Mine Activity Data

<table>
<thead>
<tr>
<th></th>
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<tbody>
<tr>
<td>2. Activity Code:</td>
<td>E01</td>
<td></td>
</tr>
<tr>
<td>3. Event Number:</td>
<td>6284361</td>
<td></td>
</tr>
<tr>
<td>4. Date Event Started:</td>
<td>10/23/2008</td>
<td></td>
</tr>
<tr>
<td>5. Date Event Finished:</td>
<td>12/31/2008</td>
<td></td>
</tr>
<tr>
<td>6. Mine ID:</td>
<td>46-08436</td>
<td></td>
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</table>

7a. Organization Code (Mine Assignment): 20401

<table>
<thead>
<tr>
<th>8a. Organization Code (AR Assignment): 20401</th>
</tr>
</thead>
<tbody>
<tr>
<td>b. Work Group Identifier: 01</td>
</tr>
</tbody>
</table>

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

12. Area of Inspections:
   - a. Active Sections: 3
   - b. Idle Sections: 0

13. Number of Samples Collected:
   - Air Samples: 35
   - Rock Dust Spot Survey: 3
   - Rock Dust Survey: 3
   - Respirable Dust: 3

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

15. Prime Independent Contractor Codes (Major Construction)

16. Inspection Results:

<table>
<thead>
<tr>
<th>Citations</th>
<th>Orders</th>
<th>Safeguards</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
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<td>Ind Con</td>
<td>Coal Opr</td>
<td>Ind Con</td>
</tr>
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<td>0</td>
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<tr>
<td>40/0</td>
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<td>0/0</td>
<td>0/0</td>
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</tr>
<tr>
<td>(1) New Issuances</td>
<td>(2) Terminations/Vacations</td>
<td>(3) Modifications/Extensions</td>
<td>(4) Left Pending</td>
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<td>(1) Modifications/Extensions</td>
<td>(2) Terminations/Vacations</td>
<td></td>
<td></td>
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</table>

17. Remarks:

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

19. Key Entered By

MSHA Form 2000-22. Oct. 85 (Revised) Previous editions are Obsolete
<table>
<thead>
<tr>
<th>Shift</th>
<th>Sun</th>
<th>Mon</th>
<th>Tue</th>
<th>Wed</th>
<th>Thur</th>
<th>Fri</th>
<th>Sat</th>
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<td>Week 1</td>
<td>10/19/2008</td>
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<td>Week 5</td>
<td>12/7/2008</td>
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<tr>
<td>Week 7</td>
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<td></td>
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</table>

Event Number: 6284361  
Mine ID: 4608436  
Reverse, MSHA Form 2000-22, Oct 85 (Revised)  
Key Codes: 1- Owl Shift, 2- Day Shift & 3- Evening Shift (Mark "X" in appropriate Block to Indicate Shift)
A last open crosscut air reading is not being recorded in the Preshift Examination Record Book for the East Mains Construction Section where equipment is being installed. The statement "Good Air Movement" is being recorded.

### Section I - Violation Date

<table>
<thead>
<tr>
<th>1. Date</th>
<th>Mo Da Yr</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>10/25/2008</td>
</tr>
</tbody>
</table>

| 2. Time (24 Hr. Clock) | 0905 |

| 3. Citation/Order Number | 6616983 |

### Section II - Inspector's Evaluation

<table>
<thead>
<tr>
<th>9. Violation</th>
<th>A. Health</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>B. Section of Act</th>
<th>C. Part/Section of Title 30 CFR</th>
</tr>
</thead>
</table>

### Section III - Termination Action

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

### Section IV - Automated System Data

| E01 | 6284361 | 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, MC2150, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.
A ventilation control (Regulator) in the mouth of the North Portal No. 5 entry is not constructed in a traditionally accepted method. This control is only dry stacked concrete blocks in an area of high air velocity and could easily be blown out disrupting ventilation. This mine is on a 103 (i) methane spot status.
The employees bathhouse is not being maintained in a clean and sanitary condition. Debris consisting of coat hangers, discarded tape, and newspapers along with mud and coal dirt is scattered throughout the floor. There is also water either dripping from the flush tanks and/or from around the base of some of the toilet basins.
Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation [ ]  
2. Dated (Original Issue) 10/25/2008  
3. Citation/Order Number 6616985 - 01

4. Served To
   William Harless, Mine Foreman

5. Operator
   PERFORMANCE COAL COMPANY

6. Mine
   UPPER BIG BRANCH MINE-SOUTH

7. Mine ID (Contractor) 46-08436

Section II--Justification for Action

The bathhouse has been cleaned.

Section III--Subsequent Action Taken

8. Extended To  9. Type of Inspection
   A. Date  E02  10. Event Number
   Mo  Da  Yr  6284360

9. See Continuation Form [ ]

Section IV--Inspection Data

11. Signature  
AR Number 12. Date  13. Time (24 Hr. Clock)
Mo  Da  Yr  10/29/2008  0815

MSHA Form 7000-3a, Mar 85 (revised)
Two compressed gas cylinders were found laying on a wooden pilot at the mouth of the number 3 section. These were not secured in an upright position or otherwise secured against being accidentally tipped over.
## Mine Citation/Order Continuation

<table>
<thead>
<tr>
<th>Section I–Subsequent Action/Continuation Data</th>
</tr>
</thead>
<tbody>
<tr>
<td>4. Served To</td>
</tr>
<tr>
<td>5. Operator</td>
</tr>
<tr>
<td>6. Mine</td>
</tr>
<tr>
<td>7. Mine ID</td>
</tr>
</tbody>
</table>

### 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 the wording of pilot to pallet</td>
</tr>
<tr>
<td></td>
<td>Change</td>
<td>the word pilot to pallet.</td>
</tr>
</tbody>
</table>

### Subsequent Action Taken

See Continuation Form

### Inspection Data

<table>
<thead>
<tr>
<th>Section IV–Inspection Data</th>
</tr>
</thead>
<tbody>
<tr>
<td>9. Type of Inspection</td>
</tr>
<tr>
<td>10. Event Number</td>
</tr>
</tbody>
</table>

MSHA Form 7000-3a, Mar 85 (revised)
The approved roof control plan is not being complied with on the number 3 Section 1 crosscut out by the face of number 2 entry, two roof bolts were measured to be 64" and 70" from the rib. Page 6, Item 31 allows maximum of 48".

See Continuation Form (MSHA Form 7000-3a)

### Section II--Inspector's Evaluation

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

11. Negligence (check one)
   - A. None \(\square\) B. Low \(\square\) C. Moderate \(\checkmark\) D. High \(\square\) E. Reckless Disregard \(\square\)

12. Type of Action
   - 104(a)
   - Type of Issuance (check one)
     - Citation \(\checkmark\)
     - Order \(\square\)
     - Safeguard \(\square\)
     - Written Notice \(\square\)

13. Type of Issuance: Citation

14. Initial Action
   - A. Citation \(\square\) B. Order \(\square\) C. Safeguard \(\square\) D. Written Notice \(\square\)

15. Area or Equipment

### Section III--Termination Action

17. Action to Terminate
   - Extra bolts were installed in the area where the bolts were too wide from the rib, in the number 2 entry on the number 3 section.

18. Terminated
   - A. Date Mo Da Yr 11/13/2008
   - B. Time (24 Hr. Clock) 0920
A bar for taking down loose material is not being provided on the roof bolter (Serial number 9715-2008-301) being used on the number 3 section.
Loose coal was allowed to accumulate in the number 7 entry on the number 3 section. The coal ranged from 5 inches to 18 inches in both ribs for a distance of 120 feet.
The loose coal has been cleaned up in the number 7 entry on the number 3 section.
The approved roof control plan is not being complied with on the number 3 section. Approximately 25 feet out by the face of the number 4 entry, the width measured 22 feet to 23 feet for a distance of 40 feet. (Page 10)
The methane monitor on the right side miner (JM5849) on the number 3 section is not being maintained in proper operating condition. When checked with a known air-methane mixture of 2.5 percent, the readout would only show 0.7 percent methane. No methane was detected on the section with a hand held instrument.

---

<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>
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<th>10. Gravity:</th>
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<tr>
<td>A. Injury or Illness (has) (is):</td>
</tr>
<tr>
<td>Unlikely ✓</td>
</tr>
<tr>
<td>B. Injury or illness could reasonably be expected to be:</td>
</tr>
<tr>
<td>Lost Workdays ✓</td>
</tr>
<tr>
<td>C. Significant and Substantial:</td>
</tr>
<tr>
<td>Yes ☑</td>
</tr>
<tr>
<td>D. Number of Persons Affected:</td>
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<table>
<thead>
<tr>
<th>11. Negligence (check one)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. None ☐</td>
</tr>
<tr>
<td>B. Low ✓</td>
</tr>
<tr>
<td>C. Moderate ☐</td>
</tr>
<tr>
<td>D. High ☐</td>
</tr>
<tr>
<td>E. Reckless Disregard ☐</td>
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</tbody>
</table>

<table>
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<th>12. Type of Action</th>
<th>104(a)</th>
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<tr>
<td>13. Type of Issuance (check one)</td>
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<tr>
<td>Citation ✓</td>
<td></td>
</tr>
<tr>
<td>Order ☐</td>
<td></td>
</tr>
<tr>
<td>Safeguard ☐</td>
<td></td>
</tr>
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<td>Written Notice ☐</td>
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<table>
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<th>14. Initial Action</th>
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</thead>
<tbody>
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<td>A. Citation ☐</td>
</tr>
<tr>
<td>B. Order ☐</td>
</tr>
<tr>
<td>C. Safeguard ☐</td>
</tr>
<tr>
<td>D. Written Notice ☐</td>
</tr>
<tr>
<td>E. Citation/Order Number</td>
</tr>
<tr>
<td>F. Dated Mo Da Yr</td>
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</table>

| 15. Area or Equipment |

<table>
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<tr>
<th>16. Termination Due</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Date 11/14/2008</td>
</tr>
<tr>
<td>B. Time (24 Hr. Clock) 000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>17. Action to Terminate</th>
</tr>
</thead>
<tbody>
<tr>
<td>The methane monitor was repaired and is now operating properly.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>18. Terminated</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Date 11/14/2008</td>
</tr>
<tr>
<td>B. Time (24 Hr. Clock) 0940</td>
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</tbody>
</table>

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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 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 battery lids on the Fairchild 35C scoop (T339-230) being used on the number 3 section are not secured in the closed position.
The battery lids on the Fairchild 35C Scoop (T339-230) have been secured in the closed position on the number 3 section.
Mine Citation/Order

1. Date: 11/17/2008
2. Time: 0935
3. Citation/Order Number: 8069142

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 right side Fletcher roof bolter being used on the number 2 section (serial number 95099) has excessive amounts of oil accumulated at both operator stations and also in the rear deck of the machine.

9. Violation:
   A. Health [ ] Safety [X] Other [ ]
   B. Section of Act:
   C. Part/Section of Title 30 CFR: 75.400

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

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

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

13. Type of Action:
    104(a)

14. Type of Issuance (check one):
    A. Citation [X] B. Order [ ] C. Safeguard [ ] D. Written Notice [ ]

15. Area or Equipment:

16. Area or Equipment:

17. Action to Terminate:

18. Terminated:
    A. Date: 11/18/2008
    B. Time: 0800

19. Type of Inspection (activity code):
    E01

20. Event Number: 6284361

21. Primary or Mill:

22. Signature:

MSHA Form 7000-3a (Rev 09/2006) — In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW, MC 2129, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman 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 excessive accumulation of oil has been removed from the right-side roof bolter being used on the number 2 section.
The Fairchild Scoop available for use on the number 2 section has the following defects: 1. The battery lids were not secured in the closed position. 2. The battery plug lock is broken on the off-side. 3. The packing gland was loose on both rear end lights.
The following repairs have been made to the Fairchild scoop used on the number 2 section: 1. The battery lids have been secured. 2. The broken battery plug lock has been replaced. 3. The packing glands have been tightened.
The approved methane and dust control plan is not being complied with in the number 3 entry on the number 3 section. Only 828cf/m was reaching the end of the line curtain where the roof bolter was operating. The bolt crew had installed 1 row of bolts in this place.

Repairs were made and 5,241 cf/m is now reaching the end of the line curtain, in the number 3 entry.
The approved roof control plan is not being followed on the number 3 section. The number 1 face is not bolted to within 5 feet of the face. The distance when measured was 7 feet on the first three bolts and 6 feet 6 inches on the fourth bolt.
The dust collection system provided on the Fletcher right-side roof bolter being used on the number 3 section was not maintained as approved. The static vacuum pressure at the left (operators) side drill pot indicated 7 inches (Hg). The dust collection system approval plate specifies a minimum static vacuum pressure of 12 inches. This condition indicates possible leakage somewhere in the collection system compromising the collection efficiency of the dust collector.

<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>72.630(b)</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)  
   - 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 11/18/2008
   - B. Time (24 Hr. Clock) 0940

17. Action to Terminate  
   - The dust collection system was repaired and is now reading 12 inches on the static vacuum pressure on the operators side.

18. Terminated  
   - A. Date Mo Da Yr 11/18/2008
   - B. Time (24 Hr. Clock) 0940

19. Type of Inspection  
   - (activity code) E01

20. Event Number  
   - 6284361

21. Primary or Mill

22. Signature

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 1-866-REG-FAIR (1-866-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW, MC 2130, 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 Joy shuttle car (ET17640) is anchored to a permanent bolt installed in the mine roof in the number 4 entry on the number 3 section.
A hazardous condition exists in the right return entry off the number 3 section at spad #490. Water has accumulated for a distance of approximately 200 feet and is 12 to 14 inches in depth. A person is required to travel through this area weekly.
The accumulation of water has been pumped from the right return entry off the #3 section at spad #490.
Mine Citation/Order

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

Section I–Violation Data

1. Date: 11/18/2008
2. Time (24 Hr. Clock): 125
3. Citation/Order Number: 8069149

4. Serv. To:
   Bill Harless, Mine Foreman

5. Operator:
   PERFORMANCE COAL COMPANY

6. Mine:
   UPPER BIG BRANCH MINE SOUTH

7. Mine ID: 46-08436

Condition of Premise:

The #1 South conveyor belt is not separated from the right return entry at spad #504. The permanent stopping has a 3' x 1' hole in the middle of the stopping.

See Continuation Form (MSHA Form 7000-36)

Section II–Inspector's Evaluation

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

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

Section III–Termination Action

17. Action to Terminate

18. Terminated
   A. Date: 11/19/2008
   B. Time (24 Hr. Clock): 0800

Section IV–Automated System Data

22. Signature: [Blank]

MSHA Form 7000-36 (2016)
The permanent stopping separating the 1 south belt from the return entry at spad #504 has been repaired.
<table>
<thead>
<tr>
<th>Section I—Violation Data</th>
<th></th>
</tr>
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<tbody>
<tr>
<td>1. Date</td>
<td>Mo Da Yr: 11/19/2008</td>
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<tr>
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<tr>
<td>4. Served To</td>
<td>Bill Harless, Mine Foreman</td>
</tr>
<tr>
<td>5. Condition or Practice</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>
</tbody>
</table>

**Violation:**

No fire protection is being provided at the electrical 100KVA Box being used on the surface at the new Eunice Portal.

See Continuation Form (MSHA Form 7000-3a)

<table>
<thead>
<tr>
<th>Section II—Inspector’s Evaluation</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Violation</td>
<td>A. Health Safety [✓] Other [</td>
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<tr>
<td>2. Section of Act</td>
<td>B. Section of Act [</td>
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<tr>
<td>3. Part/Section of Title 30 CFR</td>
<td>C. Part/Section of Title 30 CFR [</td>
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<td>4. Gravity:</td>
<td>75.1100-2(e)</td>
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<td>5. Injury or illness (has) (is)</td>
<td>A. No Likelihood [</td>
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<td>6. Injury or illness could reasonably be expected to be:</td>
<td>No Lost Workdays [✓] Lost Workdays Or Restricted Duty [</td>
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<tr>
<td>7. Significant and Substantial</td>
<td>C. Yes [✓] No [</td>
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<tr>
<td>8. Number of Persons Affected</td>
<td>D. 001</td>
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<tr>
<td>9. Negligence (check one)</td>
<td>A. None [</td>
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<td>10. Type of Action</td>
<td>104(a)</td>
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<tr>
<td>11. Initial Action</td>
<td>A. Citation [</td>
</tr>
<tr>
<td>12. Type of Issuance (check one)</td>
<td>A. Citation [✓] Order [</td>
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<tr>
<td>13. Type of Issuance (check one)</td>
<td>B. Order [</td>
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<td>C. Safeguard [</td>
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<td>15. Type of Issuance (check one)</td>
<td>D. Written Notice [</td>
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<td>16. Type of Issuance (check one)</td>
<td>E. Citation/Order Number [</td>
</tr>
<tr>
<td>17. Type of Issuance (check one)</td>
<td>F. Dated Mo Da Yr [</td>
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<table>
<thead>
<tr>
<th>Section III—Termination Action</th>
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<tbody>
<tr>
<td>1. Termination Due</td>
<td>A. Date Mo Da Yr: 11/19/2008</td>
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<tr>
<td>2. Time (24 Hr. Clock)</td>
<td>1400</td>
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**Termination Due:**

A fire extinguisher has been provided for the electrical 100KVA Box.

<table>
<thead>
<tr>
<th>Section IV—Automated System Data</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Type of Inspection (activity code)</td>
<td>E01</td>
</tr>
<tr>
<td>2. Event Number</td>
<td>6284361</td>
</tr>
<tr>
<td>3. Primary or Mill</td>
<td>21. Primary or Mill [</td>
</tr>
<tr>
<td>4. Signature</td>
<td>22. Signature [</td>
</tr>
<tr>
<td>5. AR Number</td>
<td>23. AR Number [</td>
</tr>
</tbody>
</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 2123, 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 dust collection system provided for the Right-side bolter (Fletcher 95099) was not maintained as approved. An examination of the dust collection boxes revealed that the rubber door latches on the off-side were broken and one was broken on the operators side. This condition allows leakage along the door seal compromising the collection efficiency of the dust collector. This roof bolting machine installs roof supports on the MMU 040 and MMU 041 section.
The rubber door latches have been replaced on the dust collection system on the right-side bolter being used on the number 2 section.
The approved methane and dust control plan is not being complied with in that no scrubber readings have been recorded in the preshift/onshift book for the Number 1 Section for the week of 11-02-08 thru 11-09-08. (Safety precaution #13)

MSHA Form 7000-3a, April 06 (revised)
Mine Citation/Order

Section I--Violation Data

1. Date Mo Da Yr 11/21/2008
2. Time (24 Hr. Clock) 0745
3. Citation/Order Number 8069153
4. Served To Bill Harless, Mine Foreman
5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH
7. Mine ID 46-08436 (Contractor)
8. Condition or Practice Weekly scrubber readings are not being entered in the preshift/onshift book for the Number 2 Section for either MMU 040-0 or MMU 041-0

Section II--Inspector's Evaluation

9. Violation
   A. Health Safety ✓ Other
   B. Section of Act
   C. Part/Section of Title 30 CFR 75.370(a)(1)
10. Gravity:
    A. Injury or Illness (has) (is): No Likelihood Unlikely ✓ Reasonably Likely High 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 D 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 11/21/2008
    B. Time (24 Hr. Clock) 1200

Section III--Termination Action

17. Action to Terminate
    Weekly scrubber readings have now been entered in the preshift/onshift book for the Number 2 Section.
18. Terminated
    A. Date Mo Da Yr 11/21/2008
    B. Time (24 Hr. Clock) 1200

Section IV--Automated System Data

19. Type of Inspection (activity code) E01
20. Event Number 6284361
21. Primary or Mill
22. Signature
23. AR Number
A guard was missing on the DBT feeder, serial number 54-2147, being used on the number 1 section. The guard had been removed and not put back in place. The guard measured 24 inches X 6.5 inches and was laying on top of the feeder. This guard offers protection from the sprocket chain that drives the pick breaker.
The approved ventilation plan is not being complied with on the number 1 section in that no permanent stopping's were built in the last 4 crosscuts on the return side. Page 2 of the ventilation plan allows for three open crosscuts providing 13,500 is being maintained.
Only 10,790 cf/m was reaching the last open crosscut on the number 1 section. Page 2 of the ventilation plan requires 13,500 when 3 open crosscuts exist, out by the face.

A stopping was built and plastered on the return side and 14,560 cf/m is now reaching the last open crosscut on the number 1 section.
The approved roof control plan is not being followed on the number 1 section. The face of number 2 entry is not bolted to within 5 feet as required by drawing 1 of the plan. The left two bolts were 7 feet when measured and the two bolts on the right side were 6 feet.
The dust collection system provided for the Fletcher dual-boom, roof bolting machine (95067-2004328) was not maintained as approved. The static vacuum pressure at both drill pots indicated 10 inches (Hg). The dust collection system approval plate specifies a minimum static vacuum pressure of 12 inches (Hg). This condition indicates possible leakage somewhere in the collection system or other system defect compromising the collection efficiency of the dust collector. This roof bolting machine installs roof support on the MMU 029-0, number 1 section.
Repairs have been made to the Fletcher roof bolter serial number 95067-2004328 and the static vacuum pressure is now reading 13 inches (Hg) on the operators side and 12 inches (HG) on the off-side.
The intake air course is not separated from the belt conveyor haulage way out by the number 2 section tailpiece in that 4 stopping's had blocks missing in the stopping's.
Mine Citation/Order Continuation

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

1. **Subsequent Action**
   a. Continuation [✓]

2. **Dated (Original Issue)**
   - Mo: 12
   - Da: 05
   - Yr: 2008

3. **Citation/Order Number**
   - 8069164-01

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 intake stoppings have been repaired on the number 2 section outby the tail piece.

**Section III—Subsequent Action Taken**

8. **Extended To**
   - A. Date
   - Mo: 00
   - Da: 00
   - Yr: 00
   - B. Time (24 Hr. Clock)
   - C. Vacated [☐]
   - D. Terminated [✓]
   - E. Modified [☐]

**Section IV—Inspection Data**

9. **Type of Inspection**
   - E01

10. **Event Number**
    - 6284361

11. **Signature**
    - [Redacted]

12. **Date**
    - Mo: 09
    - Da: 12
    - Yr: 2008

13. **Time (24 Hr. Clock)**
    - 0800

MSHA Form 7000-3a, Mar 85 (revised)
The deluge type water system on the glory hole belt was inoperative due to the water valve supplying water to the system is shut off.
The circuit breaker supplying power to the glory hole belt head was not marked for identification.
Mine Citation/Order

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

Section I—Violation Data

1. Date Mo Da Yr 12/09/2008
2. Time (24 Hr. Clock) 0915
3. Citation/Order Number 8069167
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

Combustible material in the form of trash, such as rags, plastic bottles, cardboard, and lunch snack papers have accumulated around the power box at the number 5 Break on the 4 North Belt.

9. Violation
   A. Health Safety ✔ Other □
   B. Section of Act
   C. Part/Section of Title 30 CFR 75.400

10. Gravity:
    A. Injury or illness (has) (is):
        No Likelihood □ Unlikely ✔ Reasonably Likely □ Highly Likely □ Occurred □
    B. Injury or illness could reasonably be expected to 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. Initial Action 104(a)

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

14. Type of Inspection (activity code) E01
15. Area or Equipment

16. Termination Due
    A. Date Mo Da Yr 12/10/2008
    B. Time (24 Hr. Clock) 0800

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 6284361
21. Primary or Mill

22. Signature [Redacted]

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.
Section I—Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation [ ]
2. Dated (Original Issue) 12/09/2008
3. Citation/Order Number 8069167 - 01
4. Served To Bill Harless, Mine Foreman
5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH

Section II—Justification for Action

The combustible material has been cleaned up from around the power center and taken outside to the trash dumpster.
The first bottom roller in by 4 North Head that is used to hold the belt up has a shaft protruding out each side for a distance of 2 inches and is not guarded. People are required to travel this area each shift.
The protruding shaft on the first bottom roller in by 4 North Belthead has been trimmed off.
Combustible material consisting of cardboard, plastic wrap, empty resin boxes, oil cans, and wooden pallets have accumulated along both sides of the 3 stopping lines from the mouth of number 3 section to the section tailpiece. This is a distance of approximately 700 feet.
The combustible material was removed from the cross cut along the track.
The number 3 Section belt was not guarded where the track extends under the beltline. A track crew was working in this area exposing workers to a hazard of a running belt.
The approved methane and dust control plan is not being followed on the number 2 section (MMU 040-0) in the number 3 entry. The left mining machine was not cutting the curtain side first as required by the plan.

<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>Yes □</td>
<td></td>
<td>75.370(a)(1)</td>
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</table>

**Section II—Inspector's Evaluation**

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

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

12. Type of Action: 104(a)

13. Type of Issuance (check one):
- Citation ✓ Order □ Safeguard □ 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: 12/16/2008
- B. Time (24 Hr. Clock): 1035

17. Action to Terminate: The mining machine was moved to cut the curtain side first, and a discussion was held with the miner operator.

18. Terminated:
- A. Date Mo Da Yr: 12/16/2008
- B. Time (24 Hr. Clock): 1035

19. Type of Inspection (activity code)

20. Event Number: 6284361

21. Primary or Mill

22. Signature

23. AR Number
The approved methane and dust control plan is not being followed on the number 2 section (040-0), only 1,364 CF/M was being delivered to the end of the line curtain where the left side bolter was being operated, in the 4 left face.
The approved roof control is not being followed on the number 2 section (040-0) in the number 7 entry. A wide place exists outby the face approximately 30 feet. The entry is 21 to 22 feet wide for a distance of 16 feet. (Drawing 3 page 12)
The permissible cap lights being used at this mine are not being maintained in permissible condition. 10 lights have screws missing and 2 lights have the top part of the light taped on to the battery.

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<table>
<thead>
<tr>
<th>Section I--Violation Data</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Date</strong></td>
</tr>
<tr>
<td>1. Date</td>
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<table>
<thead>
<tr>
<th><strong>Operator</strong></th>
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<tbody>
<tr>
<td>PERFORMANCE COAL COMPANY</td>
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<table>
<thead>
<tr>
<th><strong>Mine</strong></th>
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<tbody>
<tr>
<td>UPPER BIG BRANCH MINE-SOUTH (Contractor)</td>
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</table>

<table>
<thead>
<tr>
<th><strong>Condition or Practice</strong></th>
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</thead>
<tbody>
<tr>
<td>5. Operator</td>
</tr>
<tr>
<td>6. Mine</td>
</tr>
<tr>
<td>3. Citation/Order Number</td>
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<tr>
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<tr>
<td><strong>Violation</strong></td>
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<td>9. Violation</td>
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<table>
<thead>
<tr>
<th><strong>Gravity:</strong></th>
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</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>
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<tr>
<td>D. Number of Persons Affected:</td>
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<table>
<thead>
<tr>
<th><strong>Negligence (check one):</strong></th>
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</thead>
<tbody>
<tr>
<td>A. None</td>
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<table>
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<td>A. Citation</td>
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<tr>
<td>A. Date</td>
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<td>16. Termination Due</td>
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<table>
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<tr>
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<td>19. Type of Inspection</td>
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<tr>
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<tr>
<td>20. Event Number</td>
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<tr>
<th><strong>Primary or Mill</strong></th>
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<tr>
<td>21. Primary or Mill</td>
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<tr>
<th><strong>Signature</strong></th>
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MSHA Form 7700-3, 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-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.
The 10 battery lights have been removed from service.
MINE CATION/ORDER

1. Date Mo Da Yr 12/18/2008
2. Time (24 Hr. Clock) 1900
3. Citation/Order Number 8069175

4. Served To
Bill Harless, Mine Foreman

5. Operator
PERFORMANCE COAL COMPANY

6. Mine
UPPER BIG BRANCH MINE-SOUTH

7. Mine ID 46-08436 (Contractor)

The approved methane and dust control plan is not being followed on the number 1 section (MMU 029-0). Only 1,560 cf/m is reaching the in by end of the line curtain in number 1 entry. The roof bolter was operating in this entry.

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

10. Gravity:
A. Injury or illness (has) (is): 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: 002

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

12. Type of Action 104(a)

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

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

15. Area or Equipment

16. Termination Due
A. Date Mo Da Yr 12/18/2008
B. Time (24 Hr. Clock) 1910

17. Action to Terminate
Repairs were made to the line curtain and 3,504 is now reaching the in by end of the line curtain in #1 entry, on the number 1 section.

18. Terminated
A. Date Mo Da Yr 12/18/2008
B. Time (24 Hr. Clock) 1910

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 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 last recorded date for the weekly permissibility exam for the right roof bolter being used on the number 3 Section is 12-9-2008. There is no record for the week of 12-14-2008 thru 12-20-2008.
A permissibility exam has been made and recorded for the right side roof bolter on the number 3 section.
Mine Citation/Order

<table>
<thead>
<tr>
<th>1. Date</th>
<th>2. Time (24 Hr. Clock)</th>
<th>3. Citation/Order Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mo Da Yr</td>
<td>1310</td>
<td>8069177</td>
</tr>
</tbody>
</table>

4. Served To

Greg Raines, Safety Director

5. Operator

PERFORMANCE COAL COMPANY

6. Mine

UPPER BIG BRANCH MINE-SOUTH

7. Mine ID

46-08436

8. Condition or Practice

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

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>Safety ✔</td>
<td></td>
<td>48.9(a)</td>
</tr>
</tbody>
</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>Fatally</td>
<td></td>
</tr>
<tr>
<td>C. Significant and Substantial:</td>
<td>Yes ✔</td>
<td>No</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

11. Negligence (check one)

<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(g)(1)

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

17. Action to Terminate

18. Terminated

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

19. Type of Inspection (activity code)

E01

20. Event Number

6284361

21. Primary or Mill

22. Signature

23. AR Number

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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, 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.
Change From To

Reason
Add the statement; The federal mine safety and health act of 1977 declares that an untrained miner is a hazard to himself and to others.

Up to date training records are now available for the 10 employees listed under training order 8069177.
The loose coal has been cleaned up in the number 7 entry on the number 3 section.
The water has been pumped in the return entry off the number 1 section inby spad 22122.
The slip has been removed and the loose roof taken down at the return entry at the Eunice portal.
The water has been pumped in the intake escapeway between #10 and #11 break for the number 1 and 2 Sections.