



Mine Activity Data

1. Action: a. New Entry b. Update 2. Activity Code: E02 3. Event Number: 6284364

4. Date Event Started: 12/30/2008 5. Date Event Finished: 12/30/2008 6. Mine ID: 46-08436

7a. Organization Code (Mine Assignment) 20401 b. Work Group Identifier 01 9. Company Name PERFORMANCE COAL COMPANY

8a. Organization Code (AR Assignment) 20401 b. Work Group 01 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 1 b. Idle Sections

c. Outby Areas d. Shafts/Slopes e. Surface Areas (UG) f. Surface Workings g. Company Records h. ATF i. Impoundments j. Refuse Piles

k. Major Construction (1) Shaft/Slope Sinking (2) Impoundment Construction (3) Buildings (4) Dragline/Shovel (5) Other i. Miscellaneous

m. MMU/Pit Number
 (1) 060 (2) 061

13. Number of Samples Collected a. Air Samples 2 b. Rock Dust Spot c. Rock Dust Survey d. Respirable Dust e. Noise f. Other

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

15. Prime Independent Contractor Codes (Major Construction)

16. Inspection Results

	Citations		Orders		Safeguards		Other	
	Coal Opr	Ind Con	Coal Opr	Ind Con	Coal Opr	Ind Con	Coal Opr	Ind Con
a. This Inspection								
(1) New Issuances	2	0	0	0	0	0	0	0
(2) Terminations/Vacations	1/0	0/0	0/0	0/0	0/0	0/0	0/0	0/0
(3) Modifications/Extensions	0/0	0/0	0/0	0/0	0/0	0/0	0/0	0/0
(4) Left Pending	1	0	0	0	0	0	0	0
b. Previously Issued								
(1) Modifications/Extensions	0/0	0/0	0/0	0/0	0/0	0/0	0/0	0/0
(2) Terminations/Vacations	1/0	0/0	0/0	0/0	0/0	0/0	0/0	0/0

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

a.  Card Number 

b. _____

c. _____

d. _____

17. Remarks:
 A7405 A8372

19. Key Entered By _____ Date _____

1/16/09 

Shift	Sun			Mon			Tue			Wed			Thur			Fri			Sat		
	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3
Week 1 12/28/2008	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>																		
Week 2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>							
Week 3	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>							



Section I--Violation Data

1. Date Mo Da Yr 12/30/2008	2. Time (24 Hr. Clock) 0920	3. Citation/ Order Number 8069178
4. Served To [Redacted] (Superintendent)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

The alternate escape way for the #3 section is not being provided with a continuous, durable directional life line or equivalent device installed and maintained throughout the entire length of the escape way. The lifeline ends approximately 980 feet out by the #3 section.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health <input type="checkbox"/> Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.381(c)(5)(i)
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Section II--Inspector's Evaluation

10. Gravity:				
A. Injury or Illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input type="checkbox"/> Reasonably Likely <input checked="" type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>				
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input checked="" type="checkbox"/> Fatal <input type="checkbox"/>				
C. Significant and Substantial: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>			D. Number of Persons Affected: 008	
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>				
12. Type of Action 104(a)		13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>		
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>			E. Citation/ Order Number	
14. F. Dated Mo Da Yr				
15. Area or Equipment				

16. Termination Due	A. Date Mo Da Yr 12/31/2008	B. Time (24 Hr. Clock) 0700
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Section III--Termination Action

17. Action to Terminate		
18. Terminated	A. Date Mo Da Yr	B. Time (24 Hr. Clock)

Section IV--Automated System Data

19. Type of Inspection (activity code) E02	20. Event Number 6284364	21. Primary or Mill
22. Signature [Redacted]		23. AR Number [Redacted]

MSHA Form 7000-6, April 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.

1/14/9 

Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 12/30/2008	3. Citation/ Order Number 8069178 - 01
4. Served To [redacted] 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

The lifeline has been extended to the working section.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr	B. Time (24 Hr. Clock)	<input type="checkbox"/> C. Vacated	<input checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4119932		
11. Signature [redacted]	AR Number [redacted]	12. Date Mo Da Yr 01/12/2009	13. Time (24 Hr. Clock) 1000



Section I--Violation Data

1. Date Mo Da Yr 12/30/2008	2. Time (24 Hr. Clock) 0935	3. Citation/ Order Number 8069179
4. Served To [Redacted] (Superintendent)		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		

No bar for taking down loose material was available on the #3 section right side Fletcher Roof Bolter being used in the #4 entry.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.211(d)
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Section II--Inspector's Evaluation

10. Gravity:				
A. Injury or Illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input checked="" type="checkbox"/> Reasonably Likely <input type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>				
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input checked="" type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input type="checkbox"/>				
C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			D. Number of Persons Affected: 002	
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>				
12. Type of Action 104(a)		13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>		
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>			E. Citation/ Order Number	
15. Area or Equipment				

16. Termination Due	A. Date Mo Da Yr 12/30/2008	B. Time (24 Hr. Clock) 0945
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Section III--Termination Action

17. Action to Terminate A slate bar is now provided for the Fletcher right side bolter being used on the #3 section.

18. Terminated	A. Date Mo Da Yr 12/30/2008	B. Time (24 Hr. Clock) 0942
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Section IV--Automated System Data

19. Type of Inspection (activity code) E02	20. Event Number 6284364	21. Primary or Mill
22. Signature [Redacted]		23. AR Number [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 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.

UNITED STATES DEPARTMENT OF LABOR
MSHA LABORATORIES - MOUNT HOPE, WEST VIRGINIA
ANALYSIS OF AIR SAMPLES

1/3/08 

Mine: UPPER BIG BRANCH MINE SOUTH
Company: PERFORMANCE COAL COMPANY

Mine ID: 4608436
Inspector: 

Date(s) Collected: 12/30/2008
Office: 401

BOTTLE NUMBER	LOCATION IN MINE	CARBON DIOXIDE	OXYGEN	METHANE	ETHANE	CUBIC FEET AIR PER MINUTE	CUBIC FEET METHANE IN 24 HOURS
A7405	#3 SECTION - IMMEDIATE RETURN IN #1 ENTRY - LEFT SIDE	0.100	20.91	0.000	0.000	33120	0
A8372	#3 SECTION - IMMEDIATE RETURN IN #7 ENTRY - RT. SIDE	0.090	20.91	0.000	0.000	38760	0

THE PERCENTAGE OF NITROGEN CAN BE DETERMINED BY SUBTRACTING THE SUM OF THE REPORTED VALUES FROM 100.00

U. S. Department of Labor

Mine Safety and Health Administration
100 Bluestone Road
Mount Hope, WV 25880-1000



DATE: 3/17/09



MESSAGE FOR: FIELD OFFICE SECRETARY -

FROM: [Redacted]

PAGES (INCLUDING COVER): 17

SUBJECT: CONTESTED VIOLATION DATA AT ID NO. 8436

The violations shown below have been contested by the mine operator:

<u>VIOL #</u>	<u>ISSUED</u>	<u>VIOL#</u>	<u>ISSUED</u>
_____	<i>See attached</i>		_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

These documents go before lawyers and judges. It is important that all copies be clean and clearly legible.

Please provide a copy of each violation and all subsequent actions for that violation.

I also need a copy of the inspector's notes (including the Daily Cover Sheet) for each violation, as well as any special assessment forms and a copy of appropriate plans related to those violations.

If there are any related violations, such as 107(a) Orders, I need a copy of them too.

Please fax your response back to me today or tomorrow - I have a very short turn-around time to get this material in to the Solicitor's Office in Arlington.

If you have any questions, call me on extension 148. Thank you for your help.



4/2/09

Citations

Record Count: 10

Selection Criteria:

4608436

806917*

MineID	Type	Mine Off.	WG	Mg Off.	WG	AR #	Cont ID	C/O #	Issue Date	Issuance	SS	Type Action	30 CFR Std	Activity Code	Event Number
4608436	U	0401	01	0401	01			8069170	12/11/2008	C	Y	104-A	75.1722A	E01	6284361
4608436	U	0401	01	0401	01			8069173	12/16/2008	C	Y	104-A	75.220A1	E01	6284361
4608436	U	0401	01	0401	01			8069172	12/16/2008	C	Y	104-A	75.370A1	E01	6284361
4608436	U	0401	01	0401	01			8069171	12/16/2008	C	N	104-A	75.370A1	E01	6284361
4608436	U	0401	01	0401	01			8069175	12/18/2008	C	Y	104-A	75.370A1	E01	6284361
4608436	U	0401	01	0401	01			8069174	12/18/2008	C	N	104-A	75.503	E01	6284361
4608436	U	0401	01	0401	01			8069176	12/22/2008	C	N	104-A	75.512-2	E01	6284361
4608436	U	0401	01	0401	01			8069177	12/23/2008	O	Y	104-G-1	48.9A	E01	6284361
4608436	U	0401	01	0401	01			8069179	12/30/2008	C	N	104-A	75.211D	E02	6284364
4608436	U	0401	01	0401	01			8069178	12/30/2008	C	Y	104-A	75.381C5I	E02	6284364