

Mine Citation/Order

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

4/24/09 MTH

Section I—Violation Data

1. Date Mo Da Yr 04/22/2009	2. Time (24 Hr. Clock) 1030	3. Citation/ Order Number 8082739
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)	
8. Condition or Practice		8a. Written Notice (103g) ☐

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.

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

9. Violation	A. Health ☐ Safety ☒ Other ☐	B. Section of Act	C. Part/Section of Title 30 CFR 75.400
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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 ☐		E. Citation/ Order Number		F. Dated Mo Da Yr
15. Area or Equipment				

16. Termination Due	A. Date Mo Da Yr 04/27/2009	B. Time (24 Hr. Clock) 0800
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Section III—Termination Action

17. Action to Terminate

18. Terminated	A. Date Mo Da Yr	B. Time (24 Hr. Clock)
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Section IV—Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119936	21. Primary or Mill
22. Signature <i>W. J. B...</i>		23. AR Number 24308

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
Continuation

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

4/29/09 M1



Section I—Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation ☒ ☐	2. Dated (Original Issue) 04/22/2009	3. Citation/ Order Number 8082739 - 01
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)

Section II—Justification for Action

Work is being performed but additional time is needed.

See Continuation Form ☐

Section III—Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 05/08/2009	B. Time (24 Hr. Clock) 0800	☐ C. Vacated	☐ D. Terminated	☐ E. Modified
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Section IV—Inspection Data

9. Type of Inspection E01	10. Event Number 4119936
11. Signature <i>W. J. B. S.</i>	AR Number 24308
12. Date Mo Da Yr 04/28/2009	13. Time (24 Hr. Clock) 1411

Mine Citation/Order
Continuation

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

5/8/9 MHA

Section I—Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation ☒ ☐	2. Dated (Original Issue) Mo Da Yr 04/22/2009	3. Citation/ Order Number: 8082739 - 02
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)

Section II—Justification for Action

The belt has been cleaned and dusted.

See Continuation Form ☐

Section III—Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr	B. Time (24 Hr. Clock)	☐ C. Vacated	☒ D. Terminated	☐ E. Modified
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Section IV—Inspection Data

9. Type of Inspection E01	10. Event Number 4119936
11. Signature <i>[Signature]</i>	AR Number 24308
12. Date Mo Da Yr 05/06/2009	13. Time (24 Hr. Clock) 1100