The #2 belt line on the #1 section is not being maintained in a safe operating condition. At the tailpiece the hold up roller has broken off on the off-side. This let the roller fall down on a crib block under the tailpiece. The spinning roller on the crib block created heat and visible smoke in the area around the tailpiece and could be smell over 4 breaks outby.

The operator removed the belt from service until repairs were made.
The Fletcher truss bolter used in the longwall set up area of the #1 section is not being maintained in a safe operating condition. The following conditions were found: 1) The offside drill control lever was not marked to indicate the functions it controls and/or the directions of operation for specific functions. 2) The operators side drill control lever was not marked to indicate the functions it controls and/or the directions of operation for specific functions.

These conditions can result in the accidental activation of the wrong function or activation in an unexpected direction resulting in severe injuries.

The operator removed the bolter from service until repairs were made.

---

**Section I--Violation Data**

<table>
<thead>
<tr>
<th>1. Date</th>
<th>Mo Da Yr</th>
<th>04/15/2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. Time</td>
<td>1020</td>
<td></td>
</tr>
<tr>
<td>3. Citation/Order Number</td>
<td>8082725</td>
<td></td>
</tr>
<tr>
<td>4. Served To</td>
<td>Gary May, Mine Foreman</td>
<td></td>
</tr>
<tr>
<td>5. Mine</td>
<td>PERFORMANCE COAL COMPANY</td>
<td></td>
</tr>
<tr>
<td>6. Mine ID</td>
<td>46-08436</td>
<td></td>
</tr>
<tr>
<td>7. Mine (Contractor)</td>
<td>UPPER BIG BRANCH MINE-SOUTH</td>
<td></td>
</tr>
<tr>
<td>8. Condition or Practice</td>
<td>Written Notice (103g)</td>
<td></td>
</tr>
</tbody>
</table>

---

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

<table>
<thead>
<tr>
<th>A. Health Safety</th>
<th>B. Section of Act</th>
<th>C. Part/Section of Title 30 CFR</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>75.1725(a)</td>
</tr>
</tbody>
</table>

**Gravity:**

- A. Injury or illness (has) (is): Reasonably Likely
- B. Injury or illness could reasonably be expected to be: Permanently Disabling
- C. Significant and Substantial: Yes
- D. Number of Persons Affected: 002

**Negligence (check one):**

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

**Type of Action:**

- 104(a)

**Initial Action:**

- A. Citation
- B. Order
- C. Safeguard
- D. Written Notice

**Type of Issuance (check one):**

- Citation
- Order
- Safeguard
- Written Notice

**Area or Equipment**

<table>
<thead>
<tr>
<th>Terminated A. Date</th>
<th>Mo Da Yr</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>04/15/2009</td>
</tr>
<tr>
<td>Terminated B. Time (24 Hr. Clock)</td>
<td>1045</td>
</tr>
</tbody>
</table>

**Action to Terminate**

The controls have been identified as to function and direction of operation for specific functions.

---

**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>4119936</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>
The are not any up to date Dates, times and initials present at the KVA box located at Plumley Switch to indicate that a preshift examination of the area has been conducted for the day shift. This is the 11th time this condition has been cited since 1/1/2009.
The operator of this mine reported to MSHA on form 7000-1 that an occupational injury or illness occurred to a miner, last name [REDACTED], on 06-17-08. The return to duty information as stipulated in 30 CFR (50.20A) has not been submitted to MSHA on Section-D of the second copy of the original submittal [REDACTED] returned to full duty on 8/11/08.

### Section II—Inspector's Evaluation

<table>
<thead>
<tr>
<th>10. Gravity:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Injury or Illness (has) (is):</td>
<td>No Likelihood [✓] Unlikely [ ] Reasonably Likely [ ] Highly Likely [ ] Occurred [ ]</td>
</tr>
<tr>
<td>B. Injury or Illness could reasonably be expected to be:</td>
<td>No Lost Workdays [✓] Lost Workdays Or Restricted Duty [ ] Permanently Disabling [ ] Fatal [ ]</td>
</tr>
<tr>
<td>C. Significant and Substantial:</td>
<td>Yes [ ] No [✓]</td>
</tr>
<tr>
<td>D. Number of Persons Affected:</td>
<td>000</td>
</tr>
</tbody>
</table>

### Section III—Termination Action

**Action to Terminate**

The necessary forms have been submitted to MSHA.
The operator of this mine reported to MSHA on form 7000-1 that an occupational injury or illness occurred to a miner, last name [redacted], on 08-25-08. The return to duty information as stipulated in 30 CFR (50.20A) has not been submitted to MSHA on Section-D of the second copy of the original submittal.[redacted] returned to full duty on 10/13/08.
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>04/20/2009</th>
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</thead>
<tbody>
<tr>
<td>2. Time</td>
<td>0847</td>
<td></td>
</tr>
<tr>
<td>3. Citation/Order Number</td>
<td>8082732</td>
<td></td>
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<tr>
<td>4. Served To</td>
<td>Homer Wallace, Supt.</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 (Contractor)</td>
<td></td>
</tr>
</tbody>
</table>

The operator of this mine reported to MSHA on form 7000-1 that an occupational injury or illness occurred to a miner, last name [REDACTED] on 03-14-08. The return to duty information as stipulated in 30 CFR (50.20A) has not been submitted to MSHA on Section-D of the second copy of the original submittal. [REDACTED] returned to full duty on 11/05/08.

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>
</tr>
</thead>
<tbody>
<tr>
<td>B. Section of Act</td>
<td></td>
</tr>
<tr>
<td>C. Part/Section of Title 30 CFR</td>
<td>50.20(a)</td>
</tr>
</tbody>
</table>

10. Gravity:

A. Injury or Illness (has) (is): [✓] No Likelihood

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

C. Significant and Substantial: [✓] Yes

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)

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 | Mo Da Yr | 04/30/2009 |
| B. Time | 0800     |            |

17. Action to Terminate

The necessary forms have been submitted to MSHA.

18. Terminated

A. Date | Mo Da Yr | 04/20/2009 |
| B. Time | 0851     |            |

Section III--Termination Action

Section IV--Automated System Data

19. Type of Inspection (activity code)

E01

20. Event Number | 4119936 |

21. Primary or Mill |

22. Signature [REDACTED]

23. AR Number [REDACTED]

MSHA Form 7000-3, Apr 09 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 400 3rd Street, SW, MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.
**Mine Citation/Order**

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

<table>
<thead>
<tr>
<th>Section I--Violation Data</th>
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<tbody>
<tr>
<td>1. Date: 04/21/2009</td>
<td>2. Time: 0842</td>
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<tr>
<td>3. Citation/Order Number: 8082734</td>
<td></td>
</tr>
</tbody>
</table>

| 4. Served To:  
Rick Foster, 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 conduct a preshift exam of the unconnected room driven 25' deep off the #4 section intake at spad 5738. The room is ventilated with line curtain. |

9. Violation:  
- A. Health/Safety  
- B. Section of Act:  
- C. Part/Section of Title 30 CFR: 75.360(b)(6)(ii)  

<table>
<thead>
<tr>
<th>10. Gravity:</th>
<th></th>
</tr>
</thead>
</table>
| A. Injury or Illness (has) (is):  
- No Likelihood  
- Unlikely ✓  
- Reasonably Likely  
- Highly Likely  
- Occurred  |
| B. Injury or Illness could reasonably be expected to be:  
- No Lost Workdays ✓  
- Lost Workdays Or Restricted Duty  
- Permanently Disabling  
- Fatal  |
| C. Significant and Substantial: |
|   - Yes ✓  
   - No  |
| D. Number of Persons Affected: | 001 |

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

| 12. Type of Action: | 104(d)(2) |
| 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: | 8082692 |
| F. Dated: 03/17/2009 |

15. Area or Equipment:  
The #4 section intake.

16. Termination Due:  
A. Date: 04/21/2009  
B. Time (24 Hr. Clock): 0845

17. Action to Terminate:  
The room has been examined.

18. Type of Inspection (activity code):  
- F01  
- 20. Event Number: 4119936  
- 21. Primary or Mill:  
- 22. Signature:  
- 23. AR Number: [redacted]

---

MSHA Form 7000-3, April 26, 2001: 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 mark mandoors along the intake escapeway going to the #4 section. From spad 5593 inby to the section 6 mandoors are not marked.
The doors have been marked with signs.
Mine Citation/Order

1. Date: 04/21/2009

2. Time (24 Hr. Clock): 0907

3. Citation/Order Number: 8082736

4. Served To: Rick Foster, Mine Foreman

5. Operator: PERFORMANCE COAL COMPANY

6. Mine: UPPER BIG BRANCH MINE-SOUTH

7. Mine ID: 46-08436 (Contractor)

The operator is failing to comply with page 2 of the Approved Emergency Response Plan on the #4 shelter. The lifeshelter on the #4 section is not provided with a multi gas detector.

9. Violation

<table>
<thead>
<tr>
<th>A. Health Safety</th>
<th>B. Section of Act</th>
<th>C. Part/Section of Title 30 CFR</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>75.1502</td>
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</table>

10. Gravity:

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

11. Negligence (check one)

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

12. Type of Action: 104(a)

13. Type of Issuance (check one)

<table>
<thead>
<tr>
<th>Citation</th>
<th>Order</th>
<th>Safeguard</th>
<th>Written Notice</th>
</tr>
</thead>
</table>

14. Initial Action

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

15. Area or Equipment

16. Termination Due

<table>
<thead>
<tr>
<th>A. Date</th>
<th>B. Time (24 Hr. Clock)</th>
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<tbody>
<tr>
<td>04/21/2009</td>
<td>1030</td>
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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 life shelter has been provided with a multi gas detector.
The Left side Joy 10s/c (ET17640) is not being maintained in a safe operating condition. The tram pedal on the inby end is taped in the upright position, which could result in accident activation of the tram function.

The operator removed the shuttle car from service until repairs are made.

---

### Section I - Violation Data

1. **Date**
   - Mo Da Yr
   - 04/21/2009

2. **Time (24 Hr. Clock)**
   - 0954

3. **Citation/Order Number**
   - 8082737

4. **Served To**
   - Rick Foster, Mine Foreman

5. **Operator**
   - PERFORMANCE COAL COMPANY

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

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

---

### Section II - Inspector's Evaluation

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

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

12. **Type of Action**
    - 104(a)

13. **Type of Issuance (check one):**
    - Citation [ ]
    - Order [ ]
    - Safeguard [ ]
    - Written Notice [ ]
    - D. Number of Persons Affected:
      - 002

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

15. **Area or Equipment**

---

### Section III - Termination Action

17. **Action to Terminate**
    - The tape has been removed and the pedal now functions correctly.

---

### Section IV - Automated System Data

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

20. **Event Number**
    - 4119936

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 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 maintain properly functional fire valves at 300' intervals along the 1 South belt. The fire valve located at break 18 is rusted so that a fire hose could not screw down on it and the conveyor belt has worn a 1/2" diameter hole in the nipple that would be below where a fire hose would hook up.
The fire valve has been repaired.
The operator is failing to maintain the #1 South conveyor belt free of combustible materials. The belt has accumulations of coal, float coal, and float coal dust built up to the bottom rollers in numerous locations along the length of the belt. Along the walkway side of the belt alternating layers of coal and rock dust has built up over 10" deep for the length of the belt. Float coal dust is built up from rib to rib along the entire belt and in the adjacent cross cuts.
Work is being performed but additional time is needed.
The belt has been cleaned and dusted.
The operator is failing to properly support the mine roof in areas where miners work or travel, at brk 41 on North Mains in the cross cut between the track and intake split. This crosscut has an airlock door at each end of the break. The mine roof has fell from around the roof bolts from the out by rib over to the second row of bolts, 1-2' thick for the length of the crosscut.
The bad top has been supported by jacks and cribs on each end of the crosscut.
The operator is failing to maintain Seal #32 (set 1) in condition to serve the purpose for which it was built. 2 of the 6 water traps were empty and allowing the mine atmospheres on either side of the seal to flow freely back and forth.

The water traps have been filled with water.
Mine Citation/Order

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

Section I—Violation Data

1. Date Mo Da Yr 04/28/2009
2. Time (24 Hr. Clock) 1155
3. Citation/Order Number 8082742

5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH

The operator is failing to properly store compressed gas cylinders on the surface. At the compressed gas storage area, next to the main office, 3 full compressed acetylene cylinders are being stored without being secured against falling.

Section II—Inspector's Evaluation

9. Violation A. Health ☑ Safety ☐ Other ☐

B. Section of Act 77.208(c)
C. Part/Section of Title 30 CFR

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

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

12. Type of Action 104(a)
13. Type of Issuance (check one) A. Citation ☑ B. Order ☐ C. Safeguard ☐ D. Written Notice ☐

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

15. Area or Equipment

16. Termination Due
A. Date Mo Da Yr 04/28/2009
B. Time (24 Hr. Clock) 1200

Section III—Termination Action

17. Action to Terminate The cylinders have been secured against falling.

18. Terminated
A. Date Mo Da Yr 04/28/2009
B. Time (24 Hr. Clock) 1205

Section IV—Automated System Data

19. Type of Inspection (activity code) E01
20. Event Number 4119936
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 businesses. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.
Mine Citation/Order
Continuation

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

Section I—Subsequent Action/Continuation Data

<table>
<thead>
<tr>
<th>1. Subsequent Action</th>
<th>2. Dated (Original Issue)</th>
<th>3. Citation/Order Number</th>
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<tbody>
<tr>
<td>✓</td>
<td>04/28/2009</td>
<td>8082742 - 01</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Change</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>9. C. Part/Section</td>
<td>77.208(e)</td>
<td>77.208(d)</td>
</tr>
<tr>
<td>Reason</td>
<td>inadvertently cited wrong section of law.</td>
<td></td>
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</table>

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>
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<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Section IV—Inspection Data

<table>
<thead>
<tr>
<th>9. Type of Inspection</th>
<th>10. Event Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>E01</td>
<td>4119936</td>
</tr>
</tbody>
</table>

11. Signatures: [Redacted]
12. Date: 04/28/2009
13. Time (24 Hr. Clock): 1402

MSHA Form 7000-3a, Mar 85 (revised)
The operator has an empty compressed oxygen cylinder and an empty compressed air cylinder stored on the surface without protective caps over the valve stems.
## Mine Citation/Order Continuation

### Section I - Subsequent Action/Continuation Data

<table>
<thead>
<tr>
<th>1. Subsequent Action</th>
<th>2. Dated (Original Issue)</th>
<th>3. Citation/Order Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>✓</td>
<td>04/28/2009</td>
<td>8082743 - 01</td>
</tr>
</tbody>
</table>

### 4. Served To
- Gary May, 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

Caps have been put over the valve stems.

---

### Section III - Subsequent Action Taken

<table>
<thead>
<tr>
<th>B. Time (24 Hr. Clock)</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ C. Vacated</td>
</tr>
<tr>
<td>✓ D. Terminated</td>
</tr>
<tr>
<td>□ E. Modified</td>
</tr>
</tbody>
</table>

### Section IV - Inspection Data

<table>
<thead>
<tr>
<th>9. Type of Inspection</th>
<th>10. Event Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>E01</td>
<td>4119936</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>11. Signature</th>
<th>AR Number</th>
<th>12. Date</th>
<th>13. Time (24 Hr, Clock)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>04/29/2009</td>
<td>0815</td>
</tr>
</tbody>
</table>

---

MSHA Form 7000-3a, Mar 85 (revised)
The operator is failing to maintain the #1 section #2 belt running correctly aligned and keeping the belt from rubbing against the structure. Outby break 48, the bottom belt is running off and has cut an 1 1/4" groove into the belt stand.
The operator is failing to provide readily functional fire valves at 300' intervals along the #2 belt on the #1 section. The fire valve located at break 72 has adapters on it to accommodate a wash down hose that would prevent the fire hose from being hooked up.

This is the fifth time a fire valve has been cited since 1/1/2009.
The operator is failing to maintain mandoors closed when not in use on the #1 section. The mandoor at break 72 has a waterline passed through it preventing the door from closing.

### Section I - Violation Data

<table>
<thead>
<tr>
<th>1. Date</th>
<th>04/29/2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. Time (24 Hr. Clock)</td>
<td>1028</td>
</tr>
<tr>
<td>3. Citation/Order Number</td>
<td>8082746</td>
</tr>
</tbody>
</table>

### Section II - Operator

<table>
<thead>
<tr>
<th>4. Served To</th>
<th>Gary May, Mine Foreman</th>
</tr>
</thead>
<tbody>
<tr>
<td>5. Operator</td>
<td>PERFORMANCE COAL COMPANY</td>
</tr>
<tr>
<td>7. Mine ID</td>
<td>46-08436 (Contractor)</td>
</tr>
</tbody>
</table>

### Section III - Condition or Practice

| 8a. Written Notice (103g) |     |

### Section IV - Violation

<table>
<thead>
<tr>
<th>9. Violation</th>
<th>10. Condition or Practice</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Health</td>
<td>The door has been closed.</td>
</tr>
<tr>
<td>Safety</td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td></td>
</tr>
<tr>
<td>B. Section of Act</td>
<td></td>
</tr>
<tr>
<td>C. Part/Section of Title 30 CFR</td>
<td>75.333(c)(3)</td>
</tr>
</tbody>
</table>

### Section V - Inspector's Evaluation

<table>
<thead>
<tr>
<th>10. Gravity:</th>
<th>11. Negligence (check one)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Injury or Illness (has) (is):</td>
<td>A. None</td>
</tr>
<tr>
<td>Unlikely</td>
<td>B. Low</td>
</tr>
<tr>
<td>Reasonably Likely</td>
<td>C. Moderate</td>
</tr>
<tr>
<td>Highly Likely</td>
<td>D. High</td>
</tr>
<tr>
<td>Occurred</td>
<td>E. Reckless Disregard</td>
</tr>
<tr>
<td>B. Injury or Illness could reasonably be expected to be:</td>
<td></td>
</tr>
<tr>
<td>No Lost Workdays</td>
<td>Lost Workdays Or Restricted Duty</td>
</tr>
<tr>
<td>Permanently Disabling</td>
<td>Fatal</td>
</tr>
<tr>
<td>C. Significant and Substantial:</td>
<td>Yes</td>
</tr>
<tr>
<td>D. Number of Persons Affected:</td>
<td>001</td>
</tr>
</tbody>
</table>

### Section VI - Type of Action

<table>
<thead>
<tr>
<th>12. Type of Action</th>
<th>13. Type of Issuance (check one)</th>
</tr>
</thead>
<tbody>
<tr>
<td>104(a)</td>
<td>Citation</td>
</tr>
</tbody>
</table>

### Section VII - Initial Action

<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>

### Section VIII - Termination Due

<table>
<thead>
<tr>
<th>16. Termination Due</th>
<th>17. Action to Terminate</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Date</td>
<td>04/29/2009</td>
</tr>
<tr>
<td>B. Time (24 Hr. Clock)</td>
<td>1048</td>
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</tbody>
</table>

### Section IX - Termination Action

<table>
<thead>
<tr>
<th>18. Terminated</th>
<th>19. Type of Inspection (activity code)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Date</td>
<td>04/29/2009</td>
</tr>
<tr>
<td>B. Time (24 Hr. Clock)</td>
<td>1030</td>
</tr>
</tbody>
</table>

### Section X - Automated System Date

<table>
<thead>
<tr>
<th>20. Event Number</th>
<th>21. Primary or Mill</th>
</tr>
</thead>
<tbody>
<tr>
<td>4119936</td>
<td></td>
</tr>
</tbody>
</table>

### Section XI - 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.
### Mine Citation/Order

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

---

**Section 1 – Violation Data**

| 1. Date | 04/29/2009 |
| 2. Time (24 Hr. Clock) | 1205 |
| 3. Citation/Order Number | 8082747 |

**4. Served To**
Gary May, 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 provide readily functional fire valves at 300' intervals along the #6-6' belt. The fire valve located at break 109 has a miner waterline hooked to it that would prevent the fire hose from being hooked up.

This is the sixth time a fire valve has been cited since 1/1/2009.

---

**Section 2 – Inspector’s Evaluation**

| 9. Violation | A. Health [ ] Safety [X] Other [ ] |
| 10. Gravity: | 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: | 003 |

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

**12. Type of Action**
104(a)

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

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

**15. Area or Equipment**

---

**Section 3 – Termination Action**

**16. Termination Due**
A. Date | 04/29/2009 |
| B. Time (24 Hr. Clock) | 1215 |

**17. Action to Terminate**
The miner waterline has been removed and the fire valve will now accommodate a fire hose.

---

**Section 4 – Automated System Data**

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

**20. Event Number**
4119936

**21. Primary or Mill**

---

**22. Signature**

---

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The operator is failing to maintain the #4 6' belt free of accumulations of combustible materials. Coal float dust has accumulated on, under and around the belt from the tailpiece to the #27 break including the crosscuts. Also coal, float coal and float coal dust has accumulated under and up to the bottom rollers, and float coal dust has accumulated from the remote belt drive to the discharge roller.
The belt has been cleaned, but due to mechanical failure has not been dusted yet. Additional time is needed.
The belt has been cleaned and dusted.
The operator is failing to ensure all electrical devices are protected by an inline fuse or a circuit breaker to provide protection against short circuit or overload. The bonder (welder) in use at the #1 section 4 belt drive set up area does not have an inline fuse or circuit breaker.
The bonder has been provided with a in-line fuse.
The operator is failing to take actions to prevent the accumulation of methane gas on the #1 section. At the area off #1 section intake where #2 section is cutting in, the operator failed to comply with an approved revision to the mine ventilation plan (separate citation issued) which allowed 1.65% methane to accumulate in the area.

### Section 1 - Violation Data

<table>
<thead>
<tr>
<th>1. Date</th>
<th>Mo Da Yr</th>
<th>04/30/2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. Time (24 Hr. Clock)</td>
<td>1030</td>
<td></td>
</tr>
<tr>
<td>3. Citation/Order Number</td>
<td>8082750</td>
<td></td>
</tr>
</tbody>
</table>

### Section 2 - Operator

<table>
<thead>
<tr>
<th>4. Served To</th>
<th>Gary May, Mine Foreman</th>
</tr>
</thead>
<tbody>
<tr>
<td>5. Operator</td>
<td>PERFORMANCE COAL COMPANY</td>
</tr>
<tr>
<td>6. Mine</td>
<td>UPPER BIG BRANCH MINE-SOUTH</td>
</tr>
</tbody>
</table>

### Section 3 - Mine ID

| 7. Mine ID | 46-08436 (Contractor) |

### Section 4 - Condition of Practice

The area has been properly ventilated and the gas removed from the area.

### Section 5 - Action to Terminate

The area has been properly ventilated and the gas removed from the area.

### Section 6 - Action Terminated

<table>
<thead>
<tr>
<th>A. Date</th>
<th>Mo Da Yr</th>
<th>04/30/2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>B. Time (24 Hr. Clock)</td>
<td>1100</td>
<td></td>
</tr>
</tbody>
</table>

### Section 7 - Signature

[signature]

---

10CFR No Likelihood 0 Reasonably Likely ~ Highly Likely 0 Occurred

D. Number of Persons Affected: 002

---

See Continuation Form (MSHA Form 7000-3a)
NOTE:
CONTROLS WILL BE INSTALLED IN THIS AREA PRIOR TO CUT THROUGH. AREA WILL BE VENTILATED UNTIL IMMEDIATELY PRIOR TO CUT THROUGH
The operator is failing to comply with an approved revision to the mine ventilation plan on the #1 and #2 section. At the area where a revision was approved on 4/27/09 to allow the #2 section to punch into the #1 section the operator failed to leave a regulator at each end of the area stopped off for the cut through to allow ventilation. This allowed 1.65% methane gas to accumulate in the area. (separate citation issued)
NOTE:

CONTROLS WILL BE INSTALLED IN THIS AREA PRIOR TO CUT THROUGH. AREA WILL BE VENTILATED UNTIL IMMEDIATELY PRIOR TO CUT THROUGH
The operator is failing to keep combustible materials from accumulating in the area where #2 section in punching through into the #1 section. At the #1, 2 and 3 punch through coal has been left in each intersection in piles as wide as the intersection and up to 2' in depth.
The accumulation of combustible materials have been removed.
The operator is failing to keep the #4 belt on the #2 section free of accumulations of combustible materials. Coal, float coal and float coal dust has accumulated on and around the #4 belt for its 1000' + length.
The accumulation of combustible material has been removed, and the belt has been rock dusted.
The #4 Belt on the #2 section is not provided with a fire valve at the tailpiece the nearest fire valve is 4 brks (375') outby.
 Mine Citation/Order

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

Section I—Subsequent Action/Continuation Data

<table>
<thead>
<tr>
<th>1. Subsequent Action</th>
<th>1a. Continuation</th>
<th>2. Dated (Original Issue)</th>
<th>3. Citation/Order Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>✓</td>
<td></td>
<td>04/30/2009</td>
<td>8082754 - 01</td>
</tr>
</tbody>
</table>

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 belt has been permanently removed from service.

Section III—Subsequent Action Taken

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

Section IV—Inspection Data

9. Type of Inspection
E01

10. Event Number
4119936

11. Signature

AR Number

12. Date
05/05/2009

13. Time (24 Hr. Clock)
0932

MSHA Form 7000-3a, Mar 85 (revised)
The operator is failing to adequately guard the rotating drive rollers on the #4 belt drive on the #2 section. The inby drive roller is not guarded across the rear of the head and could easily be fallen into or contacted while shoveling.
The belt drive has been permanently removed from service.
The #3 tailpiece on the #2 section is not being kept free of accumulations of combustible materials. The hold up roller in front of the tailpiece is spinning in accumulated coal spillage. The tailroller is turning in coal spillage and on the walkway side under the boom of 4 head the accumulations have built up back the head up to 20" deep.
The accumulation of combustible material has be removed.
the operator is failing to ensure bad belt structure that presents a fire hazard is immediately removed from the belt. At break 71 on the #2 section #2 belt a bottom roller has lost its bearing on the track side causing the roller to generate heat and visible smoke.
8. Condition Or Practice

Reason  Capitalize the word "the" beginning the first sentence.
The operator is failing to provide a cross under guard at 71 break on the #2 section #2 belt where the track crosses underneath the belt.
The belt has been removed from service.
The operator is failing to properly identify the disconnecting devices in use at the #2 section #3 head KVA box. The cathead marked "UBB #3 take up" is plugged into an identified receptacle.
The operator is failing to maintain the LBB intake split in a condition where it can be safely traveled in its entirety. At # 8 break water has accumulated over 18 inches deep hiding numerous stumbling hazards. This condition prevents the weekly examiner from being able to travel the airway in its entirety.
The water has been pumped down.
The operator is failing to ensure proper rail traffic control. Two mantrips, each traveling opposite directions, were each given clearance by the dispatcher to use the same section of track. This resulted in the track vehicles meeting each other midway.
The Dispatchers have been retrained on their job and safety talks have been held with the miners concerning track safety.
The operator is failing to certify weekly examinations by leaving Dates, Times and Initials in the examined area. There are not any up to date, Dates, Times and Initials present in the neutral entries going towards DPP #1 to prove that a weekly examination has been conducted of the area.

A. Operator: PERFORMANCE COAL COMPANY
B. Mine: UPPER BIG BRANCH MINE-SOUTH
C. Violation: A. HEALTH
D. Affected Number: 001
E. Written Notice (103g): No
F. Dated: Mo Da Yr 03/17/2009
G. Action to Terminate: The area has been examined and DTI's are now present.
### Change

**Reason**
Change the word "Natural" to read "neutral"
The operator is failing to examine at least one entry of each intake air course, in its entirety, so the entire air course is traveled. The LBB intake split going towards the Ellis punch-out is not being examined in its entirety. The intake is blocked by two roof falls, two breaks out-by spad 21054 and the intake has been dangered off due to bad top and bad ribs from spad 21054 to spad 21539. This conditions were reported on 03/23/09 and the intake was dangered off at this time. The last complete exam of this area was on the week ending 03/21/09.
Mine Citation/Order

Continuation

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

Section I--Subsequent Action/Continuation Data

<table>
<thead>
<tr>
<th>1. Subsequent Action 1a. Continuation</th>
<th>2. Dated (Original Issue)</th>
<th>3. Citation/Order Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>✓</td>
<td>Mo Da Yr 05/11/2009</td>
<td>8082763 - 01</td>
</tr>
</tbody>
</table>

4. Served To
Homer Wallace, Supt.

5. Operator
PERFORMANCE COAL COMPANY

7. Mine ID
46-08436

Section II--Justification for Action


Section III--Subsequent Action Taken

See Continuation Form

Section IV--Inspection Data

<table>
<thead>
<tr>
<th>9. Type of Inspection</th>
<th>10. Event Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>E01</td>
<td>4119936</td>
</tr>
</tbody>
</table>

11. Signature

AR Number

12. Date
Mo Da Yr 05/12/2009

13. Time (24 Hr. Clock)
1146

MSHA Form 7000-3a, Mar 86 (revised)
A revision to the vent plan concerning the affected area has been approved and the necessary changes in ventilation have been made to make the LBB entries common air.
Mine Citation/Order

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

4. Served To
Charley Semenske, Weekly Examiner

5. Operator
PERFORMANCE COAL COMPANY

6. Mine
UPPER BIG BRANCH MINE-SOUTH

7. Mine ID
46-08436

The operator is failing to leave Dates, Times, and Initials in enough locations to prove that a weekly examination for hazardous conditions has been conducted. There are not any up to date, Dates, Times and Initials present in the right return were it travels around the panel off of LBB #4 head.

---

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

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

75.364(g)

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

D. Number of Persons Affected: 001

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

12. Type of Action
104(d)(2)

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

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

E. Citation/Order Number
8082692

F. Dated
03/17/2009

15. Area or Equipment
The right return were it travels around the panel off of LBB #4 head.

16. Termination Due
A. Date       | Mo Da Yr | 05/11/2009 |
B. Time (24 Hr. Clock) | 1135     |

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

18. Terminated
A. Date       | Mo Da Yr | 05/11/2009 |
B. Time (24 Hr. Clock) | 1135     |

---

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The operator is failing to construct permanent ventilation controls from non-combustible materials. The operator has constructed a return regulator, at spad 21083, out of line curtain.
The regulator is now constructed of non combustible material.
**Section I -- Violation Data**

1. Date Mo Da Yr  
   05/11/2009
2. Time (24 Hr. Clock)  
   1151
3. Citation/Order Number  
   8082766

4. Served To  
   Charley Semenske, Weekly Examiner
5. Operator  
   PERFORMANCE COAL COMPANY
6. Mine  
   UPPER BIG BRANCH MINE-SOUTH
7. Mine ID  
   46-08436 (Contractor)

8. Condition or Practice  
   The pump in use in the LBB intake at # 8 break is not provided with a fire extinguisher.

9. Violation  
   A. Health Safety
   B. Section of Act
   C. Part/Section of Title 30 CFR  
   75.1100-2(e)

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  
    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  
    05/11/2009
    B. Time (24 Hr. Clock)  
    1230

17. Action to Terminate  
   The pump has been removed from service.

18. Terminated  
    A. Date Mo Da Yr  
    05/11/2009
    B. Time (24 Hr. Clock)  
    1200

19. Type of inspection (activity code)  
   E01

20. Event Number  
    4119936

21. Primary or Mill

22. Signature

**Section IV -- Automated System Data**

23. AR Number

---

*MSHA Form 7000-3, Apr 98 (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-GAFL (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 mine operator is failing to comply with the approved mine ventilation plan. The operator is failing to examine EP's 53 and 54 in the location approved in the mine ventilation map.
The weekly examiner have been retrained as to the proper location to check EP 53 and 54.
The operator is failing to maintain the lifeline in the secondary escapeway of the #4 section, in a manner where miners can use it to effectively escape. The lifeline is passing over top of one cable and over the antenna line twice.

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

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 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 05/18/2009
   B. Time (24 Hr. Clock) 1330

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

19. Type of Inspection (activity code) E01
20. Event Number 4119936
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, 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 charger in the Secondary Escapeway has been moved, and the lifeline in the Secondary Escapeway of the #4 Section is being maintained, the lifeline has been untangled from all cables and antenna lines.
The Solaris methane detector be stored in the Strata life shelter on the #4 section has not been calibrated since 2/13/2009.
The operator is failing to maintain the #2 belt on the #1 section. A stand is improperly installed at break 48, causing the stand to twist and the belt to rub the metal across the width of the bottom cross member of the stand. At break 52, the stand is damaged, causing the belt to rub on the frame on the walkway side. At break 87, the stand is improperly installed, causing the stand to twist and the belt to rub the metal across the width of the bottom cross member of the stand.
The operator is failing to maintain the #3 belt on the #1 section free of combustible materials. At 103 to 104 break, coal has spilled on the walkway side up to the belt rail and, up to 24" deep, 3' wide and 100' long.
The operator is failing to add additional roof support where the belt/track entry on the #1 section was mined over 20 wide. The operator cuts this entry 22' wide to allow for the belt and track to be in the same entry. The operator has not added additional support for 450' near the end of the belt.
The # belt tailpiece on the #1 section is not provided with a ready fire valve. The fire valve present does not have a handle to turn it on/off present. This is the 8th time this standard had been cited since 3/10/09. This is to put the operator on notice that further issuances of this standard will be high negligence.
The operator is failing to mark mandoors in the entries on each side of stoppings along escapeway. In the left return on the #1 section, 3 mandoors, starting at spad 23524 and going out by, are not marked. The primary escapeway is on the opposite side of these stoppings.
The doors has been marked.
Citation/Order

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

Section I-Violation Data

1. Date: 06/03/2009
2. Time (24 Hr. Clock): 1320
3. Citation/Order Number: 8082822

4. Served To:
   Gary May, Mine Foreman

5. Operator:
   PERFORMANCE COAL COMPANY

6. Mine:
   UPPER BIG BRANCH MINE-SOUTH

7. Mine ID: 46-08436

8. Condition or Practice: Other

The fireboss, [redacted] does not have an identification tag firmly attached to his belt.

See Continuation Form (MSHA Form 7000-3a)

Section II-Inspector's Evaluation

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

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

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)
    A. 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: 06/04/2009
    B. Time (24 Hr. Clock): 0800

Section III-Termination Action

17. Action to Terminate

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

Section IV-Automated System Data

19. Type of Inspection (activity code):
    E01

20. Event Number:
    4119936

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 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 miner now has a name tag firmly attached to his belt.
Section I--Violation Data

1. Date Mo Da Yr 06/03/2009
2. Time (24 Hr. Clock) 1328
3. Citation/Order Number 8082823

4. Served To
Gary May, Mine Foreman

5. Mine
PERFORMANCE COAL COMPANY

6. Mine ID 46-08436

8. Condition or Practice

<table>
<thead>
<tr>
<th></th>
<th>A. Health Safety</th>
<th>B. Section of Act</th>
<th>C. Part/Section of Title 30 CFR</th>
</tr>
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<tbody>
<tr>
<td>8a. Written Notice (103g)</td>
<td>75.320(a)</td>
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9. Violation

<table>
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<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>E. Reckless Disregard</td>
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10. Gravity:

<table>
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<tr>
<th></th>
<th>A. Injury or Illness (has) (is): No Likelihood</th>
<th>Unlikely</th>
<th>Reasonably Likely</th>
<th>Highly Likely</th>
<th>Occurred</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>B. Injury or Illness could reasonably be expected to be: No Lost Workdays</td>
<td>Lost Workdays Or Restricted Duty</td>
<td>Permanently Disabling</td>
<td>Fatal</td>
<td></td>
</tr>
<tr>
<td></td>
<td>C. Significant and Substantial: Yes</td>
<td>No</td>
<td>D. Number of Persons Affected: 020</td>
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<td></td>
</tr>
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</table>

11. Negligence (check one)

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

12. Type of Action 104(a)

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

14. Initial Action

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

16. Termination Due

<table>
<thead>
<tr>
<th></th>
<th>A. Date Mo Da Yr 06/03/2009</th>
<th>B. Time (24 Hr. Clock) 1400</th>
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</thead>
</table>

17. Action to Terminate

18. Terminated

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

19. Type of Inspection (activity code) E01

20. Event Number 4119936

21. Primary or Mill

22. Signature [redacted]

23. AR Number [redacted]

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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 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 methane detector has been calibrated.
The operator is failing to comply with page 1 of the approved emergency response plan. The secondary means of communication (intake phone) on the #1 section would not function when tested.
The phone has been repaired.
The operator is failing to comply with page 1, item 6 of the approved ventilation base plan. The plan requires 9000cfm to be maintained where mechanized mining equipment is being installed or removed. At the longwall setup area, only 147cfm of air was present at the tail end of the longwall face, when tested by MSHA.
11550 cfm of air is now present.
The operator is failing to maintain a complete record of preshift examinations on the #4 Section. On 06/06/09 (110-135 PM) and 06/07/09 (100-125 PM) the operator failed to record last open break air readings and the conditions found in the faces. On 06/06/09 (110-135 PM), 06/07/09 (100-125 PM), 06/06/09 (830-1130 PM) and 06/08/09 (300-500 AM) the operator failed to record where the life shelter had been preshifted.
The operator is now keeping a complete record of preshift exams.
The operator is failing to provide adequate fire suppression on track equipment operated in the intake primary escape way on the #1 Section. The #12 Brookville Jitney is only provided with one 10# fire extinguisher where two are required. The second 10# fire extinguisher has been discharged.
Mine Citation/Order

1. Date: 06/08/2009
2. Time (24 Hr. Clock): 1025
3. Citation/Order Number: 8082828

4. Served To:
   Andy Coalson, 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 has failed to take any action to fix the conditions on the #2 Belt, cited in citation #8082817.

9. Violation:
   75.1731(b)

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

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

12. Initial 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. E. Citation/Order Number:
    8082817

15. Area or Equipment:
    The #2 Belt, on the #1 Section is removed from service until all cited conditions are corrected.

16. Termination Due:
    A. Date: 06/08/2009
    B. Time (24 Hr. Clock): 1400

17. Action to Terminate:
    The necessary repairs were made.

18. Terminated:
    A. Date: 06/08/2009
    B. Time (24 Hr. Clock): 1400

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The tail piece on the #3 Belt on the #1 Section is not provided with a ready fire valve. The valve available does not have the male nipple in it, that is necessary to hook up a fire hose.

This same fire valve was cited and corrected on 06/03/09. This is the 8th time fire valves have been cited since 03/10/09.
The operator is failing to comply with page 6, item 31 of the 5th supplement to the approved roof control plan, on the #1 Section. In the #2 entry, in the feeder line the corner does not have roof bolts installed within 4 feet of the rib. The bolts are from 4.5 feet to 7 feet from the rib.

9. Violation
A. Health Safety ✓ Other

B. Section of Act

C. Part/Section of Title 30 CFR 75.220(a)(1)

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

15. Area or Equipment

16. Termination Due
A. Date Mo Da Yr 06/08/2009 B. Time (24 Hr. Clock) 1130

17. Action to Terminate Supplemental support has been installed.

18. Terminated
A. Date Mo Da Yr 06/08/2009 B. Time (24 Hr. Clock) 1134

19. Type of Inspection (activity code) E01 20. Event Number 4119936

21. Primary or Minor

22. Signature

23. AR Number
The operator is failing to comply with an approved revision to the mine ventilation plan. The longwall set up is not being ventilated in the manner specified by the revision. A permanent ventilation control, required to be in place has been practically removed allowing air to short circuit to the return. A regulator required to be in place, to allow air to exit the longwall set up, is instead a solid stopping.

The longwall set up area is not to have any work, except that necessary to correct the ventilation performed.
The operator is failing to comply with the safety precaution page, item 22 of the approved roof control plan on the #3 section. The next to the last row of bolts in the #6 entry is marked by only 1 reflector instead of 2.
The operator is failing to comply with the safety precaution page, item 4 and the section specific page of the approved methane/dust control plan on the 064 MMU. Item 4 of the safety precaution page requires curtain to be advanced to within 10' of the face. The #6 face, on the #3 section is 24' deep without any line curtain. The section specific page requires all line curtain to be hung as exhausting. In the #7 entry, the operator has hung a solid check that prevents any air from passing around it and also restricts the LOB velocity to 5700cfm. (separate citation issued.)
The operator is not following the established check-in and check-out system which will provide positive identification of every person underground, and will provide an accurate record of the persons in the mine. There was a total of 114 miners checked in and a record of only 76 miners underground.
The operator is failing to comply with the safety precaution page, item 22 of the approved roof control plan on the #3 section. The next to the last row of bolts in the unsupported #7 entry is marked by only 1 reflector instead of 2.
The operator is failing to maintain 9000cfm in the Right side last open break on the #3 section. When tested by MSHA only 5700cfm was present.
The Fletcher roof bolter on the left side of the #3 section is not being maintained in a permissible condition. One of the lights mounted on the T bar has been tore off along with its power tree. 0% CH4 was detected.
A new light has been installed.
The Joy 14-10AA continuous miner on the #3 section is not being maintained in a safe operating condition. The offside emergency stop button has the Red palm button missing. This condition would make the emergency stop difficult to find and/or operate.

Management removed the miner from service until repairs are made.
The E-stop has been repaired.
Rick Nicolau, Chief electrician
UPPER BIG BRANCH MINE-SOUTH

The Fletcher roof bolter (s/n 2003-318) on the #3 section is not being maintained in a safe operating condition. The automatic temporary roof support will not stay firmly against the mine roof.

Management removed the miner from service until repairs are made.
8. Condition

**Reason** Change the word "miner" in the last sentence to read "roof bolter".
The ATRS has been repaired.
The operator is failing to properly maintain the methane monitor on the Joy 14-10A (s/n 5519A) continuous miner on the #3 section. When tested with a 2.5% CH4/air mixture the monitor only went up to 1.8%.
The methane monitor has been repaired.
The Joy 14-10A continuous miner (s/n 5519A) on the #3 section is not being maintained in a permissible condition. The cable junction box has an opening in excess of .005". 0% CH4 was detected.

### 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>
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<tr>
<td>06/10/2009</td>
<td></td>
<td>1325</td>
<td>8090847</td>
</tr>
</tbody>
</table>

### 4. Served To

Rick Nicolau, Chief electrician

### 6. Mine

UPPER BIG BRANCH MINE-SOUTH

### 7. Mine ID

46-08436

### 8. Condition or Practice

The Joy 14-10A continuous miner (s/n 5519A) on the #3 section is not being maintained in a permissible condition. The cable junction box has an opening in excess of .005". 0% CH4 was detected.

### 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>
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<td>75.503</td>
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</table>

### 10. Gravity:

- **A. Injury or illness (has) (is):** Unlikely [✓]
- **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:** No [✓]
  - Yes
  - No [✓]

### 11. Negligence (check one)

- **A. None** [✓]
- **B. Low**
- **C. Moderate** [✓]
- **D. High**
- **E. Reckless Disregard**

### 12. Type of Action

- **104(a)** [✓]

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

- **Citation** [✓]
- **Order**
- **Safeguard**
- **Written Notice**

### 14. Initial Action

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

### 15. Area or Equipment

The panel has been resealed.

### 16. Termination Due

<table>
<thead>
<tr>
<th>A. Date</th>
<th>Mo Da Yr</th>
<th>B. Time (24 Hr. Clock)</th>
</tr>
</thead>
<tbody>
<tr>
<td>06/10/2009</td>
<td></td>
<td>1400</td>
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</table>

### 17. Action to Terminate

The panel has been resealed.

### 18. Terminated

<table>
<thead>
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<th>A. Date</th>
<th>Mo Da Yr</th>
<th>B. Time (24 Hr. Clock)</th>
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<td>06/10/2009</td>
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</table>

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

| E01 | 20. Event Number | 4119936 | 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 complaints 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 maintain a complete and accurate record of preshift examinations on the #4 section. The preshift examination conducted on the #4 section on 6/13/09 (1130pm-1152pm) is dated 5/14/09 and also has no record of the lifeshelter being examined.

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

<table>
<thead>
<tr>
<th>Section II—Inspector’s Evaluation</th>
</tr>
</thead>
<tbody>
<tr>
<td>9. Violation</td>
</tr>
<tr>
<td>B. Section of Act</td>
</tr>
<tr>
<td>C. Part/Section of Title 30 CFR</td>
</tr>
</tbody>
</table>

| 10. Gravity:                      |
| A. Injury or Illness (has) (%)    |
| B. Injury or illness could reason- |
| 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)  | Citation [✓] |
| E. Citation/Order Number          |          |
| F. Dated                          | Mo Da Yr |

| 14. Initial Action                |
| A. Citation [ ]                   |
| B. Order [ ]                      |
| C. Safeguard [ ]                  |
| D. Written Notice [ ]             |
| E. Citation/Order Number          |          |
| F. Dated                          | Mo Da Yr |

| 15. Area or Equipment             | |

| 16. Termination Due               |
| A. Date                           | Mo Da Yr |
| B. Time (24 Hr. Clock)            | 0800 |

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<th>Section IV—Automated System Data</th>
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<td>9. Type of Inspection</td>
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<tr>
<td>20. Event Number</td>
</tr>
<tr>
<td>21. Primary or Mill</td>
</tr>
<tr>
<td>23. AR Number</td>
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</tbody>
</table>

Form 7000-3, Apr 08 (rev.) In accordance with the provisions of the Small Business Regulatory Environment Fairness Act of 1996, the Small Business Administration established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal 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 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 fire bosses have been retrained to check the life shelter during preshift examinations and record the results in the preshift book.
The operator is failing to maintain a complete and accurate record of preshift examinations on the #4 section. The preshift examination conducted on the #4 section on 6/14/09 (530am-550am) is dated 5/14/09 and also has no record of the lifeshelter being examined.
The fire bosses have been retrained to check the life shelter during preshift examinations and record the results in the preshift book.
The operator is failing to maintain a complete and accurate record of preshift examinations on the #4 section. The preshift examination conducted on the #4 section on 6/14/09 (1100am-210am) is dated 5/14/09 and also has no record of the lifeshelter being examined.
The fire bosses have been retrained to check the life shelter during preshift examinations and record the results in the preshift book.
The operator is failing to maintain an up to date escapeway map posted in an area where miners congregate before and after shift. The escapeway map posted in the bathhouse is not up to date as to the location of mining, mandoors and ventilation controls on the 1, 3, and 4 sections. The map also does not show the change in primary and secondary escapeways for the #4 section, that took effect on 6/15/09.
8. Condition Or Practice

Reason in the last sentence change "#4 section" to read "#1 section".

---

### 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>06/15/2009</td>
<td>8090851 - 01</td>
</tr>
</tbody>
</table>

5. Operator

PERFORMANCE COAL COMPANY

7. Mine ID

46-08436

---

### Section II - Justification for Action

**From**

**To**

---

### Section III - Subsequent Action Taken

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

**E01**

**4119936**

---

### Section IV - Inspection Data

<table>
<thead>
<tr>
<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>06/16/2009</td>
<td>2043</td>
</tr>
</tbody>
</table>

MSHA Form 7000-3a, Mar 85 (revised)
An up to date escapeway map has been posted in the bathhouse.
The operator is failing to maintain the methane monitor on the left side Joy 14-15 continuous miner on the #4 section in a proper operating condition. When tested with a 2.5% methane/air mixture, the monitor only went up to .2%.
<table>
<thead>
<tr>
<th>Section I - Violation Data</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Date Mo Da Yr 06/16/2009</td>
</tr>
<tr>
<td>2. Time (24 Hr. Clock) 0303</td>
</tr>
<tr>
<td>3. Citation/Order Number 8090853</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>4. Served To</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bill Graham, Chief electrician</td>
</tr>
</tbody>
</table>

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

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

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

<table>
<thead>
<tr>
<th>8. Condition or Practice</th>
</tr>
</thead>
<tbody>
<tr>
<td>The right side Joy 14-15 continuous miner (JM5924) on the #4 section is not being maintained in a permissible condition. The main cable junction box has an opening in excess of .005&quot;.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Section II - Inspector's Evaluation</th>
</tr>
</thead>
<tbody>
<tr>
<td>9. Violation</td>
</tr>
<tr>
<td>A. Health Safety ✓</td>
</tr>
<tr>
<td>B. Section of Act</td>
</tr>
<tr>
<td>C. Part/Section of Title 30 CFR</td>
</tr>
<tr>
<td>75.003</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: |
| 002 |

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

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

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

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

<table>
<thead>
<tr>
<th>E. Citation/Order Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>8090853</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>16. Termination Due</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Date Mo Da Yr 06/16/2009</td>
</tr>
<tr>
<td>B. Time (24 Hr. Clock) 0800</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Section III - Termination Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>17. Action to Terminate</td>
</tr>
<tr>
<td>The junction box has been cleaned and resealed.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>18. Terminated</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Date Mo Da Yr 06/16/2009</td>
</tr>
<tr>
<td>B. Time (24 Hr. Clock) 0345</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Section IV - Automated System Data</th>
</tr>
</thead>
<tbody>
<tr>
<td>19. Type of Inspection activity code E01</td>
</tr>
<tr>
<td>20. Event Number 4119936</td>
</tr>
<tr>
<td>21. Primary or Mill</td>
</tr>
<tr>
<td>22. Signature</td>
</tr>
<tr>
<td>23. AR Number</td>
</tr>
</tbody>
</table>

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The oil station on the #3 section is not provided with a fire extinguisher. 27- 5 gallon cans of hydraulic oil are being stored at this location.
The operator is failing to comply with page 5 of the approved ventilation plan and the 064 MMU methane dust control plan, section specific page items 4 and 7. The following conditions were found: 1) There is not a back up check present in the #5 entry. 2) The line curtain in the 4R crosscut is 4 rows of bolts and 15' back from the face. 3) The ventilation current is improperly split and air passing over the left miner is going to the right side of the section. 4) The left side continuous miner is loading in the #3 face without any line curtain and the miner man is standing in the visible dust in the return of the continuous miner. The section foreman stated he was aware of the condition of the face ventilation and failed to take action to correct it. Steve Colo engaged in aggravated conduct by failing to take action on a known hazard. This is unwarrantable failure to comply.