
<td>8. Extended To A. Date Mo Da Yr</td>
<td>B. Time (24 Hr. Clock)</td>
</tr>
<tr>
<td>9. Type of Inspection</td>
<td></td>
</tr>
<tr>
<td>E01</td>
<td>4119932</td>
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<tr>
<td>Section IV--Inspection Data</td>
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<td>11. Signature</td>
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<tr>
<td>MSHA Form 7000-3a, Mar 85 (revised)</td>
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</tbody>
</table>
The operator side, inch tram levers, on the left side roof bolter used on the number 1 section are identified.
**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>Mo Da Yr</th>
<th>03/16/2009</th>
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</thead>
<tbody>
<tr>
<td>2. Time (24 Hr. Clock)</td>
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<td>3. Citation/Order Number</td>
<td>8074831</td>
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<table>
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<tr>
<th>4. Served To</th>
<th>Bill Graham, Chief electrician</th>
</tr>
</thead>
<tbody>
<tr>
<td>5. Operator</td>
<td>PERFORMANCE COAL COMPANY</td>
</tr>
</tbody>
</table>

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

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**Condition or Practice**

The 12-12 right side Joy continuous miner on the 029 MMU is not being maintained in a permissible condition. The area light on the operators side has a broken globe. 03 CH4 was detected.

---

### Section II—Inspector’s Evaluation

**9. Violation**

**A. Health** [ ]

**B. Section of Act**

**C. Part/Section of Title 30 CFR**

<table>
<thead>
<tr>
<th>9. Violation</th>
<th>A. Health Safety [ ]</th>
<th>B. Section of Act</th>
<th>C. Part/Section of Title 30 CFR</th>
</tr>
</thead>
<tbody>
<tr>
<td>10. Gravity</td>
<td>A. Injury or Illness (has) (es):</td>
<td>No Likelihood [ ]</td>
<td>Unlikely [ ]</td>
</tr>
<tr>
<td></td>
<td>B. Injury or illness could reasonably be expected to be:</td>
<td>No Lost Workdays [ ]</td>
<td>Lost Workdays Or Restricted Duty [ ]</td>
</tr>
<tr>
<td></td>
<td>C. Significant and Substantial:</td>
<td>Yes [ ]</td>
<td>No [ ]</td>
</tr>
<tr>
<td></td>
<td>D. Number of Persons Affected:</td>
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<table>
<thead>
<tr>
<th>11. Negligence (check one)</th>
<th>A. None [ ]</th>
<th>B. Low [ ]</th>
<th>C. Moderate [ ]</th>
<th>D. High [ ]</th>
<th>E. Reckless Disregard [ ]</th>
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</thead>
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<table>
<thead>
<tr>
<th>12. Type of Action</th>
<th>104(a)</th>
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<table>
<thead>
<tr>
<th>13. Type of Issuance (check one)</th>
<th>Citation [ ]</th>
<th>Order [ ]</th>
<th>Safeguard [ ]</th>
<th>Written Notice [ ]</th>
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<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>
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<table>
<thead>
<tr>
<th>15. Area or Equipment</th>
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<table>
<thead>
<tr>
<th>16. Termination Due</th>
<th>A. Date</th>
<th>Mo Da Yr</th>
<th>03/16/2009</th>
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</thead>
<tbody>
<tr>
<td>B. Time (24 Hr. Clock)</td>
<td>0330</td>
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</table>

---

**Section III—Termination Action**

**17. Action to Terminate**

The broken globe has been replaced.

---

<table>
<thead>
<tr>
<th>18. Terminated</th>
<th>A. Date</th>
<th>Mo Da Yr</th>
<th>03/16/2009</th>
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<tr>
<td>B. Time (24 Hr. Clock)</td>
<td>0440</td>
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**Section IV—Automated System Data**

<table>
<thead>
<tr>
<th>19. Type of Inspection (activity code)</th>
<th>B01</th>
</tr>
</thead>
<tbody>
<tr>
<td>20. Event Number</td>
<td>4119932</td>
</tr>
<tr>
<td>21. Primary or Mill</td>
<td></td>
</tr>
</tbody>
</table>

---

| 22. Signature | |

---

MSHA Form 7000-3, Apr 08 (revised)

In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency’s responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW, MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.
The operator is failing to comply with page 1, item 1 of the Emergency Response Plan. The intake phone used as the secondary means of communication is not functioning.
The intake phone used as the secondary means of communication is now in proper working order.
The Fairchild 35C scoop (s/n T339-196) on the #3 section is not being maintained in a permissible condition. The following conditions were found:
1) The offside rear headlight lens housing is broken.
2) The conduit on the battery cable is busted open.

0% CH4 was detected.

The headlight and conduit have been repaired.
The operator is failing to comply with the approved mine ventilation plan on the #3 section. (060-061 MMU's) The section foreman is failing to maintain the section properly ventilated. The following conditions were found: 1) The left roof bolter was operating in the 2L crosscut without any ventilation curtain. 2) The #2 face was approximately 50' deep without any ventilation curtain. 3) The #3 face was approximately 60' deep without any ventilation curtain. 4) The #6 face was approximately 40' deep without any ventilation curtain and the energized right roof bolter was parked in the face. 5) The energized right continuous miner was sitting in the #5 face with the ventilation curtain 20' back from the face. 6) The check curtain to be used as a stopping between the #6 and 7 entry was missing. 7) The back up check curtains were missing in the #3, 4 and 5 entries. 8) The check curtain to be used as a stopping between the #6 and 7 entry was missing. 7) The back up check curtains were missing in the #3, 4 and 5 entries.
Mine Citation/Order
Continuation

1. Subsequent Action 1a. Continuation

2. Dated (Original Issue) 03/17/2009

3. Citation/Order Number 8074834

4. Served To
Russell Gunoe, #3 section production foreman

5. Operator
PERFORMANCE COAL COMPANY

6. Mine
UPPER BIG BRANCH MINE-SOUTH

7. Mine ID
46-08436

--Subsequent Action/Continuation Data

Curtain between the #4 and 5 entry was missing.

--Justification for Action

MSHA Form 7000-3a, Mar 85 (revised)
### 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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<tbody>
<tr>
<td>✓</td>
<td>03/17/2009</td>
<td>8074834-01</td>
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<table>
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<tr>
<th>4. Served To</th>
<th>5. Operator</th>
</tr>
</thead>
<tbody>
<tr>
<td>Homer Wallace, Supt.</td>
<td>PERFORMANCE COAL COMPANY</td>
</tr>
</tbody>
</table>

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

### Section II—Justification for Action

**Change**

<table>
<thead>
<tr>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reasonably Likely</td>
<td>Highly Likely</td>
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</table>

**Reason**
After further consideration it is considered that this condition would be highly likely to result in silicosis.

### Section III—Subsequent Action Taken

<table>
<thead>
<tr>
<th>8. Extended To</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Date</td>
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<td>B. Time (24 Hr. Clock)</td>
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<td>C. Vacated</td>
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<table>
<thead>
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<th>9. Type of Inspection</th>
<th>10. Event Number</th>
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<tbody>
<tr>
<td>T02</td>
<td>9832268</td>
</tr>
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<table>
<thead>
<tr>
<th>11. Signature</th>
<th>AR Number</th>
<th>12. Date</th>
<th>Mo Da Yr</th>
<th>13. Time (24 Hr. Clock)</th>
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<tr>
<td></td>
<td></td>
<td>04/01/2009</td>
<td>0843</td>
<td></td>
</tr>
</tbody>
</table>

MSHA Form 7000-3a, Mar 85 (revised)
The Joy 14-15 continuous miner on the 061 MMU is not being maintained in a permissible condition. The cable junction box has an opening in excess of .005", 0% CH4 was detected.
The operator is failing to maintain the methane monitor on the Joy 14-15 miner on the 061 MMU in a proper operating condition. When tested with a 2.5% methane/air mixture the monitor went up to 3.1%.
The Fairchild 35C scoop (s/n T339-230) on the #3 section is not being maintained in a permissible condition. The offside rear headlight has a broken lens. 0% CH4 was detected.
The damaged headlight has been replaced.
The operator is failing to maintain an accurate escapeway map for the #1, #2 and #3 sections in an area where miners congregate on the surface. The #2 section has mined up a panel and turned right handed. The number 3 section has mined a panel up, and turned a panel right handed at the mouth of the mains. The number 1 section has advanced over 30 breaks.
The escapeway map has been updated.

---

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

1. **Subsequent Action**  
   1a. **Continuation**

2. **Dated**  
   (Original Issue)  
   **Mo Da Yr**  
   **03/17/2009**

3. **Citation/Order Number**  
   **8074838-01**

4. **Served To**  
   Homer Wallace, Supt.

5. **Operator**  
   PERFORMANCE COAL COMPANY

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

7. **Mine ID**  
   46-08436

---

**Section II—Justification for Action**

---

**Section III—Subsequent Action Taken**

8. **Extended To**  
   **A. Date**  
   **Mo Da Yr**

9. **Type of Inspection**  
   **E01**

10. **Event Number**  
    **4119932**

11. **Signat**

12. **Date**  
    **Mo Da Yr**  
    **03/17/2009**

13. **Time (24 Hr. Clock)**  
    **1055**

---

**See Continuation Form**

---

**MSHA Form 7000-3a, Mar 85 (revised)**
The operator is failing to maintain operative fire sensors on the 1 south belt, and the #3 sections 1 and 2 belts. The CO sensors used as fire sensors are not functioning.
Section I--Subsequent Action/Continuation Data

1. Subsequent Action [ ] Continuation [x]
2. Dated (Original Issue) 03/17/2009
3. Citation/Order Number 8074839 - 01

4. Served To
   Homer Wallace, Supt.

5. Operator
   PERFORMANCE COAL COMPANY

6. Mine
   UPPER BIG BRANCH MINE-SOUTH

7. Mine ID 46-08436

Section II--Justification for Action

The CO monitors have been repaired.
The operator is failing to ensure that all underground miners have a check id tag attached to their belt. A general laborer on the #2 section does not have an id tag attached to his belt.
The miner now has an ID tag on his belt.
The operator is failing to protect miners from falls of the top and ribs on the #2 section. Inby spad #23139, the right rib has rolled off for 25' and 1 and 1/2' thick. The rib inby has rolled off and been cleaned up previously. These rib rolls have caused the roof bolts to be 5' away from the rib for the length of the block.
The rib has been timbered.
The operator is failing to maintain 9000 cfm of air in the last open crosscut of the #2 working section. When tested there was not enough air present to turn the anemometer.
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>03/18/2009</th>
</tr>
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<tbody>
<tr>
<td>2. Time (24 Hr. Clock)</td>
<td>04:25</td>
</tr>
<tr>
<td>3. Citation/Order Number</td>
<td>8082683</td>
</tr>
<tr>
<td>4. Served To</td>
<td>Brandon Waddell, #2 section chief electrician</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>46-08436</td>
</tr>
<tr>
<td>8. Condition or Practice</td>
<td>The operator is failing to maintain the methane monitor on the right miner on the 040 MMU in a proper operating condition. When tested with a 2.5% CH4/air mixture, the monitor went up to 2.9%.</td>
</tr>
</tbody>
</table>

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>75.342(a)(4)</td>
</tr>
</tbody>
</table>

| 10. Gravity: |
| A. Injury or Illness (has) (is): |
| B. Injury or Illness could reasonably be expected to be: |
| C. Significant and Substantial: |
| D. Number of Persons Affected: |

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

| 12. Type of Action | 104(a) |
| 13. Type of Issuance (check one): |
| 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 | 03/18/2009 |
| B. Time (24 Hr. Clock) | 05:00 |

| 17. Action to Terminate |
| The methane monitor has been calibrated and is functioning correctly. |

| 18. Terminated |
| A. Date Mo Da Yr | 03/18/2009 |
| B. Time (24 Hr. Clock) | 04:30 |

Section IV--Automated System Data

| 19. Type of Inspection (activity code) | E01 |
| 20. Event Number | 4119932 |
| 21. Primary or Mill |
| 22. Signature |
| 23. AR Number | |

MSHA Form 7000-3, Apr 06 (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 2122, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.
The operator is failing to comply with the approved CH4/dust control plan on the 060 MMU. The operator has replaced the Joy 14-14 continuous miner, that is approved in the plan, with a Joy 14-10 continuous miner, without an approved revision of the plan.
The operator failed to make an adequate preshift examination of the #3 section on 3/16/2009 for the oncoming 3rd shift. The examination conducted by evening shift section foreman, [Redacted], on 3/16/09 from 22:30 to 23:00 hours, was inadequate in that the following hazardous conditions were not reported:

1) The left roof bolter was operating in the 2L crosscut without any ventilation curtain. 2) The #2 face was approximately 50' deep without any ventilation curtain. 3) The #3 face was approximately 60' deep without any ventilation curtain. 4) The #6 face was approximately 40' deep without any ventilation curtain and the energized right roof bolter was parked in the face. 5) The energized right continuous miner was sitting in the #5 face.

### Section II - Inspector's Evaluation

<table>
<thead>
<tr>
<th>9. Violation</th>
<th>A. Health Safety ✓</th>
<th>B. Section of Act</th>
<th>C. Part/Section of Title 30 CFR</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>75.360(a)(1)</td>
</tr>
</tbody>
</table>

**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: 008

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

**12. Type of Action:**
- A. Citation ✓ B. Order ☐ C. Safeguard ☐ D. Written Notice ☐

**13. Type of Issuance (check one):**
- E. Citation/Order ✓ Safeguard ☐ Written Notice ☐

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

**15. Area or Equipment:**
- The entire #3 working section.

**16. Termination Due:**
- A. Date: Mo Da Yr 03/17/2009
- B. Time (24 Hr. Clock): ☐

**17. Action to Terminate:**
An adequate examination of the section has been conducted of the section and the results recorded in the preshift book.

**18. Terminated:**
- A. Date: Mo Da Yr 03/17/2009
- B. Time (24 Hr. Clock): 0500

**19. Type of Inspection (activity code):**
- E01

**20. Event Number:**
- 4119932

**21. Primary or Mill:**

**22. Signature:**

---

MSHA Form 7000-3, Apr 08 (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, 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.
with the ventilation curtain 20’ back from the face. 6) The check curtain to be used as a stopping between the #6 and 7 entry was missing. 7) The back up check curtains were missing in the #3,4 and 5 entries. 8) The check curtain between the #4 and 5 entry was missing.
Based on the results of a rockdust survey collected 3/10/09 on the #1 section, the operator is failing to maintain airways with the proper percentage of rockdust. The survey was 62.96% non compliant. The #1, 2 and 3 entries need additional rockdust applied from spad 22831 to the working section.
Work is being performed but additional time is needed to finish dusting.
## 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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<tbody>
<tr>
<td>✔ Continuation</td>
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<td>8082696 - 02</td>
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<table>
<thead>
<tr>
<th>4. Served To</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Homer Wallace, Supt.</td>
<td>PERFORMANCE COAL COMPANY</td>
</tr>
</tbody>
</table>

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

## Section II—Justification for Action

**Additional rockdust has been applied to the cited areas.**

## Section III—Subsequent Action Taken

<table>
<thead>
<tr>
<th>8. Extended To</th>
<th>A. Date</th>
<th>Mo</th>
<th>Da</th>
<th>Yr</th>
<th>B. Time (24 Hr. Clock)</th>
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<table>
<thead>
<tr>
<th>C. Vacated</th>
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<th>E. Modified</th>
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<thead>
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<th>9. Type of Inspection</th>
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<th>12. Date</th>
<th>Mo</th>
<th>Da</th>
<th>Yr</th>
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<tr>
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<tbody>
<tr>
<td>1115</td>
</tr>
</tbody>
</table>

See Continuation Form

MSHA Form 7000-3a, Mar 85 (revised)
The high voltage cable has been guarded.
Work has been performed on the life line, but additional corrections are still needed.
This citation is extended due to the mine fan being down.
The lifeline has been correctly installed.
The lifeline has been extended to the working section.
due to injury of inspector this citation is extended.
The cited areas have had additional rockdust applied.
The stoppings have been repaired.
The life line is now installed properly.
The wide area has been timbered down to less than 20'.
The wide area has been timbered down to less than 20'.
Section I—Subsequent Action/Continuation Data

1. Subsequent Action: Ta. Continuation: [ ]
2. Dated (Original Issue): 02/26/2009
3. Citation/Order Number: 8074785 - 01
4. Served To: Andy Coalson, Mine Foreman
5. Operator: PERFORMANCE COAL COMPANY
6. Mine: UPPER BIG BRANCH MINE-SOUTH
7. Mine ID: 46-08436 (Contractor)

Section II—Justification for Action

There are now only 2 open crosscuts on the return of the #1 Section.
The missing and the damaged jacks have been replaced.
Roof control plan was discussed with miners, foremen and the superintendent. The plan appears to be adequate for the current mining conditions.

☑ Adequate  ☐ Deficiencies in Plan (Briefly Describe)

Ventilation
☑ Adequate  ☐ Deficiencies in Plan (Briefly Describe)

Roof control plan was discussed with miners, foremen and superintendent, including violations and repeated problems with compliance. The plan appears to be adequate for the current mining conditions if the operator complies with it.
The operator is failing to construct permanent ventilation controls out of non combustible materials on the Old North Mains. 3 return stoppings going across the old face area are constructed of ventilation line curtain.
After consulting with MSHA ventilation specialist, it was decided that this citation was issued in error. This citation is hereby vacated and citations 8074813 and 8704814 are issued to correct the condition found.