



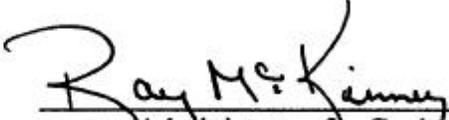
MSHA HANDBOOK SERIES

U. S. Department of Labor
Mine Safety and Health Administration
Metal and Nonmetal Mine Safety and Health
Coal Mine Safety and Health
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**CITATION AND ORDER WRITING
HANDBOOK FOR
COAL MINES AND
METAL AND NONMETAL MINES**

This handbook sets forth procedures to be followed in the writing and issuing of citations and orders involving health and safety violations at metal and nonmetal or coal mines. Changes to this handbook must be authorized by the Administrator for Coal Mine Safety and Health and the Administrator for Metal and Nonmetal Mine Safety and Health. Previously issued instructions relating to this subject are superseded by this handbook. However, compliance related instructions contained in the MSHA Program Policy Manual are not superseded by this handbook.


Administrator for Coal

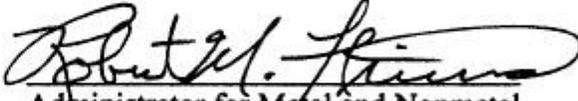

Administrator for Metal and Nonmetal

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DISCLAIMER

The citations and orders shown in the Health and Safety Appendices are examples for illustrative purposes only. Actual citations and orders issued for violations of the Mine Act or a mandatory health or safety standard must depict gravity and negligence determinations reflective of circumstances present at the time of issuance.

CHAPTER 1 – INTRODUCTION

I. AUTHORITY

The Federal Mine Safety and Health Act of 1977 (Mine Act), Public Law 91-173, as amended by Public Law 95-164, directs an Authorized Representative (AR) of the Secretary of Labor to issue citations and orders when he or she believes that a violation of the Mine Act or any mandatory health or safety standard, rule, order, or regulation promulgated pursuant to the Mine Act has occurred. The Mine Act also authorizes an AR to issue an order of withdrawal when an imminent danger condition exists. Sections 103, 104, and 107 of the Mine Act describe in detail the authority for issuing these citations and orders.

II. PURPOSE

This handbook is intended to provide guidance for all enforcement personnel in:

- issuing, extending, modifying, vacating, and terminating citations and orders;
- describing the conditions or practices constituting a violation or imminent danger;
- writing clear justification for extensions and modifications of citations and orders;
- adequately describing the area or equipment affected by citations or orders; and
- adequately evaluating the degree of gravity and negligence of the violation.

This handbook has been combined to reflect the uniformity of citation and order writing for both metal/nonmetal and coal. Any procedures, scenarios, and examples in this handbook can be used by all enforcement personnel, except for safeguards that are only issued in coal.

III. RESPONSIBILITY

If, upon inspection or investigation, the Secretary or an AR believes that a mine operator as defined by the Mine Act has committed a violation of a mandatory standard, he or she must issue a citation or order to the mine operator. Each citation or order must be in writing and shall describe with particularity the nature of the violation, including reference to the provision of the Mine Act, standard, rule, regulation, or order alleged to have been violated. In addition, each citation must fix a reasonable time for abatement of the violation.

IV. BACKGROUND

Mine Safety and Health Administration (MSHA) personnel must constantly strive for accuracy in writing citations and orders. A significant percentage of citations and orders have been overturned during the legal process for reasons such as:

- failure to cite the appropriate standard;
- failure to establish the existence of an imminent danger;
- assumptions or suppositions not based on facts;
- failure to order a withdrawal of miners or prohibit continued mining activities;
- failure to specifically describe the area of danger or area affected;
- issuance of a 107(a) order for control purposes when no imminent danger exists;
- illegible or confusing writing; and
- failure to properly evaluate the degree of gravity, exposure to the hazard, or the mine operator's negligence.

The description of a violation must be written in such a manner that all parties know the true nature of the situation. The descriptive narrative must include information that clearly establishes a violation and describes with particularity the nature of the violation. The proposed civil penalty prepared by the Office of Assessments is determined, in part, by information contained in the citation or order.

CHAPTER 2 - SELECTED PROVISIONS OF THE MINE ACT

I. INSPECTIONS AND INVESTIGATIONS

A. Section 103(a)

MSHA must conduct frequent inspections and investigations at coal and other mines each year for the purpose of: obtaining, utilizing, and disseminating information relating to health and safety conditions, the causes of accidents, and the causes of diseases and physical impairments originating in such mines; gathering information with respect to mandatory health and safety standards; determining whether an imminent danger exists; and determining whether mine operators have complied with mandatory health and safety standards, citations, orders, and decisions issued under the Mine Act. Additionally, MSHA must develop guidelines for additional inspections of mines.

B. Section 103(j)

Consult District Manager and/or Headquarters before issuing. In the event of a mine accident where rescue and recovery work is necessary, MSHA is authorized to take any action deemed appropriate to protect lives, including supervising and directing any mine rescue and recovery effort. The mine operator is required to take measures to prevent destruction of evidence that could assist accident investigators.

C. Section 103(k)

In the event of a mine accident MSHA may issue orders deemed appropriate to ensure the safety of any person in the mine. The operator of that mine shall obtain the approval of the MSHA representative, in consultation with state mining agency representatives (if appropriate), regarding any plan to recover any person in the mine, to recover the mine, or to return affected mining areas to normal.

II. CITATIONS, ORDERS AND NOTICES

A. Section 104(a)

If, upon inspection or investigation, the Secretary or an inspector believes that a mine operator subject to the Mine Act has violated this Act, or any mandatory health or safety standard, rule, order, or regulation promulgated pursuant to this Act, he or she shall, with reasonable promptness, issue a citation to the mine operator. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of the Act, standard, rule, regulation, or order alleged to have been violated. In addition, the citation shall fix a reasonable time for the abatement of the violation. The requirement for the issuance of a citation with reasonable promptness shall not be a jurisdictional prerequisite to the enforcement of any provision of this Act.

B. Section 104(b)

When an inspector finds that a violation previously cited has not been abated and that the period of time for abatement should not be further extended, he or she must issue a withdrawal order for the cited equipment or that part of the mine affected by the violation. The operator is required by such an order to remove all persons from the area affected, except those persons necessary to correct the violation as referenced in Section 104(c), until the violation is abated.

C. Section 104(d)(1) Citations

Upon MSHA's finding of a violation which could significantly and substantially contribute to the cause and effect of a safety or health hazard and is due to the mine operator's unwarrantable failure to comply, such a finding shall be included in any citation issued to the operator.

D. Sections 104(d)(1) and 104(d)(2) Orders

If another violation of a mandatory standard, whether significant and substantial or not and which is caused by the mine operator's unwarrantable failure, is found during the same or any subsequent inspection within 90 days of issuance of the 104(d)(1) citation, MSHA shall issue a withdrawal order. If an unwarrantable failure violation is observed during any subsequent inspection made after a 104(d)(1) order has been issued, a 104(d)(2) order shall be issued. These two sections provide for the issuance of withdrawal orders that are caused by the mine operator's unwarrantable failure to comply with mandatory safety and health standards.

E. Section 104(e)(1)

If MSHA has established that a mine operator has the same pattern of violations by receiving repeat or multiple significant and substantial violations of mandatory MSHA standards, the operator shall be issued a notice that such a pattern exists. Provisions are also made in this section for withdrawing all persons from the affected area if MSHA finds another significant and substantial violation during an inspection within 90 days of issuance of the notice of pattern of violations. The 104(e) withdrawal order remains in effect until MSHA finds the violation has been abated.

F. Section 104(e)(2)

Where miners have been withdrawn under Section 104(e)(1), a further withdrawal order shall be issued upon MSHA's finding of a significant and substantial violation during a subsequent inspection.

G. Section 104(e)(3)

The pattern of violations that resulted in the issuance of a notice shall be terminated if an MSHA inspection of the entire mine finds no significant and substantial violations of mandatory standards. However, a mine operator can reestablish a pattern of violation status as a result of subsequent significant and substantial violations.

H. Section 104(g)(1)

If an inspector finds that any miner has not received the mandatory health and safety training required under Section 115 of the Mine Act, the miner shall be ordered withdrawn from the mine until he or she has completed the required training.

III. PROCEDURES TO COUNTERACT DANGEROUS CONDITIONS

A. Section 107(a)

If an inspector finds an imminent danger condition or practice existing at a mine, he or she shall issue a 107(a) order withdrawing persons from the affected area or equipment from service. No one may enter the area, except those persons necessary to correct the conditions as referenced in Section 104(c), until MSHA determines that conditions and practices which caused the imminent danger no longer exist.

B. Section 107(b)

If an inspector finds that conditions exist at a mine which have not yet resulted in an imminent danger, that such conditions cannot be effectively abated using existing technology, and that an imminent danger cannot be ruled out if mining activities were to proceed, the inspector shall issue a 107(b) notice to the operator informing him or her of such conditions. A copy of this notice shall be filed with the Secretary of Labor and with the representative(s) of the miners. This section also provides for MSHA to issue notices, conduct investigations, hold public hearings, and make findings of fact (Consult District Manager and/or Headquarters before issuing).

IV. MINERS FOUND SMOKING OR CARRYING SMOKING MATERIALS IN PROHIBITED AREAS -- SECTION 110(g)

Any miner who willfully violates the mandatory safety standards relating to smoking or the carrying of smoking materials, matches, or lighters shall be subject to a civil penalty assessed by the Commission of not more than \$275 for each occurrence of such violation.

CHAPTER 3 - VIOLATION DESCRIPTION AND ISSUING FORM

I. FACTUAL INFORMATION

It is important that factual information, not conclusions, be included in each citation or order. Statements such as "additional roof support is needed" or "adequate fire protection was not provided" may be true but these descriptions do not clearly describe a violation. The former does not describe the condition of the roof or the type and amount of roof supports installed, nor identify a hazard. The latter does not indicate the nature of the fire hazard nor the degree to which protection is not provided.

The citation or order must contain facts sufficient to establish a violation of the standards under the Mine Act and any special circumstances related to the violation, such as "significant and substantial" and "unwarrantable failure" findings.

II. VIOLATION DESCRIPTION

Essential elements to be considered in a violation description are:

- A. The conditions and practices causing and constituting the violation of a specific regulation or section of the Mine Act. They must be accurately identified and described.
- B. A determination of what caused the violation by clearly describing conditions and practices. This determination is particularly significant when citing violations in conjunction with imminent danger orders and Section 104(d) citations and orders.
- C. The location or equipment where the violation or hazard exists. This element **must** be specifically identified for several reasons:
 1. It serves as notification to the mine operator for abatement purposes;
 2. It informs the miners and miners' representative(s) of the exact location of the hazard; and
 3. It serves as clarification for inspectors on abatement visits.
- D. Information concerning gravity and negligence. This information must be provided so an accurate determination of the proposed civil penalty can be made.
- E. Information concerning the hazard, exposure, or lack of exposure to miners. Some mandatory standards require that exposure be shown to support a citation or order.
- F. Facts relevant to the mine operator's knowledge of the violative condition or practice.

III. CITATION, CONTINUATION, SUBSEQUENT ACTION, AND ORDER FORMS

- A. MSHA Form 7000-3 shall be used for issuing citations or orders.
- B. MSHA Form 7000-3a shall be used for continuations and subsequent actions for citations and orders.
- C. Each set of forms has an original and three copies which shall be distributed as follows:
 - Original - district mine file
 - Second page - mine operator's use
 - Third page - miners' representative, if applicable
 - Fourth page - MSHA inspector
- D. Computer generated citations/orders require an original signature for each printed copy.
- E. Distribution of the computer copies will be the same as for the hand written copies.

CHAPTER 4 - CITATIONS AND ORDERS

These procedures shall be followed when completing Mine Citation/Order Form 7000-3 unless otherwise specified. The items referenced below correspond to the appropriate sections on Form 7000-3.

I. COMPLETING MINE CITATION/ORDER FORMS

A. Section I - Violation Data

1. Date - Enter the date of the violation with a two-digit number for the month, day and year (e.g., 01/07/02). The computer generated forms require a four digit number for the year.
2. Time - Enter the time of the violation with a four-digit number based on a 24 hour clock (military time, e. g., 22:30)
3. Citation/Order Number - The seven-digit number preprinted on the 7000-3 Form – or generated by the computer.
4. Served To - Enter the first and last name of the operator (or operator's agent) and title to whom the citation or order is served.
5. Operator - Enter the official business name of the mining company as shown on the MSHA Legal Identity Report Form 2000-7 in effect at the time the violation occurred. Enter the name of the independent contractor if a contractor is being cited.
6. Mine - Enter the mine name as shown on the Legal Identity Report Form in effect at the time the violation occurred.
7. Mine ID - Enter the seven-digit MSHA mine identification (ID) number. If applicable, also enter the contractor's three or four digit MSHA ID number.
8. Condition or Practice - Provide a detailed description of the condition(s) or practice(s) which causes and constitutes a violation or an imminent danger. If more space is needed, check the "Continuation" block in the lower right hand corner of Item 8 and use a Mine Citation/Order Continuation Form 7000-3a.
- 8a. Written Notice – This block is for coal inspectors to use when a violation is cited during any inspection conducted as a result of a written complaint. Coal inspectors should not use this block for any violation other than those issued as a result of the complaint. This does not alter the type of inspection that is ongoing.

9. Violation

- A. Health, Safety, and Other – These blocks are for coal inspectors to use to mark whether the cited hazard relates to health, safety, or other (administrative). For violations of 30 CFR 75.370, coal inspectors may mark both the health and safety blocks.
- B. Section of Act - Enter the applicable section [e.g., 103(a), 104(b)] here if a section of the Mine Act has been violated, otherwise leave blank.
- C. Part/Section of Title 30 CFR - Identify the Part and Section of Title 30 CFR violated including the subparagraphs of the section violated.

Exception: Do not complete Item 9C if a 107(a) imminent danger order is cited without a violation of a mandatory health or safety standard. Refer to Section XVI in this chapter for further guidance concerning 107(a) imminent danger orders.

B. Section II - Inspector's Evaluation

10. Gravity

- A. Injury or Illness (has)(is) - Check the appropriate block based on the facts available.
- B. Injury or Illness Could Reasonably Be Expected To Be - Check the appropriate box based on the facts available.
- C. Significant and Substantial - Check the appropriate box based on the evaluations made in 10A and 10B. Refer to the "S&S" criteria in Section VI in this chapter for further guidance. Violations of the Mine Act, without an accompanying mandatory standard, shall always be designated as “non significant and substantial.” For these violations, Section II, item 10A shall be evaluated as “No Likelihood”, item 10B will be marked “No Lost Workdays”, and 10C shall be checked “No.”
- D. Number of Persons Affected - Enter the number of persons who were actually injured or became ill as a result of the hazard caused by the violation or the number of persons who could or would be affected if the anticipated event occurred.

- 11. Negligence - Enter the degree of negligence by checking one of the appropriate boxes. Refer to the "negligence" criteria in Section IX in this chapter for guidance (Section 10 “Gravity” and Section 11 “Negligence” are not to be completed for 103(j), 103(k), 107(a) and 104(b) orders.

12. Type of Action - Identify the Section of the Mine Act under which action is being taken [e.g., 104(a), 104(d)(1)].
13. Type of Issuance - The "Safeguard" block is for Coal use only. Check the "Citation," or "Order," or "Safeguard" block for the appropriate type of issuance.
14. Initial Action - Check "A" or "B" for the type of initial issuance, if appropriate, that subsequently resulted in this action. The "Safeguard" block is for Coal use only.
 - E. Citation/Order Number - Enter the seven-digit preprinted control number from the initial action.
 - F. Dated - Enter the date of the initial action.
15. Area or Equipment - This pertains only to orders of withdrawal [i.e., 104(b), 104(d), 104(e), 104(g), 107(a), 103(j) and 103(k)] and must indicate the area from which employees shall be withdrawn until the dangerous conditions and causes of those conditions have been corrected. Equipment cited must be positively identified by manufacturer, model, serial number (if known), color, and name, etc. if it is ordered removed from service.

Note: The phrase "No Area Affected" should be written in this space if this is a technical order of withdrawal [e.g., 104(b) order for failure to complete Part 50 reports].
16. Termination Due Date and Time (A and B) - Enter the date and time the mine operator is required to have the violation corrected. These blocks are left blank for orders of withdrawal.

C. Section III - Termination Action

17. Action to Terminate - Describe in detail the specific action(s) taken to correct the cited condition(s) or practice(s) which justifies termination. Do not write terms like "The condition was corrected."
18. Terminated Date and Time (A and B) - Enter the date and time the termination was issued.

D. Section IV - Automated System Data

19. Type of Inspection (Activity Code) - Enter the appropriate Mining Information System (MIS) enforcement activity code.

20. Event Number - Enter the preprinted event number from the Inspection/Investigation Data Summary Form 4000-40 for M/NM and from the Mine Activity Data Form 2000-22 for Coal.
21. Primary or Mill – This block is for metal and nonmetal inspectors. They should enter the letter “P” if the violation occurred in the production or primary mining phase of the operation. Generally, an entry of “P” includes activities and/or equipment from the mining site up to, but not including, milling processes. Enter the letter “M” if the violation occurred in the milling phase of the operation.
- Exception:** Violations cited at free standing mills with a separate Mine ID number should have “P” entered in this space.
22. Signature - The signature of the inspector issuing the citation or order must be entered in this block.
23. AR Number - Enter the AR number of the inspector issuing the citation or order.

II. SECTION 103(a) - CITATIONS FOR DENIAL OF ENTRY

A. Denial of Entry - Established MSHA Mine ID Number

When a mine operator or his or her agent refuses to allow an inspector entry to an active mining operation having an MSHA mine ID number, the inspector must issue a Section 104(a) citation citing Section 103(a) of the Mine Act and immediately contact his or her supervisor. The inspector must either hand deliver or mail the citation to the mine operator certified mail, return receipt requested.

B. Denial of Entry - No Established MSHA Mine ID Number

The inspector must notify his or her supervisor to determine whether or not the mining operation falls under the jurisdiction of the Mine Act. If it is subsequently determined that the operator is engaged in mining or milling activities and if entry is denied to a mine that does not have an MSHA mine ID number, a mine ID number should be obtained based on the information that has been acquired.

After the mine ID number has been obtained, the field office supervisor and inspector should return to the mine, or make arrangements to meet with the mine operator, and request access under the provisions of the Mine Act.

C. Other Forms of Denial of Entry

Denial of right of entry procedures also apply when inspectors have been granted entry but are not allowed to inspect or continue an inspection or investigation. These procedures apply to any type of interference whether it be delay, harassment, or personal assault.

In all such cases, except personal threats or assault, the inspector should try to communicate with the mine operator, explaining the entry and inspection rights of MSHA under Section 103(a) of the Mine Act.

MSHA policy requires that an inspector leave the scene where an apparent violation of Section 111 of Title 18 of the United States Code is about to occur. To avoid a confrontation, inform the person(s) involved that an attack on an MSHA inspector is a Federal crime, and that they may be subject to arrest by the FBI. If the inspector believes that he/she is subject to physical harm or assault, he/she should leave the property immediately and promptly notify his/her supervisor.

D. 104(b) Orders - Denial of Entry

A Section 104(b) order of withdrawal must be issued if the operator still refuses entry after a Section 104(a) citation has been issued. Injunctive proceedings may be initiated by the District Manager if the operator does not comply with the order. Section XIX in this chapter details procedures on issuing 104(a) citations if the operator works in the face of an order of withdrawal.

Note: The inspector must contact the field office supervisor or the District Office as soon as possible prior to issuing citations of this type.

E. Paperwork for Denial of Entry

1. On a Citation, fill out the other blocks as you normally would and then:
 - a. After the violation description has been entered in Section I, item 8, the following sentence shall be added: The condition has not been designated as "significant and substantial" because the conduct violated a provision of the Mine Act rather than a mandatory safety or health standard.
 - b. Enter "103(a)" in Item 9B. Leave Item 9C blank since a standard is not violated.
 - b. Complete Items 10A through 10D, Item 11, and enter "104(a)" in Item 12.

Note: Item 10C must be marked "no."
 - c. Check the "Citation" block in Item 13 and leave Item 15 "Area or Equipment" blank.
 - d. In Item 16 enter the "Termination Due Date and Time." Terminate the citation if entry is permitted.

2. On an Order, fill out the other blocks as you normally would and then:
 - a. Enter "103(a)" in Item 9B and leave Item 9C blank.
 - b. Do not complete Items 10A through 10D and Item 11. In Item 12 enter "104(b)" and check the "Order" block in Item 13.
 - c. In Item 14 check the "Citation" block and enter the number of the denial of entry citation and the date it was issued.
 - d. In Item 15 enter "No Area Affected" and leave Item 16 blank. Terminate the order if entry is permitted.
3. In Item 19 enter the appropriate "Type of Inspection" MIS code for the inspection type that was intended if the inspection occurs.

III. SECTION 103(j) AND 103(k) ORDERS

After a mine accident as defined in 30 CFR Part 50.2. has occurred, an AR may assume the authority to take whatever action is necessary to protect the health, safety, and life of any person under Section 103(k).

A 103(j) or 103(k) order **should not** be solely issued to preserve accident evidence since the mine operator is required to take this action under 30 CFR Part 50.12.

If the operator does not preserve accident evidence, it is appropriate to issue a 104(a) citation citing Part 50.12. This 104(a) citation should not be issued unless pertinent accident evidence has been removed, changed or destroyed.

DO NOT ISSUE A 103(j) ORDER UNTIL CONSULTATION WITH THE DISTRICT MANAGER AND/OR HEADQUARTERS.

A. Accident and Rescue/Recovery Procedures

The inspector will generally use Section 103(k) to protect the safety of any person in the mine when a mine condition exists as a result of an accident that threatens the safety of miners. The 103(k) order does not preclude the issuance of a Section 107(a) order if an imminent danger situation is found. It is imperative that discretion and good judgment be exercised by the inspector when using the broad authority provided by the Mine Act.

In instances where an accident has resulted in the death or serious injury to a miner, and the inspector believes that the hazardous condition(s) or practice(s) causing that accident is likely to exist elsewhere at the mine, the Section 103(k) order shall include all such areas of the mine. In some instances it will be obvious that the conditions are

peculiar to the accident site, and, therefore, the Section 103(k) order would not apply to areas other than the accident site.

The 103(k) order should remain in effect until a systematic evaluation of the conditions and safety practices is conducted and a determination is made that hazards similar to those which caused or contributed to the accident have been eliminated. The evaluation can be made prior to the accident investigation or concurrent with it. After this evaluation and determination has been made, the Section 103(k) order may be modified to permit an area of the mine to resume operations, or terminated, provided that such action will not pose a hazard to the miners.

B. Differences Between Section 103(j), 103(k) and Section 107(a) Orders

Section 107(a) orders contain an exception to the requirement to withdraw persons from the affected area(s) under Section 104(c).

Section 104(c) states that certain persons are not required to be withdrawn or prohibited from entering any mine area. This refers to persons who, in the judgment of the mine operator or the inspector, are necessary to eliminate the conditions described in the order.

Sections 103(j) and 103(k) contain no exceptions; if the inspector believes it is necessary to protect the life or safety of any person, even those persons mentioned in Section 104(c) may be prohibited from entry into a mine area. This action would be noted in the narrative of the 103(j) or 103(k) order.

The issuance of a Section 103(k) order does not preclude the issuance of a Section 107(a) order should an imminent danger situation be found. Additionally, a 103(k) order will not be used as a substitute for, or in place of, a 107(a) imminent danger order.

C. Paperwork for 103(j) and 103(k) Orders

1. Section I of Form 7000-3: fill out the other blocks as you normally would and then:
 - Item 8 - describe in detail what has occurred and what the mine operator is required to do.
 - Item 9 - leave blank.
2. Section II of Form 7000-3:
 - Items 10 and 11 - leave blank.
 - Item 12 - enter "103(j)" or "103(k)" whichever is applicable.

Item 13 - check the "Order" box.

Item 14 - leave blank.

Item 15 - provide a detailed description of the area or equipment affected.

Items 16, 17, and 18 - leave blank.

3. Section IV of Form 7000-3:

Item 19 - Enter appropriate activity code.

IV. SECTION 104(a) CITATIONS

This section is the primary tool for obtaining compliance with the Mine Act, mandatory health or safety standards, rules, orders, or regulations.

A Section 104(a) citation must establish:

- a violation of a standard, regulation, or section of the Mine Act;
- the degree of hazard that exists;
- the degree of exposure to the hazard; and
- the degree of negligence by the mine operator.

The time fixed for abatement of a violation shall be determined, whenever practical, after a discussion with the mine operator or the operator's agent.

V. GRAVITY CRITERIA

The inspector's evaluation of gravity relative to the citation or order requires a weighing of factors in three general areas:

- the likelihood of an occurrence of the injury or illness against which the standard is directed;
- the gravity of the injury or illness if it has occurred or were to occur; and
- the number of persons affected if the event or injury occurred or were to occur. The number of persons affected is the number of persons who would be expected to be injured if an accident or overexposure occurred as a result of the violation.

Note: Do not write "or more" **or** "1 or 2."

The degree of hazard and exposure documented will determine the significant and substantial (S&S) rating in Section II of the Mine Citation/Order Form.

VI. "S&S" CRITERIA

By checking "Yes" in Item 10C (Significant and Substantial or "S&S"), the inspector has indicated that based upon the particular facts surrounding the violation there exists a reasonable likelihood the hazard contributed to will result in an injury or illness of a reasonably serious nature.

Violations of the Mine Act, without an accompanying mandatory standard, shall always be designated as "non significant and substantial." For these violations, Section II, item 10A shall be evaluated as "No likelihood"; item 10B will be marked "No Lost Workdays", and item 10C shall be checked "No." Further, these violations shall have the following sentence added to the body of the violation description in Section I, item 8: The condition has not been designated as "significant and substantial" because the conduct violated a provision of the Mine Act rather than a mandatory safety or health standard.

In determining whether conditions created by a violation could significantly and substantially contribute to the cause and effect of a mine safety or health hazard, inspectors must determine:

- whether there is an underlying violation of a mandatory health or safety standard;
- whether there is a discrete safety or health hazard -- that is, a measure of danger to safety or health -- contributed to by the violation;
- whether there is a reasonable likelihood that the hazard contributed to will result in an injury or illness; and
- whether there is a reasonable likelihood that the injury or illness in question will be of a reasonably serious nature.

All of these determinations must be made before a violation can be designated as "significant and substantial."

The Federal Mine Safety and Health Review Commission has further determined that "...the relevant time frame for determining whether a reasonable likelihood of injury exists includes both the time that a violative condition existed prior to the citation and the time that it would have existed if normal mining operations had continued." **The violation would be evaluated as "S&S" if miners were not in the area when the violation was observed, but they had been, would be, or could be if normal mining operations were to continue, and the other "S&S" criteria were met.**

The Federal Mine Safety and Health Review Commission has also held that in evaluating the reasonable likelihood of a fire, ignition, or explosion, one must examine whether a “confluence of factors” is present based on the particular facts surrounding the violation.

The following three scenarios can apply to MNM or Coal standards:

Scenario: (Referencing 56/57.14107 or 77.400) Persons were working next to the stacking conveyor while it was in motion. They were reasonably likely to come in contact with the unguarded moving machine parts of the #2 self-cleaning tail pulley. (Reasonably Likely; Permanently Disabling; **"S&S" - Yes**)

Scenario: (Referencing 56/57.14107 or 77.400) A guard was not provided on the #2 self-cleaning tail pulley of the stacking conveyor. Persons did not work or travel in the area on any shift while the machinery was running. The conveyor was turned off and locked out when maintenance was performed. (Unlikely; Permanently Disabling; **"S&S" - No**)

Scenario: (Referencing 56/57.14107 or 77.400) A guard is not provided on the #4 self-cleaning tail pulley adjacent to the walkway. Persons are not in the area and the tail pulley is not in operation at this time. However, persons had been in the area and the equipment had been operating on the previous shift with the guard off. The tail pulley is not out of service, however, and will operate when night shift operations begin later today. Personnel travel on the walkway next to the energized tail pulley during the night shift. (Reasonably Likely; Permanently Disabling; **"S&S" - Yes**)

A statement that "the machinery is not operating at this time" or "persons are not in the area now" is not a sufficient reason for evaluating a violation as "non-S&S." In some instances, such a statement could indicate that there is not a violation.

Following are examples of incorrectly cited or improperly evaluated citations:

Scenario: (Referencing 56.14107) The #2 conveyor motor V-belt drive was not guarded and persons were not in the area at the time. (Unlikely; Permanently Disabling; **"S&S" - No**)

This evaluation is incorrect and is based on the reasoning that persons are not in the area at the time the violation was observed. There must be documented evidence, based on past, present, and continued normal mining operations, that persons had not or would not be in the area. The violation can properly be evaluated as "non-S&S" once that determination has been made.

This citation should be modified to include information relating to the lack of exposure to the hazard, based on past, present, or continued normal mining operations, to justify the "non-S&S" evaluation.

Citations and/or orders will be issued for all violations found on equipment or machinery unless the equipment or machinery is not operating and tagged out of service prior to being inspected by MSHA.

Scenario: A loader is observed parked and not operating at the time of inspection. It does not have the required seat belts installed. The inspector determines that the machine is used, when needed, as a spare and **is not** out of service. The inspector does not issue a citation for the lack of seat belts. The rationale used by the inspector is that the loader is not operating at the time he or she observed the violation.

Correct Action:

This reasoning is not correct - a violation was observed on a machine that could be started and used at any time subjecting miners to possible injury or death. A citation shall be issued for all violations of this type.

Certain conditions may require the citing of violations on out-of-service or damaged equipment or machinery. See Chapter 7, Section XII, in this handbook for a discussion on equipment removed from service.

Note: The investigation may determine that the accident was caused by defective machinery or equipment which was damaged, and thus rendered out of service, by the accident. Because an investigation might determine that violations existed on the machinery or equipment prior to being damaged, citations or orders (as appropriate) would be issued.

A violation must remain "S&S" if it is properly evaluated as "S&S" at the time it was observed. The mine operator or contractor might withdraw equipment, or personnel, or immediately proceed to correct the violation. However, **none** of these actions would alter the citation's "S&S" evaluation.

The violation **shall not** be evaluated as "S&S" when any of the following blocks "No Likelihood," "Unlikely," or "No Lost Workdays" are checked in Item 10 of the Mine Citation/Order Form.

The "Occurred" block can only be checked when an injury or illness actually occurs. Gravity evaluations, for violations where an injury or illness has not occurred, are based on the probability of the occurrence of the injury or illness and on the expected results if the injury or illness was to occur.

Evaluations of violations where an injury or illness occurs and the results are **less** than expected shall be based on the expected rather than the actual results.

Scenario: A miner is trapped in a bin for an hour, but emerges with minor injuries. Assuming a violation is observed that directly relates to the entrapment, it would at least be evaluated as "Reasonably Likely" and "Fatal" rather than "Occurred" and "No Lost Workdays."

Evaluations of violations where an event occurs and the results are **equal to** or **more** than expected shall be based on the actual, rather than the expected, results. These violations would be evaluated as "Occurred" along with the actual injury.

Scenario: A miner is hit in the head with a small rock and later dies as a result of the injury. Assuming a violation is observed that directly relates to the miner being injured, the violation would be marked "Occurred" and "Fatal."

VII. "NON-S&S" CRITERIA

When the inspector decides to cite the operator for a violation of a section of the Mine Act, or a violation of regulations at Part 40, 41, 43, 44, 45, or 50, the inspector will make a gravity determination as normal but the violation will be considered non-S&S.

Scenario: The mine operator did not notify the nearest District Office before starting operations of the approximate or actual date the mine operation would commence.

In this situation, the citation would be evaluated with "Unlikely" marked in Item 10A; "No Lost Workdays," in Item 10B; and the "No" box in Item 10C.

While recordkeeping violations do not meet significant and substantial criteria, there may be nonrecordkeeping violations that are also not significant and substantial. These violations are ones where there is no likelihood of injury, unlikely injury, or the injuries are not reasonably serious.

VIII. MODIFYING CITATIONS TO "NON-S&S"

An "S&S" citation may be reduced to "non-S&S" only if:

- the "S&S" determination was made in error;
- evidence is presented to the inspector or other MSHA officials justifying a modification to "non-S&S";
- the determination of "S&S" is modified on the recommendation of the Office of the Solicitor; or
- the determination of "S&S" is modified by an Administrative Law Judge.

A modification from "S&S" to "non-S&S" **must give the reason for modification**. A violation has to meet the minimum criteria of "Reasonably Likely" and "Lost Workdays" or "Restricted Duty" to be evaluated as "S&S." Therefore, to make the citation or order "non-S&S," at least one of these requirements must be reduced to a lower evaluation. The modification must also state that the "S&S" block in Item 10C is changed to "No."

IX. NEGLIGENCE CRITERIA

Negligence has been defined as the failure to exercise the degree of care demanded by the circumstances. Thus, the greater the danger that is known or is reasonably anticipated, the greater the degree of care required by the mine operator. The facts as documented must support the degree of negligence checked on the Mine Citation/Order Form.

Negligence for unwarrantable failure violations has been defined as aggravated conduct constituting more than ordinary negligence. See Section XIII of this chapter on 104(d) for more information on determining unwarrantable failure violations.

Degrees of negligence are defined in 30 CFR 100.3(d) as:

No Negligence	The operator exercised diligence and could not have known of the violative condition or practice.
Low Negligence	The operator knew or had reason to know of the violative condition or practice but there are considerable mitigating circumstances.
Moderate Negligence	The operator knew or had reason to know of the violative condition or practice but there are mitigating circumstances.
High Negligence	The operator knew or had reason to know of the violative condition or practice and there are no mitigating circumstances.
Reckless Disregard	The operator displayed conduct which exhibits the absence of even the slightest degree of care.

X. MITIGATING CIRCUMSTANCES

Mitigating circumstances, as addressed in 30 CFR 100.3(d), may include but are not limited to "action(s) which an operator has taken to prevent, correct, or limit exposure to mine hazards." The mine operator or contractor might withdraw equipment, personnel and/or immediately proceed to correct the violation but **none** of those actions alters the negligence evaluation made by the inspector when the violation was cited.

XI. NOTICE TO PROVIDE SAFEGUARDS

Section 314(b) of the Mine Act is specific to coal only and is intended for use in regards to haulage and hoisting related hazards that are identified at a specific mine.

When preparing for an inspection, an inspector must review the safeguard summary sheet in the uniform mine file so that he/she knows what safeguards have been previously issued for the mine. The inspector should also be familiar with the requirements for each safeguard.

When an inspector identifies a hazard specific to the mine and similar to those already identified in 30 CFR, Subpart O, Sections 75.1403-2 through 75.1403-11, he/she will issue a notice to provide safeguards to the mine operator if one has not been previously issued. Refer to Appendix A, page 126.

In those cases where the provisions of a safeguard notice are found to be violated at a mine, a citation or order will be issued as appropriate. The safeguard originally issued will be referenced in the initial action block on the citation and order form (7000-3).

XII. SECTION 104(b) ORDERS

The inspector shall review the circumstances when the time fixed for a citation's abatement has expired. In determining whether to issue a Section 104(b) order, the inspector must determine whether there is a reasonable basis for extending the abatement date. If an extension of time is not justified and the cited condition or practice is not abated, the inspector must issue a Section 104(b) order of withdrawal. Upon abatement of the condition or practice cited in the original citation, the order can be terminated.

Chapter 6 in this handbook details the action to be taken if the mine operator files for a petition for modification or appeals the violation with the Federal Mine Safety and Health Review Commission.

A 104(b) order will not be issued when other orders of withdrawal are not complied with. See Section XIX in this chapter regarding mine operators who work in violation of an order of withdrawal.

A. Paperwork for Section 104(b) Orders

1. Section I of Form 7000-3: fill out the other blocks as you normally would and then:
 - Complete Item 9B with the appropriate section of the Mine Act if a Section of the Mine Act [e.g., Sections 103(j) or 103(k)] or Part 50 is violated.
 - If appropriate, complete Item 9C with the mandatory standard violated.
 - Do not complete Items 10A through D or Item 11.
 - **Do not** modify the initial citation to make the negligence or gravity higher than was marked on the initial citation.
2. Enter 104(b) in Item 12 and check the "Order" block in Item 13.
3. Check the "Citation" block in Item 14A; enter the initial citation number in Item 14E and the date of citation issuance in Item 14F.

4. Complete Item 15 "Area or Equipment" with the area or equipment affected by the order. Enter the phrase "No Area Affected" if this is a technical violation.
5. Do not complete item 16A or B.
6. A 104(b) order does not require the completion of a Special Assessment Review Form or a Possible Knowing/Willful Violation Review Form.
7. Terminate the 104(b) order when the out of compliance condition(s) is/are corrected.

XIII. SECTION 104(d) CITATIONS AND ORDERS

A. Criteria for Issuing a 104(d)(1) Citation

A 104(d)(1) citation shall be issued if:

1. there is a violation of a mandatory health or safety standard;
2. the violation significantly and substantially contributes to the cause and effect of a mine safety or health hazard; and
3. there is an unwarrantable failure of the mine operator or contractor to comply with the standard.

Note: A violation of a Section of the Mine Act cannot be issued as a 104(d) citation or a 104(d) order even if the negligence evaluation is determined to be "high" or "reckless disregard." Also, a violation of other than mandatory health or safety standards (e.g., Part 40, 41, 43, 44, 45, or 50) cannot be issued as a 104(d) citation or order even if the negligence evaluation is "high" or "reckless disregard."

A violation is caused by an unwarrantable failure if it is determined that the mine operator or contractor has engaged in aggravated conduct constituting more than ordinary negligence.

B. Determining "Aggravated Conduct"

Factors an inspector should evaluate when determining "aggravated conduct" include one or more of the following:

1. the violative condition or practice was obvious or extensive;
2. the violative condition or practice had existed for a period of time;

3. similar violations have been issued at the mine or to the contractor in the recent past;
4. an agent of the operator or contractor had conducted an examination or had been in the area, or was aware of the existence of the condition;
5. the violative condition or practice had been reported to the operator or contractor who then allowed it to exist, without correcting or adequately addressing the problem, for a period of time;
6. the individual who committed or allowed the condition or practice to exist was a supervisor or an agent of the operator or contractor;
7. reasonable efforts were not made by the mine operator or contractor to correct the violative condition or practice; and
8. other factors, not enumerated above, resulted in a negligence evaluation by the inspector of "high" or "reckless disregard."

Only one 104(d)(1) citation can be issued during a 90-day period, or for as long as the mine operator or contractor remains under the 104(d) series. The inspector who issues the 104(d)(1) citation must keep other MSHA inspectors at the mine informed that the operator or contractor is under the 104(d) series to avoid the issuance of two 104(d)(1) citations to the operator or contractor. It is imperative that the 104(d) tracking system be updated and kept current.

Note: The mine operator or contractor remains on the 104(d) citation series until 90 days pass since the issuance of the original 104(d)(1) citation.

If another unwarrantable failure violation is observed during the same inspection, or any other type of inspection being conducted at the same time, or any other inspection within 90 days of the issuance of the unwarrantable failure citation, a 104(d)(1) order must be issued. Inspectors will continue to issue 104(d)(1) orders for any unwarrantable failure violations observed during these inspections.

C. Criteria for 104(d) Orders

Section 104(d) orders are required to meet the following criteria:

1. there is a violation (either "S&S" or "non-S&S") of a mandatory health or safety standard which was caused by the mine operator's or contractor's unwarrantable failure to comply;
2. the first 104(d)(1) order must be issued within 90 days of the issuance of a 104(d)(1) citation; and

3. 104(d)(2) orders follow the issuance of a 104(d)(1) order and must be issued on a subsequent inspection. All 104(d)(2) orders are to refer to the original 104(d)(1) order.

Note: Section 104(d) orders do not have to be issued for a violation of the same health or safety standard as the 104(d)(1) citation. The violation causing the issuance of a 104(d)(1) or (d)(2) order does not have to be evaluated as "S&S." The only requirement for a 104(d)(1) or (d)(2) order is that the safety or health violation was caused or contributed to by the operator's or contractor's aggravated conduct.

Unwarrantable failure violations observed on a subsequent inspection will be 104(d)(2) orders if two conditions are met:

- the operator or contractor is on the 104(d) series; and
- a 104(d)(1) order has previously been issued.

Section 104(d) orders will be issued until a "clean" inspection is made of the **entire mining operation**, through any combination of enforcement related inspections, and no unwarrantable failure violations are observed. **The mine operator or contractor remains on the 104(d) order series until this clean inspection occurs and no further unwarrantable failure violations are observed.**

Note: The 90 day time frame established for 104(d) citations does not apply to 104(d) orders.

If a 104(d)(1) or (d)(2) order is issued at a large mine and it is not possible to cover the entire mine during the same inspection, the areas inspected will be documented until the mine is inspected in its entirety. Examples of the 104(d) series are:

Scenario 1: The inspector issues a 104(d)(1) citation. Other unwarrantable failure violations are not found on that inspection or any other inspection within 90 days. Other violations are cited but they are not unwarrantable failures. The operator is removed from the 104(d) series.

Scenario 2: The inspector issues a 104(d)(1) citation on a regular inspection. Another unwarrantable failure is found during the same inspection and a 104(d)(1) order is issued. Another inspector returns to the property several days later and conducts a subsequent inspection of the entire operation. Unwarrantable failure violations are found during the inspection and 104(d)(2) orders are issued.

Scenario 3: The inspector issues a 104(d)(1) citation. Other unwarrantable failure violations are not found during the inspection. An inspector goes back to the property within 90 days. Another unwarrantable failure violation is found and a

104(d)(1) order is issued. Several other unwarrantable failure violations are cited during the same inspection - all are 104(d)(1) orders.

Scenario 4: The inspector issues a 104(d)(1) citation. Another inspector returns to the property within 90 days on a subsequent inspection to check on compliance of an outstanding citation and finds no unwarrantable failure violations. The mine operator remains on the 104(d) series for the remainder of the 90 days (assuming that other unwarrantable violations are not found and cited during that time).

Scenario 5: The inspector issues a 104(d)(1) citation and a 104(d)(1) order during the same inspection. Another inspector returns to the property on a subsequent inspection, finds an unwarrantable failure violation and issues a 104(d)(2) order. Several days later, an inspection is made of the entire mine and unwarrantable failure violations are not found during that inspection. The operator is removed from the 104(d) series because of this "clean" inspection.

Scenario 6: The mine operator is issued a 104(d)(1) citation. Ninety days pass and other unwarrantable failure violations are not found. An inspector returns to the mine on the 91st day and finds an unwarrantable failure violation. The unwarrantable sequence starts over with the issuance of a Section 104(d)(1) citation.

Scenario 7: An operator is issued a 104(d)(1) citation and a 104(d)(1) order. On a subsequent inspection the operator is issued a 104(d)(2) order. Two weeks later a complete inspection of the entire mine is conducted and unwarrantable failure violations are not cited. An inspector returns to the property after this clean inspection and finds an unwarrantable failure violation. The unwarrantable series is started anew with the issuance of a 104(d)(1) citation.

Scenario 8: The inspector issues a 104(d)(1) citation. Other unwarrantable failure violations are not found during the inspection. An inspector goes back to the property within 90 days. An imminent danger with an unwarrantable failure violation is found, a 107(a) order is issued, and a 104(d)(1) order is issued in conjunction with the 107(a). Several other unwarrantable failure violations are cited during this same inspection; all are 104(d)(1) orders.

D. Paperwork for Section 104(d) Citation/Orders

1. **Section 104(d)(1) Citation:** Item 8 of the Mine Citation/Order Form shall include the following statement in the violation narrative: "This violation is an unwarrantable failure to comply with a mandatory standard." The remainder of the form is completed similarly to a 104(a) citation except that "104(d)(1)" is written in Item 12.

Item 8 of the Mine Citation/Order Form shall also include the factors that show how the operator engaged in aggravated conduct. **The violation must be**

evaluated as "S&S," the "Yes" block checked, and the negligence evaluation marked at least "High."

Note: A Section 104(b) withdrawal order will be issued, not a 104(d) order of withdrawal, if the operator or contractor fails to abate or correct a condition cited under a 104(d)(1) citation.

2. **Section 104(d)(1) Order:** Item 8 of the Mine Citation/Order Form shall include the factors that show how the operator engaged in aggravated conduct and also the following statement in the appropriate place within the violation narrative: "

This violation is an unwarrantable failure to comply with a mandatory standard." Enter "104(d)(1)" in Item 12 and check the "Order" block in Item 13. **The order can be evaluated as "S&S" or "non-S&S."** Complete Item 14 by checking the "Citation" block and Items 14E and F with the number of the 104(d)(1) citation and the date it was issued.

3. **Section 104(d)(2) Order:** The procedure is the same as for the 104(d)(1) order except in Item 14 E & F, check the "Order" block; in Item 14E refer to the **first** 104(d)(1) order; and in Item 14F enter the date the first 104(d)(1) order was issued. **The order can be evaluated as "S&S" or "non-S&S."**

Note: All 104(d)(2) orders must refer to the **first** 104(d)(1) order issued.

4. **Section 104(d)(1) and 104(d)(2) Orders:** Item 15 "Area or Equipment" is completed with information relating to what is ordered withdrawn. Enter the phrase "No Area Affected" if the 104(d) order is a technical violation and evaluated as "non-S&S."
5. Initiate both a Possible Knowing/Willful Violation Review Form and a Special Assessment Review Form for each 104(d)(1) citation **and** each "S&S" 104(d) order issued. Initiate **only** a Special Assessment Review Form for 104(d) orders that are evaluated as "non-S&S."
6. Prepare and send to the District Office a packet that includes: the original Possible Knowing/Willful Violation Review Form; a copy of the Legal Identity Report; a copy of the relevant general field notes; a copy of the citation/order notes; appropriate photographs; a copy of relevant citation(s) or order(s); and a copy of all modifications. **(Each photograph should be identified by the citation or order number and affixed to a separate inspection field note. A short, descriptive, and legible narrative should be written underneath each photograph.)** This packet shall be mailed to the District Office **in a timely manner**. Any exceptions to this policy shall be preapproved by the field office supervisor with concurrence from the District Office.

XIV. SECTION 104(e) PATTERN OF VIOLATIONS

Section 104(e) of the Mine Act provides for severe sanctions against mine operators who have a pattern of violations of mandatory health and safety standards that could significantly and substantially contribute to the cause and effect of the health and safety hazards.

On October 1, 1990, regulations identifying mine operators who met the criteria for pattern of violations as outlined in 30 CFR Part 104 became effective. These regulations include procedures for initial screening of mines that may be developing a pattern of violations; criteria for determining whether a pattern of violations exists at a mine; procedures for issuance of potential pattern notice and final pattern notice; and procedures for termination of a Notice of Pattern of Violations.

If, upon any inspection within 90 days after the issuance of a Notice of Pattern of Violation, an inspector finds any "S&S" violation of a mandatory health or safety standard, the inspector shall issue a 104(e)(1) withdrawal order. The withdrawal order shall remain in effect until MSHA determines that the violation has been abated. Additional 104(e)(1) withdrawal orders will be issued if any further violations of an "S&S" nature are also observed during the course of the same inspection.

If a 104(e)(1) withdrawal order has been issued, a 104(e)(2) withdrawal order will be issued when an inspector finds an "S&S" violation of a mandatory health or safety standard upon any subsequent inspection if the operator has been placed on the 104(e) series.

The mine operator remains on the 104(e) series until:

- No withdrawal order has been issued within 90 days of the issuance of the 104(e) order; or
- An inspection of the entire mine occurs and no "S&S" violations are found.

A. Paperwork for Section 104(e) Pattern Notice/Order

1. Notice of Pattern of Violation: The Notice is issued by the District Manager on an MSHA Form 7000-31 and not on a Mine Citation/Order Form 7000-3.
2. Section 104(e) Orders: Issue 104(e) orders on Mine Citation/Order Form 7000-3 with the following statement written at the end of the narrative in Item 8: "A Written Notice of Pattern of Violations, number xxxxxxxx, was issued on xx/xx/xx."
 - a. Leave items 9A and 9B blank. Complete Item 9C with the mandatory standard violated.

- b. Complete Items 10A through D and Item 11 based on the determination made at the time the violation was observed.
- c. In Item 12, enter "104(e)(1)" or "(2)" and in Item 13 check the "Order" box.
- d. For 104(e)(1) orders, leave Item 14 blank.
- e. For 104(e)(2) orders, check the "Order" box in Item 14B. Write the number from the 104(e)(1) order in Item 14E and its date of issue in Item 14F.
- f. In Item 15 "Area or Equipment" describe the area or equipment affected.
- g. Item 16 "Termination Due Date and Time" is left blank.
- h. Termination of the Notice of Pattern of Violations will be done on a Mine Citation/Order Continuation Form using the preprinted number from the Notice of Pattern of Violations Form.

XV. SECTION 104(g)(1) ORDERS

Section 104(g)(1) of the Mine Act provides for the withdrawal of untrained miners from a mine or mill until they have received the training required by Section 115 of the Mine Act. The purpose of a Section 104(g)(1) order is to eliminate the hazard that untrained or inadequately trained miners pose to themselves and to other miners. Section 104(g)(1) orders shall be evaluated for "S&S" using the criteria in Section VI of this Chapter.

Underground Mines (Part 48). Sections 48.5, .6, .7, .8, and .11 are the only standards which may be cited under 104(g)(1) for untrained miners.

Surface Mines and Surface Areas of Underground Mines (Part 48). Sections 48.25, .26, .27, .28, and .31 are the only sections that may be cited under 104(g)(1) for untrained miners.

Surface Mines (Part 46). Sections 46.5, .6, .7, .8, and .11 are the only sections that may be cited under 104(g)(1) for untrained miners.

Citations shall **not** be issued in lieu of Section 104(g)(1) orders **unless** the miner cannot be trained because he or she is no longer employed at the mine, was permanently disabled, or was fatally injured.

When miners have received training but there are violations involving training plans, cooperative training programs, records of training, compensation for training, etc., Section 104(g)(1) orders of withdrawal should not be issued. Issuances of 104(a) or 104(d) actions, in these situations, are appropriate.

Section 104(g)(1) orders shall be written for the following types of untrained miners:

- new miners;
- experienced or newly-hired experienced miners;
- miners assigned to perform a task for which they have had no previous experience;
- miners whose annual refresher training is not up-to-date; and
- miners or applicable persons working on mine property who have not been given hazard training.

A. Guidelines for Determining the Number and Type of Citations or Orders to Issue for Part 46 and Part 48 Training Violations

1. Violations Involving One Miner:

If one miner is involved, but two or more sections of Part 46 or Part 48 have been violated, one Section 104(g)(1) order will be issued citing the appropriate section(s).

Scenario: One underground miner was found not task trained and had also missed annual refresher training. One Section 104(g)(1) order would be issued.

2. Violations Involving More Than One Miner:

- a. When more than one untrained miner is withdrawn from a mine, a single 104(g)(1) order is appropriate provided the Part 46 or Part 48 training violation is the same for all the miners.
- b. Where multiple miners are involved and different violations of the training requirements have occurred for each miner, one or more 104(g)(1) orders of withdrawal would be issued, depending on the circumstances.

Scenario: Eight underground miners did not have the requisite safety training (three did not receive new miner training; two were not task trained; three missed annual refresher training). Three separate 104(g)(1) orders would be issued: one citing 30 CFR 48.5; one citing 30 CFR 48.7; and one citing 30 CFR 48.8. The relevant miners' names will also be listed in Item 15 "Area or Equipment" on each violation.

- c. When more than one miner is involved in violation of the same standard, the total number of miners withdrawn will be entered in Item 10D "Number of

Persons Affected" on Form 7000-3. Each miner's name will also be listed in Item 15 "Area or Equipment."

- d. A 104(g)(1) order including more than one miner may be modified to allow individual miners to return to work as soon as each miner completes the training specified in the order.

3. 104(g)(1) Violations Involving Independent Contractors:

A Section 104(g)(1) order would be issued to the direct employer of any miner who has not received the required training. If there is uncertainty as to employer, the order should be issued to the operator with the greatest physical presence at the mine. Any discrepancies arising after the miner is withdrawn can be resolved through subsequent modification actions.

4. Citations Issued With Section 104(g)(1) Orders:

Citations shall not be issued in addition to 104(g)(1) orders for the same violation except in instances of overlapping compliance responsibility between contractors and mine operators. This means there may be circumstances where it is appropriate to issue citations or orders to both the independent contractor and the production operator.

Scenario: A miner is the employee of an independent contractor and the production operator had agreed to provide the miner training in accordance with the mine's MSHA approved training plan. The miner has not received the required training. A 104(g)(1) order would be issued to the independent contractor and, as appropriate, a 104(a) citation, or a 104(d)(1) citation, or a 104(d)(1) order, or a 104(d)(2) order would be issued to the production operator.

B. Paperwork for Section 104(g)(1) Orders

1. Write the violation narrative in Item 8. For a single employee and multiple training violations, follow the first narrative by noting the second cited standard then add a second narrative.ⁱ If more space is needed, use a Mine Citation/Order Continuation Form. Include separate evaluations for gravity and negligence for each standard violated. Insert the following statement at the end of the violation narrative in Item 8:

"The Federal Mine Safety and Health Act of 1977 declares that untrained miner(s) are a hazard to themselves and others."

2. In Item 9C, enter the first standard cited.

ⁱ See examples of 104(g)(1) orders in the appendix.

3. "S&S" evaluations should be based on the criteria found in Section VI of this Chapter.
4. Enter 104(g)(1) in Item 12.
5. In Item 13 check the "Order" block.
6. In Item 15 "Area or Equipment" indicate the person(s) to be withdrawn. Use a Mine Citation/Order Continuation Form if more room is required to list all the miners.
7. Items 16A and B are not completed.

XVI. SECTION 107(a) IMMINENT DANGER ORDERS

Imminent danger is defined in the Mine Act as "the **existence** of any condition or practice in a coal or other mine which could reasonably be expected to cause death or serious physical harm before such condition or practice can be abated." **An inspector cannot issue a Section 107(a) order for "control purposes" in the absence of an imminent danger.** The Mine Act and all legal decisions clearly spell out the need for the existence of an imminent danger to justify the issuance of a 107(a) order. The courts have noted that an imminent danger exists only when the hazardous condition has a reasonable potential to cause death or serious injury within a short period of time.

An imminent danger order cannot be issued for an accident which has already occurred **unless** the imminence still exists. Immediate physical exposure to the imminent danger does not have to be witnessed by the inspector to issue a 107(a) order.

Because the purpose of Section 107(a) orders is to immediately remove miners from exposure to serious hazards and to prevent miners from entering such hazardous areas, an imminent danger must be **impending** at the time an order is issued. Therefore, when an imminent danger is observed, the inspector must, as soon as possible and at the time the imminent danger is being observed, either issue a written or an oral Section 107(a) order. An oral order should be documented in writing as soon as practical.

If an oral Section 107(a) order is issued, it should be stated in precise terms such as: "I am issuing you a Section 107(a) imminent danger order." At the least, the inspector must use the words "imminent danger" or "107(a)" at the time the oral order is issued.

A written order, issued after an oral Section 107(a) order, must clearly state that it is confirming an oral imminent danger order and identify:

- the individual to whom the oral order was issued;
- the time and date the oral order was issued;

- the location at which the oral order was issued; and
- the reason the oral order was issued. (This reason should be presented in the standard manner developed for the issuance of Section 107(a) orders.)

Imminent danger orders shall contain a detailed description of the conditions or practices which cause and constitute the imminent danger and a description of the area of the mine from which persons must be withdrawn and prohibited from entering. Only those persons described in Section 104(c) of the Mine Act may enter the affected area while the order is in place.

An imminent danger withdrawal order usually involves one or more violations of a mandatory health or safety standard. All contributing violations are to be addressed as separate citations or orders referring back to the 107(a) Imminent Danger Order.

A. Paperwork for 107(a) Orders - Mandatory Standard Not Violated

1. In Item 8 describe the condition(s) or practice(s) which contributed to the imminent danger situation. Add the following statement at the end of the Item 8 narrative: "This condition is an imminent danger." Also include a statement concerning when, where, why, and to whom the verbal order was issued. If additional space is needed, a Mine Citation/Order Continuation Form 7000-3a must be used.
2. Leave items 9A, 9B, 9C, 10, and 11 blank.
3. In Item 12 enter "107(a)".
4. In Item 13 check the "Order" block.
5. Leave Item 14 blank.
6. In Item 15 describe the "Area or Equipment" affected.
7. In Item 16 "Termination Due Date and Time" are left blank.
8. Terminate the order when the condition(s) or practice(s) that created the imminent danger is abated.
9. Completion of a Special Assessment Review Form and a Possible Knowing/Willful Violation Review Form is not required for imminent danger orders issued with no violations of mandatory standards.

B. Paperwork when a 107(a) Order is Issued and Mandatory Standard(s) Violated

1. Complete Item 8 as indicated above and include the statement, "Citation No. xxxxxxx is being issued in conjunction with this order." Describe the condition(s) or practice(s) which created the imminent danger situation. Add the following statement in the Item 8 narrative: "This condition is an imminent danger." Also include a statement concerning when, why, where, and to whom the verbal order was issued. A Mine Citation/Order Continuation Form 7000-3a is used if additional space is needed. When one or more violations create an imminent danger, each violation must be described in Item 8. Complete a Form 7000-3 for each violation. For each additional Form 7000-3, indicate in Item 8 that the violation was a contributing factor in the issuance of the imminent danger order and that an abatement time is not set for 104(a) citations and 104(d)(1) citations.
2. Leave items 9A, 9B, 9C, 10 and 11 blank.
3. In Item 12 enter "107(a)."
4. In Item 13 check the "Order" block.
5. Leave Item 14 blank for all 104(a) and 104(d) citations issued in conjunction with 107(a) orders of withdrawal. However, Item 14 must be completed for all 104(d) orders issued in conjunction with 107(a) orders of withdrawal by checking Item 14A or 14B, entering either the initial 104(d) citation or 104(d) order number (as appropriate) in Item 14 E, and entering the date in Item 14F.
6. In Item 15 describe the "Area or Equipment" affected.
7. In Item 16 "Termination Due Date and Time" is not entered.
8. Terminate the imminent danger order when the condition(s) or practice(s) that created the violation is abated, but never before all citations issued in conjunction with the imminent danger have been abated.
9. A Special Assessment Review Form must be completed for all 104(a) citations and 104(d) citations and orders issued in conjunction with a 107(a) imminent danger order with an evaluation of at least "Moderate" negligence. A Possible Knowing/Willful Violation Review Form must be completed for 104(a) citations and 104(d) citations and orders issued in conjunction with a 107(a) imminent danger order regardless of the negligence evaluation.

XVII. SECTION 107(b)(1) NOTICES

Section 107(b) provides unique enforcement procedures and requirements to contend with the unusual circumstances of dangerous conditions that cannot be effectively abated through the use of existing technology. Accordingly, inspectors and district officials

shall not issue orders or take any action under Section 107(b) before consulting with the Administrator for Metal and Nonmetal or the Administrator for Coal Mine Health and Safety.

Further, Section 107(b) orders are not to be modified, terminated, or vacated by inspectors or district officials without strict coordination with the Administrator for Metal and Nonmetal or the Administrator for Coal Mine Health and Safety.

XVIII. SECTION 110(g) NOTICES

A miner shall be issued a notice under Section 110(g) of the Mine Act if he or she is found willfully violating any of the mandatory safety standards relating to smoking or the carrying of smoking materials, matches, or lighters. Mandatory standards applicable to smoking are: 56/57.4100, 57.5041, 56/57.6904, 56/57.7805, 57.22101, 57.22102, 57.22105, 75.1702, and 77.1711.

To find a **willful** violation of the safety standard relating to smoking, the inspector must have evidence that the miner actually smoked in an underground coal mine or smoked in a restricted area in an underground metal or nonmetal mine or surface area. The restricted area on the surface must also be well posted as being a non-smoking area. In order for a miner to be found to have willfully violated the regulations regarding the carrying of smoking materials, the inspector must have proof that the miner actually knew he or she was carrying the smoking materials into a restricted area.

If the miner who was smoking or carrying materials in restricted areas is an agent, such as a foreman or other supervisor, the miner should not be subject to a Section 110(g) penalty but instead should be subject to a referral under Section 110(c) or Section 110(d).

The inspector should make every reasonable effort to document the miner's past training regarding the materials, obtain and note the miner's address and rate of pay so the nature of the proposed civil penalty can be accurately assessed and mailed to him or her since the civil penalty for this notice is assessed to the miner and not the mine operator or contractor.

The mine operator or contractor shall be issued a citation and a possible imminent danger order (depending on the circumstances observed) whenever a miner is found to be smoking or found carrying smoking materials, matches, or lighters in prohibited areas.

Scenario: A miner is observed smoking a cigarette in an underground explosives magazine. There are six open cases of dynamite within three feet of the miner. A 110(g) notice shall be issued to the miner. Also, a 104(a) citation and a 107(a) order shall be issued to the mine operator or contractor for a violation of 57.6904 or 75.1702.

A. Paperwork for 110(g) Notice

1. Item 4 of the Mine Citation/Order form is completed with the miner's name. Items 5, 6, and 7 are completed with the operator's name, the mine name, and the Mine ID number.
2. Item 8 is completed with a description of the observed violation. The following statement shall be included at the end of that description:

"This is notification to the individual that he or she will receive a civil penalty for willfully violating a mandatory safety standard relating to smoking or the carrying of smoking materials, matches, or lighters."

3. Item 9B is completed with "110(g)".
4. Item 9C is completed with one of the standards violated: 56/57.4100, 57.5041, 56/57.6904, 56/57.7805, 57.22101, 57.22102, 57.22105, 75.1702, and 77.1711.
5. Complete Section II, items 10A through D based on the determination made at the time the violation was observed. Section II, item 11 will always be completed with at least "high" negligence checked.
6. Item 16 is not completed.
7. One copy of the completed notice is given to the miner.
8. A copy of the notice will be mailed to the MSHA Office of Assessments in Wilkes-Barre, Pennsylvania. A cover letter shall be attached explaining the circumstances and any mitigating factors relating to its issuance. The letter shall also provide the miner's address so that the proposed civil penalty can be processed.

XIX. MINE OPERATOR IN VIOLATION OF AN ORDER OF WITHDRAWAL

A separate 104(a) citation shall be issued, in all instances, for failure to comply with each order violated citing the applicable section [104(b), 104(d)(1), 104(d)(2), 104(e)(1), 104(e)(2), 104(g)(1), 107(a), 103(j) or 103(k)] when an inspector encounters a mine operator working in violation of an order of withdrawal. In citing this violation, the inspector should explain to the mine operator what MSHA's legal rights are under the Mine Act and the penalty for continuing to operate in the face of a withdrawal order.

Note: A 104(a) citation for operating in the face of an order shall not be issued when an order of withdrawal is issued and the "Area or Equipment" in Item 15 is noted as "No Area Affected" because the mine operator was notified that an "Area or Equipment" was not required to be withdrawn. If appropriate, injunctive action

can be initiated by the District Manager if the mine operator continues to operate in the face of a withdrawal order.

The inspector should contact the field office supervisor or the District Office as soon as possible if an operator is found violating any withdrawal order. Additionally, while these violations are rare, civil penalties assessed to mine operators can be substantial; therefore, the inspector must document in detail the activity and statements regarding all the circumstances concerning the issuance of this citation.

Since the 104(a) citation stands alone for assessment purposes, it will be separately evaluated for gravity and negligence. This evaluation will be based on existing conditions and circumstances at the time of its issuance and **does not** have to reflect the same likelihood and severity as the preceding order of withdrawal since circumstances may have changed since the order's issuance.

These violations are not evaluated as "S&S" or cited as 104(d)(1) because a violation of a mandatory standard did not occur. Evaluations for negligence, however, are usually "High" or "Reckless Disregard" because the mine operator was previously issued a citation/order indicating that a violation occurred.

A Possible Knowing/Willful Violation Review Form will be completed for all citations issued for operating in the face of a withdrawal order. A Special Assessment Review Form will also be completed if the citation has an evaluation of at least "High" negligence.

A. Paperwork for Working in Violation of a Withdrawal Order

1. In Item 9B of the Mine Citation/Order Form enter the Section of the Mine Act violated; this entry will be the same as the type of order originally issued.

Example: If a 104(b) order is not complied with, enter "104(b)" in Item 9B. Enter "107(a)" in Item 9B if the operator is working in violation of a 107(a) order of withdrawal. Enter 104(d)(1), 104(d)(2), 104(g)(1), 104(e)(1), 104(e)(2), 103(j), or 103(k) in Item 9B if the operator is working in violation of one of these orders.

2. Item 9C is left blank.
3. Items 10 and 11 are completed with gravity and negligence evaluations made dependent on the circumstances present at the time of observation.
4. In Item 14 check the "Order" block, enter the order number and the date it was issued.
5. In Items 16A and B enter the "Termination Due Date" and "Time."

6. Terminate the citation when personnel are withdrawn as required. Terminate the order when the original condition or practice is abated.
7. Prepare and send to the District Office a packet that includes:
 - a. the original Possible Knowing/Willful Violation Review Form;
 - b. a copy of the Legal Identity Report;
 - c. a copy of the relevant general field notes;
 - d. a copy of the citation/order notes;
 - e. appropriate photographs;
 - f. a copy of relevant citation(s) or order(s); and
 - g. a copy of all modifications.

(Each photograph should be identified by the citation or order number and affixed to a separate inspection field note. A short, descriptive, and legible narrative should be written under each photograph.)

This packet shall be mailed to the District Office **in a timely manner**. Any exceptions to this policy shall be preapproved by the field office supervisor with concurrence from the District Office.

CHAPTER 5 - HEALTH CRITERIA (M/NM)

I. DOCUMENTATION OF HEALTH VIOLATIONS

Generally, when health sample results indicate that there has been an overexposure to dust, noise, chemical contaminants, etc., the following information will be documented by the inspector:

- type of contaminant
- amount of exposure as compared to what is allowed
- sampling factor used
- length of the miner's exposure
- personal protection program implemented by the operator
- type of personal protection worn when the overexposure occurred
- training provided to the miner in the use of the personal protection (if appropriate)
- controls used and their conditions
- controls available
- conditions

II. OVEREXPOSURE TO CONTAMINANTS HAVING CEILING DESIGNATIONS

When there is an overexposure to a contaminant that has a ceiling designation it is appropriate to issue a 104(a) citation with an abatement time reflecting the time needed to remove miners. Miners shall not reenter the area until the hazardous condition(s) is corrected except for those miners who are working to establish the necessary engineering controls. These miners must wear appropriate personal protective equipment. A 104(b) order shall be issued withdrawing all exposed miners from the contaminated atmosphere if the condition(s) is not corrected within the abatement time. In this case, standards 56/57.5001(c) and 56/57.5005 should be considered as one standard and should be entered in Item 9C of the Mine Citation/Order Form (e.g., 56.5001(c)/.5005).

The above situation warrants a 107(a) imminent danger order only if the concentration(s) measured and the work condition(s) cause the situation to be immediately dangerous to the miners exposed.

III. IMMINENT DANGER SITUATIONS INVOLVING CHEMICAL HAZARDS

A. IDLH Levels

MSHA considers the atmosphere "immediately harmful to life" whenever a contaminant's Immediate Danger to Life or Health (IDLH) limit is exceeded. The IDLH limits for various contaminants can be found in the "National Institute for Occupational Safety and Health (NIOSH) Pocket Guide to Chemical Hazards." However, imminent danger situations can exist below IDLH levels due to length of exposure, work activity, or time to escape. The following procedures are to be implemented whenever a contaminant's IDLH limit, plus the sampling factor, is exceeded:

1. A 107(a) order of withdrawal with contributing citations and/or orders should be issued noting the contaminant levels and the conditions constituting the imminent danger situation.
2. The order of withdrawal shall require that all miners be immediately withdrawn from the contaminated atmosphere. The order should note that only those miners wearing appropriate personal protective equipment, and who are working on establishing engineering controls, will be permitted to reenter the affected area.
3. Additionally, as required under 56/57.5005(c), at least one other person with backup equipment and rescue capability shall be present before any unprotected miner may reenter an atmosphere immediately harmful to life.
4. See Chapter 4, Section XVI of this handbook concerning the issuance of an imminent danger order with contributing citations and orders.

B. Other Situations

In some cases an imminent danger may exist even though a contaminant's IDLH limit is not exceeded. Continual exposure at high levels and through adsorption through all routes of exposure can result in similar harm to miners. The issuance of an imminent danger order may be warranted if dizziness, headaches, slowed reflexes, lack of coordination, or other serious symptoms are caused by exposure, including direct contact, along with consideration of the work environment, and serious physical harm or death may occur. The following procedures are to be implemented whenever there is exposure that may cause serious physical harm or death:

1. A 107(a) order of withdrawal with contributing citations and/or orders should be issued noting the contaminant levels and the conditions constituting the imminent danger situation.
2. The order of withdrawal shall require that miners be immediately withdrawn from the contaminated atmosphere. It should be noted on the order that only those

miners wearing appropriate personal protective equipment, and who are working to establish engineering controls, will be permitted to reenter the affected area.

3. Additionally, as required under 56/57.5005(c), at least one other person with backup equipment and rescue capability shall be present before any miner enters an atmosphere immediately harmful to life.
4. See Chapter 4, Section XVI of this handbook concerning the issuance of an imminent danger order with contributing citations and orders.

Scenario: A miner has been exposed to 700 parts per million (ppm) of carbon monoxide. He has been drilling in the same area for the last four hours. The miner complains of dizziness, headache, nausea, and uncoordination and exhibits severe mental confusion. The miner's partner indicates that he also has similar symptoms. Further investigation reveals that the drill has fallen on both miners three times within the last hour due to their lack of concentration and inability to coordinate drilling activities. Ventilation in the area is not adequate due to holes and blockages observed in the vent tubing providing air into the area.

Scenario: A cyanide pipe in a mill broke and is spraying the solution everywhere. The exposed solution has flowed through the mill and has contacted some acidic material. HCN levels are measured at the doorway at 35 ppm. A worker has gone in the plant with barriers to control the flow but is only wearing regular shoes and work clothes. Since the miner would absorb the whole dose and absorption through the skin, handling the solution without personal protective equipment could also be an imminent danger situation.

Because of the high exposure to a contaminant, the length of exposure time, the noted symptoms of the miners, the safety hazards associated with incorrectly operating equipment, and the hazardous workplace environment, an imminent danger situation exists. Assuming that an evaluation of ordinary negligence was made, the inspector would issue a 107(a) imminent danger order and withdraw the two miners from their workplace.

IV. NEGLIGENCE AND GRAVITY EVALUATIONS OF HEALTH VIOLATIONS

The following instructions apply to Section II of the 7000-3, Mine Citation/Order Form, unless otherwise specified.

A. Negligence

The degree of negligence is dependent on what the mine operator did **before** MSHA collected the samples that established the violation. Factors to be considered by the inspector include items such as:

1. whether the mine operator knew or had been told of the high contaminant level(s);
2. condition of engineering controls;
3. had engineering control systems been provided;
4. whether the operator provided appropriate personal protection, whether it was fit-tested (if appropriate), whether personnel were trained in its use (if appropriate), and whether it was worn, properly maintained, cleaned.

B. Gravity

1. **Likelihood:** Consider "Reasonably Likely" or "Highly Likely" if respiratory or hearing protection was not provided; if the respiratory or hearing protection was not adequately maintained; if the individual was not respirator fit-tested; if the person was not trained in the use of the respirator; or if the protection was not suitable for the hazard. Also consider "Reasonably Likely" or "Highly Likely" if the respiratory or hearing protection program had deficiencies which caused the personal protection to be inadequate to ensure protection of the miner.

Note: With regard to nuisance particulates and silver metal overexposures between 0.01 mg/m³ and 0.1 mg/m³ operators must use engineering controls to reduce exposure to the permissible limit and comply with the respiratory protection requirements of standard 56/57.5005. However, the .5005(a)/.5005 citation for overexposure to nuisance particulates and to silver metal in the above concentration range is not "S & S." Overexposures to soluble compounds of silver, such as silver nitrate, above 0.01 mg/m³ should be considered "S & S" if adequate protection was not worn.

If appropriate respiratory protection was being properly worn, was appropriate to the hazard, the worker was respirator fit-tested, and the company had an acceptable respiratory protection program, the occurrence would be marked "Unlikely". If a miner was properly wearing a hearing protector as defined in Part 62 (some exposure levels may require dual hearing protection), the occurrence would be marked "unlikely".

2. **Severity:** Overexposure to airborne contaminants and physical agents should be marked according to the severity of the disease they produce.

Examples: Silica causes silicosis which is permanently disabling and sometimes fatal; radon daughters can cause lung cancer which can be fatal; and noise causes hearing loss and would normally be marked permanently disabling.

3. **Number of Persons Affected:** For most situations, indicate the number of workers sampled. There are situations, however, where more workers should be entered in

Item 10D of the Mine Citation/Order Form. If other workers perform the same job on different shifts or if several workers rotate during the same shift and perform the identical job, they should be included in this box.

Example: A day-shift crusher operator is overexposed to respirable silica-bearing dust. Two other miners operate the crusher on the evening shift. Item 10D would have "3" entered.

C. Significant and Substantial Violations

See Section VIII of this chapter for evaluating noise citations. The "**Yes**" block in Item 10C must be marked if it is reasonably likely that one or more persons will or could suffer at least "Lost Workdays" or "Restricted Duty" as a result of exposure to the contaminant.

The "**No**" block in Item 10C is to be marked if it is not reasonably likely that one or more persons will or could suffer at least "Lost Workdays" or "Restricted Duty" as a result of exposure to the contaminant.

Note: Since all overexposure limits have a likelihood of health impairment, this evaluation is dependent on the use of adequate personal protective equipment.

V. PAPERWORK FOR AIRBORNE CONTAMINANT VIOLATIONS

Fill out the citation form as usual except as follows:

- A. "Date and Time of Issue" is the date the sample was taken. "Clock time" is the time the sampling was completed.
- B. In Item 8 include the following information: the Threshold Limit Value (TLV®) or the exposure limit; the error factor; the contaminant; the concentration; the job title of the person sampled; the equipment and area where the person was working; and the believed reason for the overexposure. Always include information as to whether or not the person was wearing approved respiratory protection with an adequate program. Include a statement as to when the sampling was conducted.
- C. When there is an overexposure to airborne contaminants (except asbestos), standards 56/57.5001(a) and 56/57.5005 should be considered as one standard. Enter the standard in Item 9C using the following format: 56.5001(a)/56.5005. When the overexposure is to asbestos, use 56/57.5001(b) and 56/57.5005 as one standard [e.g., 56.5001(b)/.5005 or 57.5001(b)/.5005].
- D. Standard 56/57.5005 can be written alone **only** where MSHA requires a respiratory protection program for compliance and the mine operator fails to follow the program's requirements.

Standard 56/57.5005 can be cited without resampling if:

1. the mine operator is observed operating without complying with the respiratory protection program mandated by an outstanding citation for dust overexposure; or
 2. the operator was allowed to operate when all feasible engineering or administrative controls were implemented and a respiratory protection program was required for compliance.
- E. The citation is "S&S" if a respirator is not being worn; if the person sampled or involved has not been properly fit-tested with the respirator model being worn; if the respirator was not properly maintained; or if the respirator was not selected in accordance with American National Standards Institute (ANSI) Z88.2-1969, Practices for Respiratory Protectionⁱⁱ. Additionally, there may be other circumstances where the citation should be evaluated as "S&S." The inspector should review ANSI requirements for compliance and the circumstances of each case to determine if a citation should be evaluated as "S&S."
- Note:** With regard to nuisance particulates and silver metal overexposures between 0.01 mg/m³ and 0.1 mg/m³, operators must use engineering or administrative controls to reduce exposure to the permissible limit and comply with the respiratory protection requirements of standard 56/57.5005. However, the .5005(a)/.5005 citation for overexposure to nuisance particulates and to silver metal in the above concentration range is not "S & S." Overexposures to soluble compounds of silver, such as silver nitrate, above 0.01 mg/m³ should be considered "S & S" if adequate protection was not worn.
- F. If approved protection is not being worn, the initial termination due date will be the time necessary for the operator to provide appropriate respirators and develop a respiratory protection program in accordance with ANSI Z88.2-1969.
- Also include a statement in the citation that once a respiratory protection program is implemented, in accordance with ANSI Z88.2-1969, the citation will be extended to allow the mine operator time to implement engineering or administrative controls.
- G. State in the extension what items are required to be accomplished by the abatement due date. When an extension is issued because progress has been made toward termination of a health violation, but MSHA resampling has not been done, enter the current date in Item 12 of Form 7000-3a.
- H. If resampling has been done, and you are awaiting results, there is no need to issue an extension. When results are received, take appropriate action.
- I. When an extension is required because MSHA sampling indicates that additional work needs to be completed by the mine operator, and it is not an issue of

ⁱⁱ See MSHA's Health Inspection Handbook for more information on ANSI requirements.

noncompliance, the inspector will issue an appropriate extension. Enter the date the sample was received in Item 12 of Form 7000-3a.

When the results indicate compliance, use the date the resampling results were received as the termination date and time in Item 12 of Form 7000-3a.

VI. ISSUING ORDERS OF WITHDRAWAL FOR AIRBORNE CONTAMINANT VIOLATIONS

- A. A Section 104(b) order must be issued if the operator or contractor fails to provide appropriate respiratory protection; or if the employee is not wearing an appropriate respirator; or if the operator has not implemented an appropriate respiratory protection program within the abatement time, and further extension of the abatement time is not warranted.

Once an appropriate respiratory protection program is implemented, the 104(b) order can be modified to allow work to continue until feasible engineering or administrative controls are implemented.

Note: If the operator or contractor can install feasible engineering or administrative controls more quickly than acquiring the respiratory protection equipment, the quicker means of abatement should be required.

- B. A 104(b) order must also be issued if the operator or contractor fails to implement feasible engineering or administrative controls within the established abatement time, and further extension is not warranted. If environmental conditions have changed since the time the original citation was issued, then resampling must be conducted to determine if an overexposure still exists before issuing a 104(b) order. Do not issue an extension while you are awaiting the sampling results.

The citation can be terminated if the resampling results demonstrate that the operator is now in compliance. A 104(b) order must be issued if the results demonstrate that the operator is not in compliance and further extension of the abatement time is not warranted. The order should be dated the day resampling results were received.

- C. When an inspector issues a Section 104(b) order of withdrawal, the condition or practice statement in Item 8 must duplicate the statement as it was written in the original citation.

The statement should also explain, in detail, the reasons for the operator's failure to abate the citation, and what must be done to achieve abatement of the condition or practice that caused issuance of the citation. It should be noted in the 104(b) order, if applicable, that the failure to abate the violation involved a deficiency in the use of personal protective equipment (e.g., respirators) which was required as an interim protective measure pending the implementation of feasible engineering or administrative controls.

Once issued, the 104(b) order replaces the citation as the enforcement instrument. The abatement language in the order should provide sufficient details of the abatement requirements to allow the operator as much latitude as possible in achieving abatement.

Note: If the order was issued for failure to provide respiratory protection, when respiratory protection is provided, modify the order to allow the installation of controls. Do not terminate the order until overexposures have been brought into compliance.

- D. When an operator continues production in violation of a 104(b) order or neglects to abide by the conditions under which the 104(b) order was modified, the inspector must issue a 104(a) citation to the operator for a violation of Section 104(b) of the Mine Act and require, as an abatement condition, that a respiratory protection program be instituted for compliance. See Chapter 4, Section XIX, of this handbook for procedures to follow when an operator works in the face of a withdrawal order.

VII. GENERIC CHEMICAL CONTAMINANT OR DUST CITATION

“The (job description) (location description) was exposed to a (shift or time weighted average) of (contaminant) on (sampling date). This exceeded the Threshold Limit Value (TLV®) times the error factor of (enter factor)ⁱⁱⁱ. The analytical results were received and the citation was issued on (date citation was issued).”

Include the possible sources of the contaminant and any obvious deficiencies of the control systems; the type and condition of any personal protective equipment; and, if a respirator was used, whether or not a respirator program consistent with ANSI Z88.2-1969 was in place. When a respiratory protection program is nonexistent or deficient, state that the abatement time will be extended, if necessary, after a respiratory protection program consistent with ANSI Z88.2-1969 is in place so as to allow a reasonable period for the installation of controls.

VIII. COMPLIANCE OR NONCOMPLIANCE DETERMINATION FOR NOISE VIOLATIONS

- A. When the action level as defined in 30 CFR 62.101 has been met or exceeded, a citation under 30 CFR 62.120 must be issued to the operator/contractor if the results of a noise survey show that:
1. the full-shift noise exposure dose of any miner is 66 percent or greater; and
 2. the affected miner(s) is/are not enrolled in a Hearing Conservation Program as defined under 30 CFR 62.150.

ⁱⁱⁱ See MSHA’s Health Inspection Handbook for contaminant sampling and analysis procedures.

Note: The citable level of 66 percent is based on the action level of 50 percent dose (TWA₈ of 85 dBA) and a 16 percent (2 dBA) sampling error.

- B. When the permissible exposure level, dual hearing protection level, or maximum level as defined in 30 CFR 62.101 has been exceeded, a citation under 30 CFR 62.130 must be issued to the operator if the results of a noise survey show that:
1. The full-shift noise exposure dose of any miner is 132 percent or greater; and
 2. The inspector determines that
 - a. all feasible engineering and administrative controls have **not** been implemented; or
 - b. administrative controls required to be in place are **not** being followed whether posted or not; or
 - c. the conditions listed in the “P” code are not being followed.

Note: If the inspector determines that all engineering and administrative controls have been implemented and the miner is enrolled in a HCP which includes the wearing of appropriate hearing protection, no citation should be issued until it is determined if this situation warrants a “P” code. In this situation, the inspector should follow the procedure for “P” codes outlined later in this section.

- C. When the maximum sound levels have been exceeded, a citation under 30 CFR 62.130(a) must be issued to the operator if the results of a dosimeter survey indicate exposure at or above the 117 dBA level for 15 minutes or more and a sound level meter reading shows a single continuous noise level lasting at least 30 seconds at or above 117 dBA.

A citation issued for any of the criteria listed above should not identify the miner by name or social security number. Identification should be made by mine area identification, equipment number, and if necessary other data such as “right side roof bolter.” A statement must also be included that personal hearing protection must be worn until the exposures are reduced to or below the PEL and/or dual personal hearing protection must be worn until the sound levels are reduced to or below the dual hearing protection level (DHPL). A statement indicating the items of the Hearing Conservation Program that have not been implemented must be included in the body of the citation where the action level has been met or exceeded.

The following are partial examples of citations that should be used as guidance when issuing noise violations:

1. Based on the results of an MSHA full shift noise survey taken on 09/13/2000, the permissible exposure level has been exceeded on the roof bolter operator in the 2 South Section. The results obtained from a personal noise dosimeter showed a dose of 163 percent. Hearing protection must be provided and worn by the occupation

identified until the exposures are reduced to the permissible exposure level.

Section: 62.130(a)
Gravity: Reasonably Likely
Permanently Disabling
S&S

2. Based on the results of an MSHA full shift noise survey taken on 09/13/2000, the permissible exposure level has been exceeded on the screening plant. The results obtained from a personal noise dosimeter showed a dose of 1263 percent. Dual hearing protection must be provided and worn by the occupation identified until the exposures are reduced to the dual hearing protection level. Once noise levels are reduced to the dual hearing protection level, hearing protection must then continue to be provided and worn by the occupation identified until the exposure is reduced to or below the permissible exposure level.

Section: 62.130(a)
Gravity: Highly Likely
Permanently Disabling
S&S

3. Based on the results of an MSHA full shift noise survey taken on 09/13/2000, the action level has been exceeded on the bulldozer operator in the 002 pit. The results obtained from a personal noise dosimeter showed a dose of 84 percent and all items required by 62.150 Hearing Conservation Program have not been implemented. The following items have not been implemented: 62.170 Audiometric Testing, and 62.180 Training.

Section: 62.120
Gravity: Unlikely
Permanently Disabling
Non S&S

IX. P-Codes

The "P" code is an administrative device used to track a piece of machinery, occupation, or individual where all feasible engineering and administrative controls have been employed and compliance with the PEL still cannot be achieved.

- A. In order to consider entities for a P-code, the inspector must determine what controls are in place. The inspector or district health specialist must document the following:
 1. A brief narrative describing the operation and working conditions that resulted in the overexposure and a sketch of the overall area.

2. If the noise exposure can be linked to a discrete piece or pieces of equipment, the inspector must document the manufacturer's name, address, and telephone number, the machine type, model number, year manufactured, and serial number.
 3. Copies of any citations issued, extension(s), inspector field notes concerning the noise violation, and noise dosimeter and area sound level meter data.
 4. Any Technical Support evaluation reports, if applicable, including recommendations and photos.
 5. Description and effectiveness (reduction of miners' exposure) of controls used.
 6. Description of controls considered, but not used, and the reasons why they were not used.
 7. Narrative explaining infeasibility of reasonable administrative controls.
 8. Any consultant reports including recommendations and conclusions, test data and results.
 9. Any other documentation pertinent to the condition.
 10. Evaluation of noise sources, including sound level/time studies and noise frequency analysis.
- B. This information will then be referred to the District Manager for review.
- C. If the District Manager believes that a P-Code is warranted, the documentation and draft P-code recommendation must be forwarded to headquarters for approval. It will be reviewed by Health Division in consultation with Technical Support and district personnel designated by the District Manager. The draft recommendation will state the minimum acceptable engineering or administrative controls that must be used in conjunction with the hearing protectors.
- D. If headquarters determines that a P-Code is warranted, it will be assigned to that particular machinery, occupation or individual at that mine. The approved "P" code will be transmitted to the mine operator through the District Manager.
- E. There are two scenarios where a P-Code can be issued. They are:
1. A survey has been conducted indicating miners' exposures exceed the PEL and all feasible engineering and administrative controls have already been put in place, all affected miners are enrolled in a Hearing Conservation Program according to 62.150, and hearing protection is being properly worn and maintained. A P-Code would be considered without issuing a citation.

2. Noncompliance has been determined by an MSHA survey. A citation has been issued to the mine operator or contractor. All feasible engineering and administrative controls are put in place in an effort to achieve compliance. If compliance cannot then be achieved, a P-Code would be considered.

X. VIOLATION ABATEMENT PROCEDURES

Upon issuance of a citation for a violation of the noise standard, the following procedures must be followed:

- A. The inspector must conduct a follow-up full shift noise exposure survey upon expiration of the abatement time as originally set or extended, provided feasible noise controls have been implemented which may achieve compliance.
- B. If the survey shows compliance, the citation must be terminated.
- C. If compliance is not achieved:
 1. Additional noise controls may be required to lower the noise exposures further.
 2. If the Agency has determined that all feasible administrative and engineering controls have been implemented and a P-Code has been issued, the citation will be terminated referencing the P-Code number.
- D. Terminating violations of the **action level (AL) at seasonal operations only**.

When a citation is outstanding at a seasonal operation for meeting or exceeding the action level and it is infeasible for the operator to obtain an audiogram or complete training for affected miners before the mine shuts down, citations will be terminated when the mine operator has implemented all other aspects of the HCP and the operator provides a reasonable date for implementing the remaining elements of the HCP. The information must be included in the justification for action, when the citation is terminated. When the mine reopens, the operator has to implement the remaining elements of the HCP, unless the operator has reduced the affected miners' exposure to below the AL. If the operator has not implemented the remaining elements of the HCP, resample the affected miner. If the exposure still exceeds the AL, issue appropriate citation, allowing a brief abatement period, such as 1 to 2 days. If the operator fails to comply with the second citation, issue a 104(b) order.

For violations of the permissible exposure level (PEL), a citation will not be terminated until the operator has fully implemented all feasible engineering and administrative controls and implemented all elements of the HCP.

CHAPTER 6 - HEALTH CRITERIA (COAL)

Information and guidance on the issuance of health citations and orders at coal mines may be found in the Coal Mine Health Inspection Procedures Manual and related Procedure Instruction Letters (PILs). Appendix B of this document contains examples of coal mine health citations and orders.

CHAPTER 7 - GENERAL INFORMATION

I. CITATION/ORDER BOOKS / IPAL CITATION NUMBERS - ACCOUNTABILITY

Citation books are accountable government property. When citation books are issued to an inspector, the inspector shall sign and date the white cover sheet and return it to the field office supervisor. The forms are accounted for when the inspector marks the appropriate codes on the yellow cardboard sheet. The inspector shall sign and date the yellow sheet when the book is empty and return it to the supervisor. The supervisor will attach the yellow and white sheets together and forward the forms to the District Office. Inspectors are also accountable for violation numbers issued through the IPAL system. Upon receipt of the violation numbers, the inspector must sign and date to acknowledge receipt of these numbers.

II. ISSUING CITATIONS AND ORDERS

It is not mandatory to give the mine operator the citation or order form at the time the violation is observed. The operator or his designee, however, shall be told that there is a violation and a thorough discussion will ensue as to exposure, negligence, severity, and time permitted for abatement. Citations and orders shall be issued to the mine operator or his or her agent with reasonable promptness.

Note: Some citations or orders, because of the required analysis or other mitigating factors, might be cited and delivered to the mine operator at a time after the violation has occurred. Examples include, but are not limited to: certain Part 50 violations, certain health violations, violations cited as a result of accident investigations, and violations cited as a result of reviewing accident forms.

III. COMPLIANCE ASSISTANCE VISIT (CAV)/REOPENING INSPECTION (ACA) FOLLOW-UP

If an inspector observes a violation that is not abated and which was noted on a previous CAV inspection, a 104(a) citation will be issued without referencing the CAV notice in the narrative or negligence evaluation section of the citation.

Inspectors should remember that a 104(a) citation is not the only action that can be taken for unabated CAV notices. Since the CAV inspection, the hazard observed during that inspection may have worsened or miners' exposure to the hazard might have increased. If an imminent danger situation now exists, a Section 107(a) withdrawal order should be issued with **no reference** made to the CAV notice in the body or negligence evaluation section of the order.

If an inspector finds a violation that is not abated at the completion of the Reopening Inspection (ACA), a 104(b) order will be issued. The inspector statement accompanying

any citation or order of withdrawal issued during the course of a reopening inspection should reflect that the inspection was made before reopening the mine.

IV. FIELD NOTES

For MNM, the forms provided to document inspectors' observations during enforcement activities are MSHA Forms 4000-49E (Citation/Order Documentation) and 4000-49F (General Field Notes), both 8½" x 11" in size, or Forms 4000-49G (Citation/Order Documentation), 4000-49H (General Field Notes), both 5" x 8" in size, and 4000-31 (Health Field Notes). For Coal, the forms provided to document inspectors' observations during enforcement activities are MSHA Form 7000 series. **Inspectors are not to take notes on other paper and copy them to these forms unless directed otherwise.**

V. CONTRACTOR CITATIONS AND MSHA ID NUMBERS

Unless a contractor is cited, has a reportable accident, or is engaged in one of the nine types of construction or services listed in the MSHA Program Policy Manual (Volume III), an MSHA contractor ID number is not necessary. Some mine operators, however, require contractors to get numbers as a precondition for contract bidding.

MSHA will provide an ID number for any contractor who requests one, but they need not apply except for the reasons specified above.

A contractor without an MSHA ID number can be cited using the mine operator's mine ID number until a contractor number is issued. A modification can then be written to include the new contractor number and to change the company name to the contractor's name when that number is obtained.

Note: The contractor's name entered on the citation must be exactly as it was when the MSHA Contractor ID number was assigned.

Contractor citations cannot be put into the MSHA computer system until the contractor is linked to the mine ID number. The Contractor Form 4000-39 must be submitted to link that contractor number with the mine ID number.

VI. CITATIONS OR ORDERS - ACCIDENT INVESTIGATIONS

The appropriate inspection code will be entered in Item 19 of the Mine Citation/Order Form during an accident investigation. During the investigation, this code is to be used on all citations and orders issued that are directly related to the accident. The inspector will initiate a separate event and use that event number if citations or orders are issued which are not directly related to the accident. If a regular inspection is not ongoing at the mine at the time of the accident, a new event will be initiated.

Note: The unrelated citations or orders should not be included with the accident report.

VII. TERMINATION TIMES FOR CITATIONS

The inspector shall give primary consideration to the health and safety of miners in establishing abatement times. The termination time for a citation must be specific and provide a reasonable time for the operator to abate the conditions or circumstances which caused issuance of the citation. Citation abatement times **shall not** be established for the convenience of the mine operator, the inspector, because the mine operator has filed an appeal with the Federal Mine Safety and Health Review Commission, or because of a filing for a Petition for Modification. The inspector shall give primary consideration to the health and safety of miners in establishing abatement times.

VIII. EXTENDING/TERMINATING CITATIONS AT AN MSHA OFFICE

Most citations and orders require an on-site inspection to verify conditions before they can be terminated. Some citations and orders, such as those relating to dust, may be terminated without conducting an on-site inspection. A field office supervisor should approve any citations or orders that are terminated without conducting an on-site inspection. A "new" event number should not be initiated when a citation or order is extended, terminated, or vacated from an MSHA office. The appropriate enforcement activity code should be used.

IX. EXTENDING CITATIONS - OPERATOR HAS APPEALED A CITATION OR ORDER

The filing of an appeal of a citation or order by a mine operator or contractor with the Federal Mine Safety and Health Review Commission (Commission) or the filing of a petition for modification does not relieve the operator or contractor of the responsibility to comply with the cited mandatory standard and these are not a basis to extend the citation.

The extension of any citation **is** appropriate if primary consideration has been given to whether a safety or health hazard exists or may exist to the miners. An extension of time for the operator or contractor to comply may be appropriate if the hazard can be eliminated with an interim measure which ensures protection of miners.

X. MODIFICATIONS TO CITATIONS/ORDERS/SUBSEQUENT ACTIONS

The original Mine Citation/Order Form 7000-3 and 7000-3a and all copies must be exactly alike. Any items written or entered in error on the form must be modified using a Mine Citation/Order Continuation Form 7000-3a. **Inspectors will not make changes on MSHA copies nor ask mine operators to make the same changes on their copies.**

Example: If a subsequent extension action is being changed, state: "The extension dated mm/dd/yy is being modified." If a subsequent termination action is being modified, state: "The termination dated mm/dd/yy is being modified." If a modification is being changed, state: "The modification dated mm/dd/yy is being corrected." If a Mine Citation/Order Form is being modified or corrected, state: "Citation (or Order) No. xxxxxxx is being modified in Section xx, Item xx, to (the corrected action should be entered)."

XI. TERMINATING CITATIONS AND ORDERS

- A. Citations and orders will be terminated on either the Mine Citation/Order Form or a Continuation Form. The termination of a citation or order must be written on a Mine Citation/Order Continuation Form and given to the mine operator or contractor.

Example: Four citations/orders were written and issued to the mine operator on Monday. Three days later all violative conditions were corrected. The four citations/orders shall be individually terminated on a Mine Citation/Order Continuation Form 7000-3a.

- B. Citations and orders shall be terminated when a mine is classified by MSHA as permanently abandoned and sealed, or if it moves to a location some distance from the original site (e.g., a portable crusher). Citations and orders shall also be terminated when out of compliance equipment is permanently "removed from service," is permanently retired from service, or is permanently removed from the mine site.

The following procedures shall apply when citations and orders are terminated in the above situations:

1. Mine operation status is changed to "permanently abandoned."

The inspector shall make every reasonable attempt to determine if the operator complied with the cited standards.

- a. If the operator did comply then:

Terminate any outstanding citations or orders and hand deliver or mail the operator the terminations. Write on the termination(s) that the violative condition(s) or practice(s) was corrected.

- b. If it is determined that the operator did not correct the violative condition(s) or practice (s) before the mine was abandoned then:

Terminate any outstanding citations or orders and hand deliver or mail the operator the terminations. Write the following on each termination:

"The basis for termination of this citation (or order) is the classification of the mine as permanently abandoned. The violative condition(s) or practice(s) was not corrected. The operator is required to comply with the provisions of the cited standard before resuming activities at this location or at another mine.

2. Operation or equipment moves to a new location away from the initial mine site.
 - a. If the inspector determines that the operator did comply prior to moving then:

Terminate all outstanding citations or orders and hand deliver or mail the operator all terminations. Note on the termination(s) that the basis for termination is that the violative condition was corrected.

- b. If the inspector determines that the operator did not comply prior to moving then:

Terminate all outstanding citations or orders and hand deliver or mail the operator all terminations. Write the following statement on each termination:

"The basis for termination of this citation (or order) is the moving of mining operations (or equipment). The violative condition(s) or practice(s) was not corrected prior to moving. The operator is required to comply with the provisions of the standard before resuming any activities at another mine. Failure to correct the cited condition(s) or practice(s) prior to resuming these activities will be considered by MSHA to be aggravated conduct constituting more than ordinary negligence."

XII. EQUIPMENT REMOVED FROM SERVICE

"Removed from service" does not mean parking a piece of equipment (e.g., front-end loader, truck) or a mining unit (e.g., portable crusher, screening unit) so that it can be restarted and easily placed back into service in the same out-of-compliance condition which caused issuance of the original citation(s) or order(s). Rather, "removed from service" refers to the action(s) taken by the mine operator or contractor to permanently incapacitate or render inoperable the equipment and eliminate the violation. The termination should note the actions and/or statements made by the mine operator, or his or her representative, relating to the equipment's "removal from service."

Scenario: A loader is cited for not having an audible back-up alarm installed. The mine operator (or contractor) takes the tires off the loader, places it on blocks, removes the battery, and welds the doors closed. Any of these actions could qualify the equipment as being "removed from service" and justify termination of any outstanding citation(s) or order(s).

XIII. MINE OWNERSHIP CHANGES WITH OUTSTANDING CITATIONS OR ORDERS

When ownership of a mine changes after a citation(s) or order(s) is issued, the termination should be issued to the operator of the property at the time of termination. The operator of the mine at the time a citation is issued is the entity who will be assessed the civil penalty even though the mine no longer belongs to that operator.

In all cases, do not modify the outstanding citation(s) to change mine ownership.

When a change in mine operator occurs after a citation is issued but before it is terminated and justification is not found to extend the citation, a Section 104(b) order of withdrawal can be issued to the new mine operator.

Unless conditions that were noted on the original citation have deteriorated and now pose an imminent danger to miners, the new mine operator should generally be given the same amount of time to correct the violative condition as was given the previous mine operator.

Example: On July 1, Jane Doe Sand and Gravel is issued a citation for an unguarded conveyor head pulley and given one week to abate the condition. On July 7, Tom Brown Crushing purchases the mine and begins managing the operation the same day. On July 10, an MSHA inspector returns to check on the outstanding guarding citation and found that a guard had not been installed on the head pulley.

Based on the circumstances noted above:

- an extension would be issued if the inspector found and documented mitigating circumstances (e.g., the new mine operator was unaware of the violation). The extension would be issued to "Tom Brown Crushing" noting in Section II narrative of form 7000-3a that Tom Brown Crushing purchased the operation on July 7 and was the new mine operator; or
- a Section 104(b) order of withdrawal would be issued if the inspector found and documented that there were no mitigating circumstances to issue an extension (e.g., the new mine operator was aware of the violation but chose not to abate the cited condition). The 104(b) order would be issued to "Tom Brown Crushing" noting in the Item 8 narrative that Tom Brown Crushing purchased the operation on July 7 and was the new mine operator.

XIV. VACATING CITATIONS/ORDERS

Vacated citations and orders must be included with the inspection report as they are part of the inspection record. If the inspector is still at the mine, he or she will not reclaim the pink and yellow copies and mark the citation or order "Void." Instead, those copies shall be left with the mine operator and the inspector shall issue a "Vacate" action on Form 7000-3a. The inspector shall state the specific reason for vacating the citation or order on that form. Copies of all vacated citations and orders shall be forwarded to the District Manager separate from the inspection report.

Vacating an imminent danger order must be authorized in writing by the appropriate District Manager. A copy of that approval shall be attached to the mine inspection report.

XV. VOIDING CITATIONS/ORDERS

A voided citation or order is one which was written on the Mine Citation/Order Form and an error was discovered before it was presented to the mine operator or contractor.

The inspector will mark "Void" on the original citation or order form and all copies. The circumstances which caused the voidance will be noted on all forms. These voided forms will not be included with the inspection report but will be kept with the citation book until it is completed. The inspector should attach the voided forms to the book cover and return it to the field office supervisor when the book is finished.

When using the IPAL system, a citation or order that is issued in error must be vacated or modified by using Form 7000-3a.

XVI. STANDARD SUBSECTIONS - CITATIONS/ORDERS

It is necessary to specify the standard **AND** the appropriate subsection when a violation is cited.

Examples: Citations for failure to guard a piece of equipment should be issued under 56/57.14107(a) **and not** 56/57.14107; violations for failure to maintain an audible warning device on self-propelled equipment should be cited as 56/57.14132(a) **and not** 56/57.14132.

XVII. PART 41 - LEGAL IDENTITY

Each mine operator is required to file notification of legal identity and every change thereto on an MSHA Legal Identity Report Form 2000-7 with the appropriate MSHA office.

Inspectors will check for any change in the mine operator, mine name, company officers, parent company, and the address of record during every inspection. An updated Legal Identity Report Form must be submitted by the mine operator within 30 days if changes have occurred. When applicable, a citation will be issued to the mine operator when corporate, company, partnership, or any other changes have been made without MSHA being notified as required under 30 CFR Part 41.

The operator and the mine name on a Mine Citation/Order Form and Continuation Form must be the same as on the Legal Identity Report Form in effect at the time a citation or order is issued.

XVIII. PART 44 - PETITIONS FOR MODIFICATION

Title 30 CFR Part 44.4(c) reads in part: "... Orders granting petitions for modification may contain special terms and conditions to assure adequate protection to miners. The modification, together with any conditions, shall have the same effect as a mandatory standard."

During each regular inspection the inspector shall:

- review the mine bulletin board where all granted petitions, or a notice of their availability, are required to be posted under 30 CFR Part 44.9; and
- determine that a summary is posted; a copy of the full decision must be kept at the affected mine office and made available to the miners. This is in accordance with 30 CFR 44.5(b).
- observe and note the terms and conditions contained in the decision and order section of the granted petition.

When a violation of one or more of the conditions specified in the granted petitions is found, the inspector shall:

- cite the safety standard for which the petition for modification was granted;
- include the docket number of the granted petition for modification in Item 8 of the Mine Citation/Order Form;
- note the specific condition which was violated in the narrative of the Mine/Citation Order Form; and
- notify his (or her) supervisor after citing this violation.

This citation may initiate action to revoke the granted petition depending on the circumstances present at the time of issuance.

XIX. PART 49 - MINE RESCUE TEAMS

The availability of mine rescue teams for underground mining operations, the training of those teams, the status of mine rescue stations, and the mine operator's emergency notification plans shall be reviewed and documented during every regular inspection. Citations or orders may be issued as appropriate regarding compliance with Part 49.

XX. PART 50 - ACCIDENT, INJURY AND EMPLOYMENT REPORTING VIOLATIONS

An evaluation of mine operator compliance with reporting requirements under 30 CFR Part 50 shall be made during every regular inspection.

A single citation for each Part 50 audit or inspection shall be issued for failure to maintain records citing 30 CFR 50.40. Part 50 violations are always evaluated as "non-S&S"; however, they are often evaluated as high negligence.

Inspectors shall issue a citation for **each separate instance** of:

- failure to immediately notify MSHA of an accident (50.10);
- failure to investigate an accident or occupational injury (50.11);
- alteration of an accident site (50.12);
- failure to report an accident, injury, or illness (50.20); and
- failure to report quarterly employment (50.30).

Inspectors shall issue only one citation where mine operators have:

- failed to maintain quarterly employment or accident investigation reports (50.40); and
- failed to allow an MSHA representative to inspect and copy information related to accidents, injuries, or illnesses (50.41).

A separate citation shall also be issued for each instance of late reporting and for each instance of inaccurate reporting under 50.20 or 50.30.

XXI. POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM (7000-20)

A. Inspectors will initiate a Possible Knowing/Willful Violation Review Form for:

- 107(a) orders with 104(a) and 104(d) citations;
- 107(a) orders with 104(d) orders;
- 104(d) citations and orders which are "S&S" with an evaluation of at least "high" for negligence; and
- citations issued for working in violation of an order.

B. The District Office shall be sent a packet that includes:

1. the original Possible Knowing/ Willful Violation Review Form;
2. a copy of the Legal Identity Report;
3. a copy of the relevant general field notes;
4. a copy of the citation/order notes;

5. appropriate photographs; a copy of the relevant citation(s) or order(s); and
6. a copy of all modifications.

(Each photograph should be identified by the citation or order number and affixed to a separate inspection field note. A short, descriptive, and legible narrative should be written under each photograph.)

This packet shall be mailed to the District Office in a timely manner following the date the citation(s) or order(s) was issued. Any exceptions to this policy shall be preapproved by the field office supervisor with concurrence from the District Office.

XXII. SPECIAL ASSESSMENT REVIEW FORM (7000-32)

After review of any citation or order, the District Manager has full discretion to recommend or not recommend a special assessment. If the District Manager determines that a special assessment is appropriate, a completed and signed Special Assessment Review Form (MSHA Form 7000-32) will be submitted to the Director of Assessments.

Those forms, on completion, will describe the facts and circumstances that warrant a special assessment. Copies of inspector notes, conference worksheets, sketches or photographs, relevant portions of plans, accident reports or memoranda, or any other information which may assist the Office of Assessments in determining an appropriate civil penalty should be included.

The Office of Assessments will review each recommendation for special assessment and will make the final decision, conferring with MSHA Safety and Health staff as necessary. Recommendations containing insufficient documentation to support a special assessment will be returned to the District Manager with a clear explanation of the deficiency.

The following categories of citations or orders will be reviewed by inspection personnel for special assessment.

1. All Citations and Orders Issued During an Investigation of a Fatality or Serious Injury

A special assessment review is mandatory for citations or orders that are determined to have caused or contributed to the cause of the fatality or serious injury.

2. Unwarrantable Failure to Comply with Mandatory Health or Safety Standards

A special assessment review is mandatory for all unwarrantable failure citations or orders.

3. Operation of a Mine in Violation of an Order of Withdrawal

A special assessment review is mandatory for all such citations.

4. Failure to Permit an Authorized Representative of the Secretary to Perform an Inspection or Investigation (Denial of Right of Entry)

A special assessment review is mandatory for all such citations or orders.

5. Citations or Orders for Which Individuals are Personally Liable Under Section 110(c) of the Mine Act

Special assessments are mandatory for all these citations or orders.

6. Imminent Danger

A special assessment review is mandatory for all contributing citations or orders.

7. Extraordinarily High Degree of Negligence OR Extraordinarily High Gravity OR Other Unique Aggravating Circumstances

Appendix A

Safety Violations

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Mine Citation/Order

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

Section I -- Violation Data

1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number												
	0	7	0	1	0	1	0	8	0	0	4	4	1	0	1	6	1
4. Served To FRED BIRCH, OWNER				5. Operator F. B. MINING COMPANY													
6. Mine F. B. MINE				7. Mine ID 5 6 - 0 9 9 9 - (contractor)													
8. Condition or Practice											8a. Written Notice (103g)						<input type="checkbox"/>

Mr. Fred Birch, owner of the F. B. Mining Company, refused to allow an authorized representative to enter the mine. Mr. Birch stated that the MSHA inspector could not enter his mine to conduct any inspection without a search warrant. Mr. Birch was advised that a search warrant was not necessary and that refusal to allow the inspection was a violation of the provisions of Section 103(a) of the Mine Act. This condition has not been designated as "significant and substantial" because the conduct violated a provision of the Mine Act rather than a mandatory safety or health standard.

NOTE: Section I, Item 9B, is completed with 103(a)

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	1	0	3	-	a	C. Part/Section of Title 30 CFR	.
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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 (See Reverse): Yes No D. Number of Persons Affected 0 0 0

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

12. Type of Action 1 0 4 - a - , - - 13. Type of Issuance (check one)
 Citation Order Safeguard

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 0 7 0 1 0 1 B. Time (24 Hr. Clock) 0 8 3 0

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) 0 0 7 20. Event Number 0 0 7 3 5 0 0 21. Primary or Mill

22. Signature JOHN SMITH 23. AR Number 0 1 9 9 9

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - DENIAL OF RIGHT OF ENTRY

Mine Citation/Order

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

Section I -- Violation Data															
1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number										
	0	7	0	1	0	7	0	0	4	4	1	0	0	0	1
4. Served To Joe Doe, Co-owner					5. Operator Big Lick Coal Company										
6. Mine Big Lick No. 1					7. Mine ID 6 4 - 0 7 1 5 3 - (contractor)										
8. Condition or Practice															
8a. Written Notice (103g) <input type="checkbox"/>															

On 7/1/01, Joe Doe, partner and mine foreman, refused to allow Paul Jones, an authorized representative of the Secretary, entry into the Big Lick No. 1 Mine for the purpose of conducting an inspection of the mine pursuant to Section 103(a) of the Act. Mr. Doe stated that the Federal Inspector could not enter the mine to conduct any inspection without a search warrant. Mr. Doe was advised that a search warrant was not necessary. This condition has not been designated as "significant and substantial" because the conduct violated a provision of the Mine Act rather than a mandatory safety or health standard.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR									
		1 0 3 - a										

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 (See Reverse): Yes No D. Number of Persons Affected 0 0 0

11. Negligence (check one)

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

12. Type of Action 1 0 4 - a - , - -

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

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 0 7 0 1 0 1
 B. Time (24 Hr. Clock) 0 7 4 5

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) A A A 20. Event Number 0 8 0 8 0 8 0 21. Primary or Mill

22. Signature Paul Jones 23. AR Number 2 9 3 2 0

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - DENIAL OF RIGHT OF ENTRY

Mine Citation/Order

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

Section I -- Violation Data															
1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number										
	0	7	0	1	0	8	3	5	4	4	1	0	1	6	2
4. Served To FRED BIRCH, OWNER					5. Operator F. B. MINING COMPANY										
6. Mine F. B. MINE					7. Mine ID 5 6 - 0 9 9 9 - (contractor)										
8. Condition or Practice												8a. Written Notice (103g)	<input type="checkbox"/>		

Mr. Fred Birch, owner and operator of the F. B. Mining Company, continued to deny an authorized representative of the Secretary the right of entry into the F.B. Mine for the purpose of conducting an inspection of the mine in accordance with the requirements of Section 103(a) of the Federal Mine Safety and Health Act of 1977.

NOTE: Section I, Item 9B, is completed with 103(a). Items 10 and 11 are not completed. Item 15 is completed with the phrase "No Area Affected."

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR										
		1 0 3 - a											

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 (See Reverse): Yes No D. Number of Persons Affected

11. Negligence (check one)

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

12. Type of Action 1 0 4 - b - , - -

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

14. Initial Action

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

E. Citation/Order number 4 4 1 0 1 6 1 F. Dated Mo 0 Da 7 Yr 0 1

15. Area or Equipment
 NO AREA AFFECTED

16. Termination Due

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

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) 0 0 7

20. Event Number 0 0 7 3 5 0 0

21. Primary or Mill

22. Signature JOHN SMITH

23. AR Number 0 1 9 9 9

MSHA Form 7000-3 Mar 85 (Revised)

104(b) ORDER - DENIAL OF RIGHT OF ENTRY

Mine Citation/Order

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

Section I -- Violation Data

1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number
	0	7	0	1	0
	1	0	1	0	8
					0
					0
					0
					2

4. Served To
Joe Doe, Co-owner

5. Operator
Big Lick Coal Company

6. Mine
Big Lick No. 1

7. Mine ID
6 4 - 0 7 1 5 3 - (contractor)

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

Joe Doe, partner and mine foreman, continued to deny Paul Jones, an authorized representative of the Secretary, the right of entry into the Big Lick No. 1 Mine for the purpose of conducting an inspection of the mine in accordance with the requirements of Section 103(a) of the Act.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR
		1 0 3 - a	

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 (See Reverse): Yes No D. Number of Persons Affected

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

12. Type of Action
1 0 4 - b - , - -

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

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

E. Citation/Order Number
4 4 1 0 0 0 1

F. Dated
Mo Da Yr
0 7 0 1 0 1

15. Area or Equipment
No area affected.

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

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)
A A A

20. Event Number
0 8 0 8 0 8 0

21. Primary or Mill

22. Signature
Paul Jones

23. AR Number
2 9 3 2 0

MSHA Form 7000-3 Mar 85 (Revised)

104(b) ORDER - DENIAL OF RIGHT OF ENTRY

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action <input type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue)	Mo	Da	Yr	3. Citation/Order Number														
4. Served To John Smith, Assistant Foreman						5. Operator J and S Coal Company, Inc.														
6. Mine No. 1						7. Mine ID 4 4 - 0 3 5 3 6 - (contractor)														

Section II -- Justification for Action

Purpose - This inspection was conducted to investigate a complaint dated 7/22/01 by a representative of the miners at this mine alleging that dangerous loose coal, coal dust, and float coal dust have accumulated throughout the 2 south belt entry.

Negative Findings -The entire 2 south belt entry was examined and accumulations of loose coal, coal dust or float coal dust were not found.

This example reflects that only one hazard was involved in the 103(g) (1) inspection. However, in those instances where two or more hazards are alleged to exist in a request for a 103(g)(1) inspection, each of the alleged hazards investigated must be addressed by issuing a citation(s) or order(s) or provide a written notification that the hazard did not exist.

See Continuation Form

Section III -- Subsequent Action Taken

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

9. Type of Inspection	A	D	B	10. Event Number	0	8	8	8	8	0	1	11. Signature	AR Number	12. Date	Mo	Da	Yr	13. Time (24 Hr. Clock)					
												James Lee	2 0 7 7 7		0	7	2	3	0	1			1 0 3 0

MSHA Form 7000-3a, Mar 85 (Revised)

103(g) INSPECTON - PURPOSE AND FINDINGS
NOTICE OF NEGATIVE FINDINGS

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue)	Mo 07	Da 25	Yr 01	3. Citation/Order Number	4410006-01
4. Served To John Smith, Assistant Foreman			5. Operator J and S Coal Company, Inc.				
6. Mine No. 1			7. Mine ID 4403536 - (contractor)				

Section II -- Justification for Action

Order No. 4410006 dated 7/25/01 is hereby modified to permit rehabilitation of the 2 south section according to the agreed upon plan dated 7/25.
All items listed on this plan must be strictly adhered to.

See Continuation Form

Section III -- Subsequent Action Taken

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

9. Type of Inspection	A F A	10. Event Number	0888808			
11. Signature	AR Number	12. Date	Mo	Da	Yr	13. Time (24 Hr. Clock)
James Lee	20777		08	05	01	0900

MSHA Form 7000-3a, Mar 85 (Revised)

103(j) ORDER - MODIFICATION

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue)	Mo 07	Da 25	Yr 01	3. Citation/Order Number	4410006-02
4. Served To John Smith, Assistant Foreman			5. Operator J and S Coal Company, Inc.				
6. Mine No. 1			7. Mine ID 4403536 - (contractor)				

Section II -- Justification for Action

Ventilation has been restored to the No. 2 south section. An examination of the mine was made and samples of the mine atmosphere did not reveal the presence of carbon monoxide.

See Continuation Form

Section III -- Subsequent Action Taken

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

9. Type of Inspection	A	A	A	10. Event Number	0888809		
11. Signature	AR Number		12. Date	Mo	Da	Yr	13. Time (24 Hr. Clock)
James Lee	20777	080501					0900

MSHA Form 7000-3a, Mar 85 (Revised)

103(j) ORDER - TERMINATION

Mine Citation/Order

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

Section I -- Violation Data

1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number
	0	7	0	0900	4410164
4. Served To JAMES JOHNSON, MINE SUPERINTENDENT				5. Operator J.H. MINING COMPANY, INC.	
6. Mine JACKSON HOLE MINE				7. Mine ID 56 - 00013 - (contractor)	
8. Condition or Practice				8a. Written Notice (103g) <input type="checkbox"/>	

A fatal accident occurred at this operation on July 2, 2001, when two miners were attempting to blast oversized ore at the No. 4 draw point area. This order is issued to assure the safety of all persons at this operation. It prohibits all activity at the No. 4 draw point area until MSHA has determined that it is safe to resume normal mining operations in the area. The mine operator shall obtain prior approval from an authorized representative for all actions to recover and/or restore operations to the affected area.

NOTE: The gravity and negligence sections are not completed nor is a termination due date established.

See Continuation Form (MSHA Form 7000-3a)

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

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 (See Reverse): Yes No D. Number of Persons Affected

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

12. Type of Action: 103 - k - , - -

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

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

15. Area or Equipment
NO. 4 DRAW POINT AREA

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

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) 030 20. Event Number 0073512 21. Primary or Mill

22. Signature JOHN SMITH 23. AR Number 01999

MSHA Form 7000-3 Mar 85 (Revised)

103(k) ORDER - CONTROL AND
 CONSULTATION DURING RECOVERY OPERATIONS

Mine Citation/Order

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

Section I -- Violation Data																		
1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)								3. Citation/Order Number						
	0	8	1	0	0	1	0 8 0 0								4 4 1 0 0 0 7			
4. Served To John Smith, Mine Foreman						5. Operator J and S Coal Company, Inc.												
6. Mine No. 1						7. Mine ID						8a. Written Notice (103g) <input type="checkbox"/>						
						4 4 - 0 3 5 3 6 -						(contractor)						

The mine has experienced a fatal track haulage accident along the 10 left haulway. This Order is issued to ensure the safety of any person in the coal mine until an examination or investigation is made to determine that the 10 left haulway is safe. Only those persons selected from company officials, state officials, the miners' representative and other persons who are deemed by MSHA to have information relevant to the investigation may enter or remain in the affected area.

See Continuation Form (MSHA Form 7000-3a)

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

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 (See Reverse): Yes No D. Number of Persons Affected

11. Negligence (check one)

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

12. Type of Action

1 0 3 - k - , - -

13. Type of Issuance (check one)

Citation Order Safeguard

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

Entire 10 left track haulway and equipment involved in the accident.

16. Termination Due

A. Date

Mo Da Yr

B. Time (24 Hr. Clock)

Section III -- Termination Action

17. Action to Terminate

The 10 left track haulway and the equipment involved in the fatal haulage accident has been examined and it has been determined that it is safe to resume normal mining operations in the affected area.

18. Terminated

A. Date

Mo Da Yr

0 8 1 0 0 1

B. Time (24 Hr Clock)

1 6 0 0

Section IV -- Automated System Data

19. Type of Inspection (activity code)

A F A

20. Event Number

0 8 8 8 8 1 1

21. Primary or Mill

22. Signature

James Lee

23. AR Number

2 0 7 7 7

MSHA Form 7000-3 Mar 85 (Revised)

103(k) ORDER - TERMINATION

Mine Citation/Order

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

Section I -- Violation Data															
1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number										
	0	7	0	1	1	3	0	0	4	4	1	0	1	6	8
4. Served To SAMUEL ADAMS, LEVEL FOREMAN					5. Operator ABLE MINING, INC.										
6. Mine THE DOUBLE M MINE					7. Mine ID 5 7 - 0 6 7 8 9 - (contractor)										
8. Condition or Practice										8a. Written Notice (103g) <input type="checkbox"/>					

Signs warning against smoking and open flames were not posted in the underground shop where flammable solvents were being used. The Safety Director stated that signs had been posted a few days ago. Employees had been instructed not to smoke in areas where there were flammable liquids. Several large multi-purpose fire extinguishers were in the area which reduced the chances of a fire spreading.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR						
			5	7	.	4	1	0	1

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 (See Reverse): Yes No D. Number of Persons Affected 0 0 5

11. Negligence (check one)

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

12. Type of Action 1 0 4 - a - , - -

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

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 0 7 0 6 0 1
 B. Time (24 Hr. Clock) 1 6 0 0

Section III -- Termination Action

17. Action to Terminate
 TWO "NO SMOKING" SIGNS WERE POSTED IN APPROPRIATE AREAS OF THE SHOP.

18. Terminated
 A. Date Mo Da Yr 0 7 0 6 0 1
 B. Time (24 Hr Clock) 1 5 3 5

Section IV -- Automated System Data

19. Type of Inspection (activity code) 0 0 1
 20. Event Number 0 3 4 5 6 7 8
 21. Primary or Mill

22. Signature
 BILL WILLIAMS
 23. AR Number 0 2 5 5 5

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - "NON-S&S"
 FAILURE TO POST WARNING SIGNS

Mine Citation/Order

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

Section I -- Violation Data																					
1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number																
	0	7	2	0	0	1															
4. Served To				5. Operator																	
John Smith, Assistant Foreman				J and S Coal Company, Inc.																	
6. Mine				7. Mine ID																	
No. 1				4 4 - 0 3 5 3 6 - (contractor)																	
8. Condition or Practice												8a. Written Notice (103g)		<input type="checkbox"/>							

Energized insulated power wires were not passing through insulated bushings where they entered a power control switchbox on the Labour water pump at the northeast pumping station. The wires were resting against the metal frame of the switchbox, and there was no apparent damage to the insulation.

(The wrong section number has been used on purpose in this example. See Example 5 for modification.)

See Continuation Form (MSHA Form 7000-3a)

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

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 (See Reverse): Yes No D. Number of Persons Affected 0 0 1

11. Negligence (check one)

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

12. Type of Action 1 0 4 - a - , - -

13. Type of Issuance (check one)

Citation Order Safeguard

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)

0 7 2 1 0 1 0 8 0 0

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) A A A

20. Event Number 0 8 8 8 8 0 0

21. Primary or Mill

22. Signature James Lee

23. AR Number 2 0 7 7 7

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - "NON-S&S"

Mine Citation/Order

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

Section I -- Violation Data																			
1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)						3. Citation/Order Number									
	0	7	0	6	0	1	1 3 3 0						4 4 1 0 1 6 7						
4. Served To					5. Operator														
SAMUEL ADAMS, LEVEL FOREMAN					MUDDY MINING, INC.														
6. Mine					7. Mine ID														
THE DOUBLE M MINE					5 7 - 0 6 7 8 9 -					(contractor)									
8. Condition or Practice										8a. Written Notice (103g) <input type="checkbox"/>									

A written record of workplace examinations was not available for review by MSHA. Examinations had been conducted every shift of each working place and appropriate action had been taken to correct hazardous conditions. However, the operator had failed to record those examinations.

NOTE: Do not issue this citation in conjunction with, or in addition to, a citation for failing to conduct the workplace examination required under 56/57.18002(a).

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act						C. Part/Section of Title 30 CFR					
		-						5 7 . 1 8 0 0 2 b					

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 (See Reverse): Yes No D. Number of Persons Affected 0 0 0

11. Negligence (check one)

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

12. Type of Action 1 0 4 - a - , - -

13. Type of Issuance (check one)

Citation Order Safeguard

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 0 7 0 6 0 1

B. Time (24 Hr. Clock) 1 6 0 0

Section III -- Termination Action

17. Action to Terminate

A RECORD OF EXAMINATIONS WAS NOW BEING KEPT AND WAS AVAILABLE FOR REVIEW BY MSHA.

18. Terminated

A. Date Mo Da Yr 0 7 0 6 0 1

B. Time (24 Hr Clock) 1 5 3 5

Section IV -- Automated System Data

19. Type of Inspection (activity code) 0 0 1

20. Event Number 0 3 4 5 6 7 8

21. Primary or Mill

22. Signature BILL WILLIAMS

23. AR Number 0 2 5 5 5

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - NON-"S&S" - FAILURE TO RECORD WORKPLACE EXAMINATIONS

Mine Citation/Order

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

Section I -- Violation Data															
1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number										
	0	7	0	08 01	0	8	0	0	4	4	1	0	1	7	0
4. Served To LEFTY JONES, SAFETY DIRECTOR					5. Operator WHEAT MINING COMPANY										
6. Mine WMC MINE AND MILL					7. Mine ID 5 6 - 0 0 3 3 3 - (contractor)										
8. Condition or Practice										8a. Written Notice (103g) <input type="checkbox"/>					

The cab window of the front-end loader was cracked on the driver's side creating a line of vision problem for the operator.
 The loader was being operated in the stockpile area. According to the operator, the loader does not work in any other areas of the mine.
 Other traffic or employees were not in the immediate vicinity. The windshield cracks extend two feet vertically by two feet horizontally, with numerous smaller cracks radiating from the larger cracks.

Equipment: 988 Caterpillar front-end loader, #10, Serial Number 234567

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR								
			5	6	.	1	4	1	0	3	b

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 (See Reverse): Yes No D. Number of Persons Affected 0 0 1

11. Negligence (check one)

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

12. Type of Action 1 0 4 - a - , - -

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

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 0 7 2 2 0 1
 B. Time (24 Hr. Clock) 1 6 0 0

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) 0 0 1
 20. Event Number 0 4 5 6 7 8 9
 21. Primary or Mill

22. Signature PAULA FIELDS
 23. AR Number 0 3 1 1 1

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - "NON-S&S"
 CRACKED WINDSHIELD

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue)	Mo 0	Da 7	Yr 0		3. Citation/Order Number	4	4	1	0	1	7	0	-	0	1
4. Served To LEFTY JONES, SAFETY DIRECTOR						5. Operator WHEAT MINING COMPANY											
6. Mine WMC MINE AND MILL						7. Mine ID 5 6 - 0 0 3 3 3 - (contractor)											

Section II -- Justification for Action

The loader was removed from the mine site and the violation is terminated. Prior to its removal, the loader's windshield had not been replaced by the operator. The mine operator was notified that, prior to resuming mining activities at another site, he is required to comply with the cited standard. If the operator does not comply, MSHA will consider his actions to be aggravated conduct constituting more than ordinary negligence.

See Continuation Form

Section III -- Subsequent Action Taken

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

9. Type of Inspection	0	0	2	10. Event Number	0	3	5	7	9	1	0				
11. Signature JOHN SMITH	AR Number				12. Date	Mo	Da	Yr	13. Time (24 Hr. Clock)						
	0	1	9	9		0	7	1	8	0	1	0	8	3	0

MSHA Form 7000-3a, Mar 85 (Revised)

104(a) CITATION - TERMINATION
EQUIPMENT REMOVED FROM SERVICE

Mine Citation/Order

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

Section I -- Violation Data																
1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number											
	0	7	1	0	1	0	8	0	0	4	4	1	0	1	7	6
4. Served To JANE SMITHSON, OWNER						5. Operator BEDROCK MINING CORPORATION										
6. Mine BEDROCK MINE						7. Mine ID 5 6 - 0 7 8 9 1 - (contractor)										
8. Condition or Practice												8a. Written Notice (103g)	<input type="checkbox"/>			

The notice of pattern of violations dated June 13, 2001, was not posted on the mine bulletin board. The board was removed for repairs on June 16, 2001, and all documents on the board were relocated to the mine office. The board was repaired on June 26, but the documents were not reposted. This condition has not been designated as "significant and substantial" because the conduct violated a provision of the Mine Act rather than a mandatory safety or health standard.

NOTE: Section I, Item 9B, is completed with 109(a).

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR										
		1 0 9 - a											

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 (See Reverse): Yes No D. Number of Persons Affected 0 0 0

11. Negligence (check one)

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

12. Type of Action 1 0 4 - a - , - -

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

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) 1 6 0 0

Section III -- Termination Action

17. Action to Terminate
 THE NOTICE WAS REPOSTED ON THE MINE BULLETIN BOARD.

18. Terminated
 A. Date Mo Da Yr B. Time (24 Hr Clock) 1 4 5 0

Section IV -- Automated System Data

19. Type of Inspection (activity code) 0 0 1 20. Event Number 0 9 8 7 6 5 4 21. Primary or Mill

22. Signature JOHN SMITH 23. AR Number 0 1 9 9 9

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - "NON-S&S" - NOT POSTING
 THE NOTICE OF PATTERN OF VIOLATIONS

Mine Citation/Order

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

Section I -- Violation Data											
1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)		3. Citation/Order Number					
	0	7	0	3	0	1	1	1	0	0	4
4. Served To	RICHARD MORE					5. Operator	CB ENTERPRISES				
6. Mine	CRUSHED AND BROKEN MINE					7. Mine ID	5	6	-	0	3
8. Condition or Practice						8a. Written Notice (103g)	1	2	-		

A competent person designated by the mine operator was not examining each working place at least once every shift for conditions which could adversely affect safety or health. This was evidenced by the two citations issued this inspection for failure to install machinery guards, one citation issued for failure to repair broken emergency stop cords on conveyors, and one citation issued for failure to replace electrical motor junction box covers.

NOTE: Do not issue a second citation for failing to record the examination [56/57.18002(b)] if a citation is issued, as in this case, for failing to conduct the examination.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR
			5 6 . 1 8 0 0 2 a

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 (See Reverse): Yes No D. Number of Persons Affected 0 0 1

11. Negligence (check one)

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

12. Type of Action 1 0 4 - a - , - -

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

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 0 7 0 4 0 1
 B. Time (24 Hr. Clock) 0 8 0 0

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) 0 0 1
 20. Event Number 0 0 8 9 6 6 9
 21. Primary or Mill

22. Signature JANE JONES
 23. AR Number 0 2 1 3 6

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - "S&S" - FAILURE
 TO CONDUCT WORKPLACE EXAMINATIONS

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue)	Mo 07	Da 06	Yr 01	3. Citation/Order Number	4410169	01
4. Served To SAMUEL ADAMS, LEVEL FOREMAN			5. Operator MUDDY MINING, INC.					
6. Mine THE DOUBLE M MINE			7. Mine ID 57-06789- (contractor)					

Section II -- Justification for Action

This action is to modify Citation #4410169 based on information presented at an MSHA Health and Safety Conference. Information received included: the loose slab was located one foot from the right rib and a ditch was located directly beneath the slab. Persons in this area walk approximately five feet to the side of the ditch and are not likely to be hit by the slab. Based on this information the citation is modified to "Non-S&S". Item 10A is modified to "unlikely" and Item 10C is changed to "No".

See Continuation Form

Section III -- Subsequent Action Taken

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

9. Type of Inspection	001	10. Event Number	0345678					
11. Signature PAUL SMITH	AR Number	12. Date	Mo	Da	Yr	13. Time (24 Hr. Clock)	072101	1300

MSHA Form 7000-3a, Mar 85 (Revised)

104(a) CITATION - "S&S" -
MODIFIED TO "NON-S&S"

Mine Citation/Order

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

Section I -- Violation Data

1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number
	07	21	01	0830	441004
4. Served To John Smith, Assistant Foreman				5. Operator J and S Coal Company, Inc.	
6. Mine No. 1				7. Mine ID 44-03536- (contractor)	
8. Condition or Practice				8a. Written Notice (103g) <input type="checkbox"/>	

No apparent effort was made by the operator to install a proper bushing where the energized power wires go through the metal frame into the switches of the Labour water pump in the northeast pumping station.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR
			75.515

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 (See Reverse): Yes No 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-b- , - -
 13. Type of Issuance (check one)
 Citation Order Safeguard

14. Initial Action
 A. Citation B. Order C. Safeguard D. Written Notice E. Citation/Order number 4410003 F. Dated 072001

15. Area or Equipment

The Labour water pump located at the northeast pumping station

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

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)	20. Event Number	21. Primary or Mill
AAA	088800	
22. Signature James Lee		23. AR Number 20777

MSHA Form 7000-3 Mar 85 (Revised)

104(b) ORDER - FAILURE TO ABATE

Mine Citation/Order

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

Section I -- Violation Data											
1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)		3. Citation/Order Number					
	0	7	2	1	0	1	1	1	0	0	5
4. Served To John Smith, Assistant Foreman						5. Operator J and S Coal Company, Inc.					
6. Mine No. 1						7. Mine ID 4 4 - 0 3 5 3 6 - (contractor)					
8. Condition or Practice											8a. Written Notice (103g) <input type="checkbox"/>

The Labour pump was not removed from operation as required by Order of Withdrawal No. 4410004 dated 7/21/01 at 0830 hours. The Order has not been modified, vacated, or terminated. This condition has not been designated as "significant and substantial" because the conduct violated a provision of the Mine Act rather than a mandatory safety or health standard.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	1	0	4	-	b	C. Part/Section of Title 30 CFR													
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Section II -- Inspector's Evaluation											
10. Gravity:											
A. Injury or Illness (has) (is): No Likelihood <input checked="" type="checkbox"/> Unlikely <input 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 (See Reverse): Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>											
D. Number of Persons Affected 0 0 1											
11. Negligence (check one)											
A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input type="checkbox"/> D. High <input checked="" type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>											
12. Type of Action 1 0 4 - a - , - -											
13. Type of Issuance (check one)											
Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/>											
14. Initial Action											
A. Citation <input type="checkbox"/> B. Order <input checked="" type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>											
E. Citation/Order number 4 4 1 0 0 0 4											
F. Dated Mo Da Yr 0 7 2 1 0 1											
15. Area or Equipment											

16. Termination Due											
A. Date Mo Da Yr 0 7 2 1 0 1											
B. Time (24 Hr. Clock) 1 1 1 5											

Section III -- Termination Action											
17. Action to Terminate											
The pump was removed from service.											

18. Terminated											
A. Date Mo Da Yr 0 7 2 1 0 1											
B. Time (24 Hr Clock) 1 1 0 5											

Section IV -- Automated System Data											
19. Type of Inspection (activity code) A A A											
20. Event Number 0 8 8 8 8 0 0											
21. Primary or Mill											
22. Signature James Lee											23. AR Number 2 0 7 7 7

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - WORKING IN VIOLATION OF A 104(b) ORDER OF WITHDRAWAL

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue)	Mo 0	Da 7	Yr 2	0	1	3. Citation/Order Number	4	4	1	0	0	0	4	-	0	1
4. Served To John Smith, Assistant Foreman					5. Operator J and S Coal Company, Inc.													
6. Mine No. 1					7. Mine ID 4 4 - 0 3 5 3 6 - (contractor)													

Section II -- Justification for Action

A suitable bushing was provided and properly installed at the point where the energized power wires entered the power control switchbox on the Labour pump located at the northeast pumping station.

See Continuation Form

Section III -- Subsequent Action Taken

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

9. Type of Inspection	A	A	A	10. Event Number	0	8	8	8	8	0	0				
11. Signature James Lee	AR Number		12. Date			Mo	Da	Yr	13. Time (24 Hr. Clock)						
	2	0	7	7	7	0	7	2	1	0	1	1	2	0	0

MSHA Form 7000-3a, Mar 85 (Revised)

104(b) ORDER - TERMINATION

Mine Citation/Order

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

Section I -- Violation Data

1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number
	0	7	08	01	0800
4. Served To				5. Operator	
PETER JONES, SAFETY DIRECTOR				XYZ MINING, INC.	
6. Mine				7. Mine ID	
XYZ MINE				56 - 01008 - (contractor)	
8. Condition or Practice					8a. Written Notice (103g) <input type="checkbox"/>

The headpulley guard was removed and not replaced on the primary crusher discharge conveyor belt on July 6, 2001. According to a maintenance employee, Foreman Chester Coombs ordered the guard taken off because it was binding the headpulley. The unguarded pulley was three feet off ground level, was highly visible, and was turning at a high rate of speed. A laborer usually shovels spilled material onto the conveyor belt immediately adjacent to the headpulley. Leaving machinery guards off is a violation of the company's safety policy. Coombs stated he had read and was aware of this policy but that if an employee was careful an injury would not occur. Foreman Coombs engaged in aggravated conduct constituting more than ordinary negligence in that he was aware that the headpulley guard was off and that employees worked in the area when the machinery was in motion. This violation is an unwarrantable failure to comply with a mandatory standard.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR
			56 . 14112 b

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 (See Reverse): 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 - 1 , - -

13. Type of Issuance (check one)

Citation Order Safeguard

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 070801 B. Time (24 Hr. Clock) 1000

Section III -- Termination Action

17. Action to Terminate

THE GUARD WAS REPLACED OVER THE PRIMARY CRUSHER DISCHARGE HEADPULLEY. ALSO, FOREMAN COOMBS WAS REINSTRUCTED ON COMPANY GUARDING POLICY BY THE PLANT MANAGER.

18. Terminated

A. Date Mo Da Yr 070801 B. Time (24 Hr Clock) 1015

Section IV -- Automated System Data

19. Type of Inspection (activity code) 001 20. Event Number 0123456 21. Primary or Mill

22. Signature TED SMITH 23. AR Number 02933

MSHA Form 7000-3 Mar 85 (Revised)

104(d)(1) CITATION - UNWARRANTABLE FAILURE WITH TERMINATION

Mine Citation/Order

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

Section I -- Violation Data

1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)		3. Citation/Order Number	
	0	8	19	1	3	4	4
		1	0	1	3	1	0
					0	0	1
						5	
4. Served To				J and S Coal Company, Inc.			
John Smith, Mine Foreman							
6. Mine No. 1				7. Mine ID			
				4 4 - 0 3 5 3 6 -			
8. Condition or Practice							8a. Written Notice (103g)
							<input type="checkbox"/>

The methane and dust control plan is not being complied with on 1 left section. Line brattice (or other approved device) was not installed for a distance of 40 feet, from the last open crosscut to the face of No. 3 entry, where the continuous miner was cutting coal. The plan requires the curtain to be maintained to within 30 feet of the point of deepest penetration of the face. The air at the face contained 0.9 per centum of methane as indicated by a permissible methane detector. The foreman, Ray Smith, was directing mining operations in the face and knew that line brattice was available on the section. Foreman Smith engaged in aggravated conduct by ordering work to be performed in a working face having no positive ventilation. The mine has had previous ignitions. This violation is an unwarrantable failure to comply with a mandatory standard.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR
			7 5 3 3 0 b 2

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 (See Reverse): Yes No

D. Number of Persons Affected: 0 0 2

11. Negligence (check one)

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

12. Type of Action: 1 0 4 - d - 1 , - -

13. Type of Issuance (check one)

Citation Order Safeguard

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: 0 8 1 9 0 1

B. Time (24 Hr. Clock): 1 3 4 0

Section III -- Termination Action

17. Action to Terminate

Line brattice was installed to within 10 feet of the face. Methane could not be detected immediately after the brattice was installed.

18. Terminated

A. Date: Mo Da Yr: 0 8 1 9 0 1

B. Time (24 Hr. Clock): 1 3 4 5

Section IV -- Automated System Data

19. Type of Inspection (activity code): C A A

20. Event Number: 0 8 8 8 8 3 0

21. Primary or Mill

22. Signature: James Lee

23. AR Number: 2 0 7 7 7

MSHA Form 7000-3 Mar 85 (Revised)

104(d)(1) CITATION AND TERMINATION

Mine Citation/Order

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

Section I -- Violation Data

1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number							
	0	8	1	0	0	4	4	1	0	1	7	3
4. Served To				5. Operator								
LEFTY JONES, SAFETY DIRECTOR				WHEAT MINING COMPANY								
6. Mine				7. Mine ID								
WMC PORTABLE CRUSHER				5 6 - 0 1 9 7 5 - (contractor)								
8. Condition or Practice										8a. Written Notice (103g)		

The window of the front-end loader was cracked on the driver's side creating a line of vision problem for the operator. The loader was operating in the stockpile area. Because of the broken windshield the loader operator did not have clear vision to avoid hitting other vehicular traffic and employees in the area. The windshield cracks extended two feet vertically by two feet horizontally. This loader and condition was cited (#4410168) on July 8, 2001, at another mine (Mine ID #56-00333) owned by the operator. When the citation was terminated, the operator was informed in writing that the violation still existed but was being terminated because of the equipment's removal from that mine site. Further, the operator was informed that they were required to repair the broken windshield prior to working the machine at another mine site. The Safety Director stated that there wasn't time to repair the windshield at the new site because they were behind on production. The mine operator has engaged in aggravated conduct constituting more than ordinary negligence. This violation is an unwarrantable failure to comply with a mandatory standard.
 Equipment: 988 Caterpillar front-end loader (Serial #234567)

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR
			5 6 . 1 4 1 0 3 b

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 (See Reverse): Yes No D. Number of Persons Affected 0 0 1

11. Negligence (check one)

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

12. Type of Action 1 0 4 - d - 1 , - -

13. Type of Issuance (check one)

Citation Order Safeguard

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 0 8 1 0 0 1

B. Time (24 Hr. Clock) 1 6 3 0

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) 0 0 1

20. Event Number 0 4 5 6 6 1 9

21. Primary or Mill

22. Signature JOHN SMITH

23. AR Number 0 1 9 9 9

MSHA Form 7000-3 Mar 85 (Revised)

104(d)(1) CITATION - UNWARRANTABLE - CITING MINE OPERATOR FOR A PREVIOUSLY TERMINATED VIOLATION

Mine Citation/Order

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

Section I -- Violation Data

1. Date	Mo 07	Da 09	Yr 01	2. Time (24 Hr. Clock)	0810	3. Citation/Order Number	4410174
4. Served To PETER JONES, SAFETY DIRECTOR				5. Operator XYZ MINING, INC.			
6. Mine XYZ MINE				7. Mine ID 56 - 01008 - (contractor)			
8. Condition or Practice							8a. Written Notice (103g) <input type="checkbox"/>

A six-foot section of handrail on the elevated walkway by the coarse gravel bins was missing, exposing employees daily to falling hazards. The fall to ground was estimated to be 18 feet. Mine Foreman, Chester Coombs, was walking along the walkway, his regular daily route of travel. The missing handrail had been reported to Foreman Coombs on June 27, 2001, in a written report from the plant loader operator. Coombs stated he had more important things to worry about than a missing handrail. Foreman Coombs engaged in aggravated conduct constituting more than ordinary negligence in that he knew the handrail was missing and employees were exposed to falling hazards. This violation is an unwarrantable failure to comply with a mandatory standard.

NOTE: Section II, Items 14A, 14E, and 14F are completed with the initial 104(d)(1) citation number and it's issue date.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR	56.11002
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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 (See Reverse): 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 - 1 , - -

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

14. Initial Action

A. Citation B. Order C. Safeguard D. Written Notice E. Citation/Order Number: 4410170

F. Dated: Mo 07, Da 08, Yr 01

15. Area or Equipment
WALKWAY AT THE NO. 7 COARSE GRAVEL BINS

16. Termination Due

A. Date: Mo, Da, Yr

B. Time (24 Hr. Clock)

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): 001

20. Event Number: 0123456

21. Primary or Mill

22. Signature: TED SMITH

23. AR Number: 02933

MSHA Form 7000-3 Mar 85 (Revised)

104(d)(1) ORDER - "S&S" UNWARRANTABLE FAILURE

Mine Citation/Order

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

Section I -- Violation Data

1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number
	0	8	3	1 0 0 0	4 4 1 0 0 1 7
4. Served To John Smith, Mine Foreman				5. Operator J and S Coal Company, Inc.	
6. Mine No. 1				7. Mine ID 4 4 - 0 3 5 3 6 - (contractor)	
8. Condition or Practice				8a. Written Notice (103g) <input type="checkbox"/>	

Positive-acting stop controls are not installed along the belt conveyor in 2 south section. The belt has been extended a distance of 600 feet.
 This condition has been reported in the pre-shift and on-shift examination books for the dates of 8/20 through 8/30/01. The controls are required by Notice to Provide Safeguard No. 1 ABC, dated 9/16/76. The mine operator has engaged in aggravated conduct by failure to correct a known safety violation. This violation is an unwarrantable failure to comply with a mandatory standard.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR
			7 5 . 1 4 0 3

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 (See Reverse): Yes No

D. Number of Persons Affected: 0 0 1

11. Negligence (check one)

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

12. Type of Action: 1 0 4 - d - 1 , - -

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

14. Initial Action

A. Citation B. Order C. Safeguard D. Written Notice E. Citation/Order Number: 4 4 1 0 0 1 5

F. Dated: Mo 0 Da 8 Yr 1 9 0 1

15. Area or Equipment
 Belt conveyor in 2 south section

16. Termination Due

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

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): A A A

20. Event Number: 0 8 8 8 8 3 1

21. Primary or Mill

22. Signature: James Lee

23. AR Number: 2 0 7 7 7

MSHA Form 7000-3 Mar 85 (Revised)

104(d)(1) ORDER BASED ON A NOTICE TO PROVIDE SAFEGUARD(S)

Mine Citation/Order

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

Section I -- Violation Data

1. Date	Mo 07	Da 10	Yr 01	2. Time (24 Hr. Clock)	0800	3. Citation/Order Number	4410175
4. Served To J.R. JOHNSON, SAFETY DIRECTOR				5. Operator ABC MINING COMPANY			
6. Mine ABC MINE				7. Mine ID 75 - 09133 - (contractor)			
8. Condition or Practice							8a. Written Notice (103g)

The underground water truck driver did not have on his person a positive means of identification. The driver stated that he had not been issued any identification in the three months he had worked underground. The safety director stated "we just haven't issued dog tags to the new man because we've got production to think about." This mine has been issued fourteen previous violations for this standard in the last three months. Management engaged in aggravated conduct constituting more than ordinary negligence in that production was deemed more important than issuing ID tags to an employee. This violation is an unwarrantable failure to comply with a mandatory standard.

NOTE: For 104(d)(2) orders, Section II, Item 14 is completed with the initial 104(d)(1) order and not the 104(d)(1) citation. Also note that 104(D) orders can be either "S&S" or "Non-S&S".

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR	57.11058
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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 (See Reverse): 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

14. Initial Action
 A. Citation B. Order C. Safeguard D. Written Notice E. Citation/Order Number 4410172 F. Dated Mo 07 Da 03 Yr 01

15. Area or Equipment
WATER TRUCK DRIVER - BENNY FRANKLIN

16. Termination Due	A. Date	Mo	Da	Yr	B. Time (24 Hr. Clock)
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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)	001	20. Event Number	0567890	21. Primary or Mill
22. Signature JANE JONES				23. AR Number 02136

MSHA Form 7000-3 Mar 85 (Revised)

104(d)(2) ORDER
 "NON-S&S" UNWARRANTABLE FAILURE

Mine Citation/Order

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

Section I -- Violation Data											
1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)		3. Citation/Order Number					
	1	1	0	1	0	9	0	0	1	9	
4. Served To John Smith, Mine Foreman						5. Operator J and S Coal Company, Inc.					
6. Mine No. 1						7. Mine ID 4 4 - 0 3 5 3 6 - (contractor)					
8. Condition or Practice											8a. Written Notice (103g)

No. 1 entry of 1 right section had been driven 22 to 27 feet in width for a distance of 125 feet inby spad No. 100. Additional roof support had not been installed. A maximum width of 20 feet was permitted by the approved roof control plan, which was revised 4/15/01, because of fragile roof conditions. Sam Jones is the section foreman and one of the preshift examiners for the section, and he did not record the condition. The condition has existed for approximately 5 working shifts. This section has a history of unintentional roof falls. Three citations have been issued at this mine for violations of 75.203(e) in the past 6 months. Sam Jones engaged in aggravated conduct by his failure to record and take action on a known hazard. This violation is an unwarrantable failure to comply with a mandatory standard.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR	7	5	2	0	3	e
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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 (See Reverse): Yes No

D. Number of Persons Affected: 0 0 1

11. Negligence (check one)

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

12. Type of Action: 1 0 4 - d - 2 , - -

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

14. Initial Action

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

E. Citation/Order Number: 4 4 1 0 0 1 6

F. Dated: Mo 0 Da 8 Yr 3 0 1

15. Area or Equipment

No. 1 entry of 1 right section beginning at spad No. 100 and extending inby for a distance of 125 feet.

16. Termination Due

A. Date: Mo Da Yr

B. Time (24 Hr. Clock)

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): A A A

20. Event Number: 0 8 8 8 8 3 5

21. Primary or Mill

22. Signature: James Lee

23. AR Number: 2 0 7 7 7

MSHA Form 7000-3 Mar 85 (Revised)

104(d)(2) ORDER - SUBSEQUENT INSPECTION

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

Section I -- Violation Data											
1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)		3. Citation/Order Number					
	0	7	1	2	0	1	0	9	0	0	
4. Served To JANE SMITHSON, OWNER					5. Operator BEDROCK MINING COMPANY						
6. Mine BEDROCK MINE					7. Mine ID 5 6 - 0 7 8 9 1 - (contractor)						
8. Condition or Practice										8a. Written Notice (103g)	<input type="checkbox"/>

A laborer was not wearing safety glasses, goggles, face shields, or other protective devices while standing approximately ten feet from a hydraulic rock breaker. The breaker was being used to break a large quartz boulder. Chips from this breakage were being propelled directly into the area where the laborer was standing and could have easily struck his unprotected eyes.

A written Notice of Pattern of Violations, No. 8765931, was issued by MSHA on 06/13/01.

NOTE: Leave Section II, Item 14, blank for 104(e)(1) orders. Also, 104(e) orders are required to be evaluated as "S&S".

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR																		
				5	6	.	1	5	0	0	4										

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 (See Reverse): Yes No

D. Number of Persons Affected: 0 0 1

11. Negligence (check one)

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

12. Type of Action: 1 0 4 - e - 1 , - -

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

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
TOM SMITH, LABORER

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

Section III -- Termination Action

17. Action to Terminate
THE LABORER REMOVED THE SAFETY GLASSES FROM HIS POCKET AND PUT THEM ON.

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

0 7 1 2 0 1 0 9 0 5

Section IV -- Automated System Data

19. Type of Inspection (activity code): 0 0 1

20. Event Number: 0 8 7 6 5 4 3

21. Primary or Mill

22. Signature: JANE JONES

23. AR Number: 0 2 1 3 6

Mine Citation/Order

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

Section I -- Violation Data											
1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)		3. Citation/Order Number					
	0	8	1	3	0	1	0	9	0	0	4
4. Served To JANE SMITHSON, OWNER						5. Operator BEDROCK MINING COMPANY					
6. Mine BEDROCK MINE						7. Mine ID 5 6 - 0 7 8 9 1 - (contractor)					
8. Condition or Practice											
											8a. Written Notice (103g)

The driver of haul truck (Number H-35) did not sound an audible warning or use other means to warn persons in the area prior to moving the vehicle. The haul truck, with its engine running, was parked in the shop area. Two mechanics walked in front of the haul truck and had to jump clear to avoid being hit when it unexpectedly moved into their path.

A Notice of Pattern of Violations, No. 8765931, was issued by MSHA on 06/13/01.

NOTE: Complete Section II, Item 14, with the number of the first 104(e) order. Also, 104(e) orders are required to be evaluated as "S&S". 104(e)(2) orders are written for all "S&S" violations observed on any subsequent inspection after a 104(e)(1) order has been issued.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR
			5 6 . 1 4 2 0 0

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 (See Reverse): Yes No

D. Number of Persons Affected: 0 0 2

11. Negligence (check one)

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

12. Type of Action: 1 0 4 - e - 2 , - -

13. Type of Issuance (check one)

Citation Order Safeguard

14. Initial Action

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

E. Citation/Order Number: 4 4 1 0 1 7 5

F. Dated: Mo 0 7 Da 1 2 Yr 0 1

15. Area or Equipment

16. Termination Due

A. Date: Mo Da Yr

B. Time (24 Hr. Clock)

Section III -- Termination Action

17. Action to Terminate

THE WARNING HORN WAS FOUND TO BE OPERABLE AND COULD BE HEARD ABOVE THE SURROUNDING NOISE. THE TRUCK DRIVER WAS REINSTRUCTED TO SOUND THE HORN WHENEVER THE VEHICLE WAS MOVED.

18. Terminated

A. Date: Mo 0 8 Da 1 3 Yr 0 1

B. Time (24 Hr Clock): 0 9 0 5

Section IV -- Automated System Data

19. Type of Inspection (activity code): 0 0 2

20. Event Number: 0 9 7 5 3 1 9

21. Primary or Mill

22. Signature: JANE JONES

23. AR Number: 0 2 1 3 6

MSHA Form 7000-3 Mar 85 (Revised)

104(e)(2) ORDER - ISSUANCE AND TERMINATION

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue)	Mo 0	Da 6	Yr 1	3. Citation/Order Number	8	8	3	4	5	6	7	-	0	1
4. Served To JANE SMITHSON, OWNER					5. Operator BEDROCK MINING COMPANY											
6. Mine BEDROCK MINE					7. Mine ID 5 6 - 0 7 8 9 1 - (contractor)											

Section II -- Justification for Action

Bedrock Mine has gone 90 days from the issuance of a Notice of Pattern of Violations without being cited for a violation which could significantly and substantially contribute to the cause and effect of a mine safety or health hazard. Given this action, the mine is no longer subject to orders of withdrawal issued pursuant to Section 104(e) of the Federal Mine Safety and Health Act of 1977. Accordingly, the Notice of Pattern of Violations is terminated.

NOTE: This termination of a 104(e) Notice of Pattern of Violations was issued after the mine operator went 90 days without any "S&S" violations issued.

See Continuation Form

Section III -- Subsequent Action Taken

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

9. Type of Inspection	0	0	1	10. Event Number	0	1	3	5	7	9	1	11. Signature	AR Number	12. Date	Mo	Da	Yr	13. Time (24 Hr. Clock)	1	0	0	0				
JANE JONES													0	2	1	3	6	0	9	1	3	0	1			

MSHA Form 7000-3a, Mar 85 (Revised)

104(e) TERMINATION OF
NOTICE OF PATTERN OF VIOLATIONS

Mine Citation/Order

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

Section I -- Violation Data

1. Date	Mo 07	Da 10	Yr 01	2. Time (24 Hr. Clock)	0900	3. Citation/Order Number	4410185
4. Served To RICHARD JONES, SAFETY DIRECTOR				5. Operator INTER CEMENT CORPORATION			
6. Mine ICC MILL				7. Mine ID 75 - 00024 - (contractor)			
8. Condition or Practice							8a. Written Notice (103g) <input type="checkbox"/>

Two mechanics were not wearing life jackets when repairing a broken six-inch dredge discharge line approximately 100 yards offshore. The discharge line was located atop flotation barrels positioned between the dredge and the shore. The water depth was estimated to be 32 feet. At the broken spot, one mechanic was sitting on a flotation barrel. The other mechanic was adjacent to the first miner in a wooden boat. The second mechanic was bending over the side trying to repair the line. Neither employee knew how to swim. Life jackets were available and the foreman had instructed the employees to use them.

This condition was a factor that contributed to the issuance of imminent danger order N0. 4410184 dated 7/10/01. Therefore, no abatement time was set.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR
			56.15020

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 (See Reverse): 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 Safeguard

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
 JOHN JONES, TOM SMITH - MECHANICS

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

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) 001
 20. Event Number 0088301
 21. Primary or Mill

22. Signature JOHN REDWOOD
 23. AR Number 0333

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION ISSUED FOR A CONDITION
 IN 107(a) ORDER

Mine Citation/Order

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

Section I -- Violation Data																		
1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)		3. Citation/Order Number												
	0	8	1	7	0	1		0	9	1	5	4	4	1	0	0	1	1
4. Served To John Smith, Mine Foreman				5. Operator J and S Coal Company, Inc.														
6. Mine No. 1				7. Mine ID				4 4 - 0 3 5 3 6 - (contractor)										
8. Condition or Practice													8a. Written Notice (103g)		<input type="checkbox"/>			

Safe seating facilities were not provided for repairmen who were riding on top of a 6-ton track locomotive with their legs hanging over the front end.
 One man was approximately 8 inches from the bare trolley wire. To reach its destination, the locomotive had to pass through a low area (14 inches from the top of the locomotive to the roof) 300 feet ahead of a steep grade. Tom Davis, Chief Electrician, was operating the locomotive (No. 29) near the mouth of the 2 east section. This is an imminent danger. An oral imminent danger order was issued to Tom Davis at 0915 hours. This hazard has been cited on other occasions. The underlying cause was that management was not enforcing its written rule nor the safeguard Notice No. 4011337 dated 4/7/79 which requires that all personnel be safely seated prior to operating or being transported on mobile equipment. A separate citation for a violation of 75.1403 (#4410012) is being issued in conjunction with this order.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR									
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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 (See Reverse): Yes No D. Number of Persons Affected

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

12. Type of Action: 1 0 7 - a - , - -

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

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

15. Area or Equipment
 The transportation system used by the maintenance crews.

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

17. Action to Terminate
 Suitable transportation was provided for the two repairmen. All the repairmen and supervisory personnel were instructed in safe operating procedures for operating and riding transportation equipment.

18. Terminated	A. Date	Mo	Da	Yr	B. Time (24 Hr. Clock)					
	0	8	1	8	0	1	0	7	3	0

Section IV -- Automated System Data

19. Type of Inspection (activity code)	A	A	A	20. Event Number	0	8	8	8	2	5	21. Primary or Mill					
22. Signature											23. AR Number					
James Lee											2		0	7	7	7

MSHA Form 7000-3 Mar 85 (Revised)

107(a) ORDER - IMMINENT DANGER WITH UNDERLYING CAUSES

Mine Citation/Order

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

Section I -- Violation Data																							
1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number																		
	0	8	1	9	0	1		0	9	3	0	4	4	1	0	0	1	3					
4. Served To John Smith, Mine Foreman						5. Operator J and S Coal Company, Inc.																	
6. Mine No. 1						7. Mine ID 4 4 - 0 3 5 3 6 - (contractor)																	
8. Condition or Practice												8a. Written Notice (103g) <input type="checkbox"/>											
The following conditions, which collectively constitute an imminent danger, existed on 2 left mains section:																							
1. Only 120 cubic feet of air a minute was reaching the working face of No. 2 entry where coal was being mined with a continuous mining machine. [30CFR 75.325(a)(1)]																							
2. The air at the face of the No. 2 entry contained 2.75 per centum of methane. [30CFR 75.323(b)(ii)]																							
3. The permissible methane detector carried by the section foreman was inoperative. [30 CFR 75.320]																							
4. The methane monitor on the continuous mining machine (serial number 26290 SJ) was inoperative. [CFR 75.342]																							
An oral imminent danger order was issued to John Smith at 0930 hours. Separate citations and/or orders will be issued for all violations included in this Order of Withdrawal.																							
(See Example No. 18 for an example of one citation issued for a violation included in this Order of Withdrawal.)																							
See Continuation Form (MSHA Form 7000-3a) <input type="checkbox"/>																							
9. Violation	A. Health Safety Other	B. Section of Act						C. Part/Section of Title 30 CFR															
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 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 type="checkbox"/> Fatal <input type="checkbox"/>																							
C. Significant and Substantial (See Reverse): Yes <input type="checkbox"/> No <input type="checkbox"/>												D. Number of Persons Affected											
11. Negligence (check one)																							
A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>																							
12. Type of Action												13. Type of Issuance (check one)											
1 0 7 - a - , - -												Citation <input type="checkbox"/> Order <input checked="" type="checkbox"/> Safeguard <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																							
The 2 left mains section from the dumping point inby to the working faces.																							
16. Termination Due																							
A. Date Mo Da Yr B. Time (24 Hr. Clock)																							
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)												20. Event Number						21. Primary or Mill					
C A A												0 8 8 8 8 3 0											
22. Signature												23. AR Number											
James Lee												2 0 7 7 7											

MSHA Form 7000-3 Mar 85 (Revised)

107(a) WITHDRAWAL ORDER - IMMINENT DANGER AND
 MULTIPLE MANDATORY STANDARDS VIOLATED IN THE ORDER

Mine Citation/Order

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

Section I -- Violation Data

1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number
	0	8	1	0	9
	1	9	0	1	0
					4
					4
					1
					0
					1
					4

4. Served To
John Smith, Mine Foreman

5. Operator
J and S Coal Company, Inc.

6. Mine No. 1

7. Mine ID
4 4 - 0 3 5 3 6 - (contractor)

8. Condition or Practice

8a. Written Notice (103g)

The only permissible methane detector available on the 2 left mains section was inoperable. According to Billy Bow, Section Foreman, he reported the condition of the detector to his immediate supervisor (John Smith, Mine Foreman) 2 days earlier.
 This citation was one of the factors that contributed to the issuance of Imminent Danger Order No. 4410013 dated 8/19/01. Therefore, no abatement time was set.

Note: Appropriate action must be taken for all violations contained in a 107(a) Order.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR
			7 5 3 2 0

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 (See Reverse): Yes No

D. Number of Persons Affected 0 0 7

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

12. Type of Action 1 0 4 - a - , - -

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

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)

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) C A A

20. Event Number 0 8 8 8 3 0

21. Primary or Mill

22. Signature James Lee

23. AR Number 2 0 7 7 7

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - ISSUED FOR A CONDITION IN 107(a) ORDER NO. 4410013

Mine Citation/Order

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

Section I -- Violation Data										
1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)		3. Citation/Order Number				
	0	7	1	0	0	1	4	4	1	0
4. Served To	RICHARD JONES, SAFETY DIRECTOR				5. Operator	INTER CEMENT CORPORATION				
6. Mine	ICC MILL				7. Mine ID	7	5	-	0	0
8. Condition or Practice					8a. Written Notice (103g)	<input type="checkbox"/>				

Two mechanics were not wearing life jackets when repairing a broken dredge discharge line approximately 100 yards offshore. The discharge line was located on top of barrels located between the dredge and the shore. The water depth was estimated to be 32 feet. At the broken spot, one mechanic was sitting on a barrel and the other mechanic was next to the first mechanic in a wooden boat. The second mechanic was bending over the side of the boat trying to repair the line. Neither mechanic knew how to swim. Reportedly, Foreman Smith discouraged them from taking the life jackets from the store room. Foreman Smith engaged in aggravated conduct constituting more than ordinary negligence by not allowing the two employees to use the life jackets. This violation is an unwarrantable failure to comply with a mandatory standard. This violation is a factor cited in imminent danger order No. 4410184 issued 7/10/01.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR																
				5	6	.	1	5	0	2	0								

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 (See Reverse): Yes No

D. Number of Persons Affected: 0 0 2

11. Negligence (check one)

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

12. Type of Action: 1 0 4 - d - 1

13. Type of Issuance (check one)

Citation Order Safeguard

14. Initial Action

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

E. Citation/Order Number: 4 4 1 0 1 4 5

F. Dated: Mo 0 Da 6 Yr 1

15. Area or Equipment: JOHN JONES, TOM SMITH - MECHANICS

16. Termination Due

A. Date: Mo Da Yr

B. Time (24 Hr. Clock)

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): 0 0 1

20. Event Number: 0 0 8 8 3 0 1

21. Primary or Mill

22. Signature: JOHN REDWOOD

23. AR Number: 0 3 3 3 3

MSHA Form 7000-3 Mar 85 (Revised)

104(d)(1) ORDER ISSUED AS PART OF 107(a) ORDER

Mine Citation/Order

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

Section I -- Violation Data

1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number
	0	8	3	0	1
				0	9
				4	5
					4
					4
					1
					0
					1
					8

4. Served To
John Smith, Mine Foreman

5. Operator
J and S Coal Company, Inc.

6. Mine No. 1

7. Mine ID
4 4 - 0 3 5 3 6 - (contractor)

8. Condition or Practice

8a. Written Notice (103g)

The trailing cable to the No. 2 shuttle car on 1st left section contained five poorly made temporary splices. Three of the splices had exposed, uninsulated conductors. The condition of the temporary splices contributes substantially to a fire or electrical shock hazard. The condition of the cable was reported in the preshift examiner's book on 8/28/01 and 8/29/01. The mine operator was engaged in aggravated conduct by acknowledging a safety hazard and not taking corrective action. This violation is an unwarrantable failure to comply with a mandatory standard. This violation is one of the factors cited in Imminent Danger Order No. 4410028 issued 8/31/01.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR
			7 5 . 6 0 3

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 (See Reverse): Yes No

D. Number of Persons Affected 0 0 1

11. Negligence (check one)

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

12. Type of Action 1 0 4 - d - 1 , - -

13. Type of Issuance (check one)

Citation Order Safeguard

14. Initial Action

A. Citation B. Order C. Safeguard D. Written Notice E. Citation/Order Number 4 4 1 0 0 1 5 F. Dated Mo Da Yr 0 8 1 9 0 1

15. Area or Equipment
No. 2 shuttle car on 1st left section

16. Termination Due

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

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) A A A

20. Event Number 0 8 8 8 8 3 1

21. Primary or Mill

22. Signature James Lee

23. AR Number 2 0 7 7 7

MSHA Form 7000-3 Mar 85 (Revised)

104(d)(1) ORDER ISSUED AS PART OF A 107(a) IMMINENT DANGER ORDER

Mine Citation/Order

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

Section I -- Violation Data											
1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)		3. Citation/Order Number					
	0	8	3	0	0	9	0	1	0	1	8
4. Served To	JOHN BANKS, MINER					5. Operator	BOGGY MINING COMPANY				
6. Mine	CLAIM NUMBER 3					7. Mine ID	9	3	-	0	1
8. Condition or Practice						8a. Written Notice (103g)	<input type="checkbox"/>				

A miner (John Banks) was smoking a cigarette at the underground explosives magazine. Six open boxes of explosives were within three feet of the miner. Mr. Banks also had one opened pack of cigarettes and a lighter on his person. Company personnel were aware that Mr. Banks routinely smoked in and around the magazine.

This is to inform Mr. Banks that he will receive a Notification of Proposed Civil Penalty for violating a mandatory standard relating to smoking near explosives as required by Section 110(g) of the Mine Act.

NOTE: The inspector should attempt to obtain the individual's address so that the proposed civil penalty may be mailed to him. A letter (with the miner's address) is attached to the violation and the package is mailed to the Office of Assessments in Wilkes-Barre, Pennsylvania. In this case, a 107(a) imminent danger order and a 104(a) citation for violation of 57.6904 would also be issued to the mine operator.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	1	1	0	-	g	C. Part/Section of Title 30 CFR	5	7	.	6	9	0	4
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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 (See Reverse): Yes No

D. Number of Persons Affected: 0 0 1

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

12. Type of Action: - - , - -

13. Type of Issuance (check one): Citation Order Safeguard

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)
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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)	0	0	1	20. Event Number	0	0	7	6	3	8	9	21. Primary or Mill				
22. Signature	TED JOHNSON										23. AR Number	0	4	7	8	9

MSHA Form 7000-3 Mar 85 (Revised)

110(g) NOTICE - MINER SMOKING IN PROHIBITED AREA

Mine Citation/Order

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

Section I -- Violation Data

1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number											
	0	8	2	0	1	0	9	3	0	4	4	1	0	0	2	3
4. Served To Edgar Simms, Locomotive Operator					5. Operator J and S Coal Company, Inc.											
6. Mine No. 1					7. Mine ID 4 4 - 0 3 5 3 6 - (contractor)											
8. Condition or Practice					8a. Written Notice (103g) <input type="checkbox"/>											

Edgar Simms was holding a lighted cigar while operating a track locomotive near the 2 North switch. The switch is located approximately one mile underground. A subsequent search of Simms, by the Mine Foreman, revealed a butane lighter and one other cigar. This is notification that Mr. Simms will receive a civil penalty for violating a mandatory safety standard related to smoking. Mr. Simms address is: PO Box 317, Anytown, USA, 99999.

(A violation will be issued to the mine operator for the same standard.)

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR
		1 1 0 - g	7 5 . 1 7 0 2

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 (See Reverse): Yes No D. Number of Persons Affected 0 0 1

11. Negligence (check one)

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

12. Type of Action

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

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)

Section III -- Termination Action

17. Action to Terminate
 The Mine Foreman removed Edgar Simms and the smoking materials from the mine.

18. Terminated

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

Section IV -- Automated System Data

19. Type of Inspection (activity code) A A A 20. Event Number 0 8 8 8 8 3 1 21. Primary or Mill

22. Signature James Lee 23. AR Number 2 0 7 7 7

MSHA Form 7000-3 Mar 85 (Revised)

110(g) NOTICE - MINER SMOKING IN PROHIBITED AREA

Mine Citation/Order

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

Section I -- Violation Data																
1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number											
	0	7	1	0	1	0	8	3	0	4	4	1	0	1	9	0
4. Served To SYDNEY JONES, PRESIDENT					5. Operator TMC MINING COMPANY											
6. Mine TRIANGLE MINE					7. Mine ID 7 2 - 0 0 0 1 2 - (contractor)											
8. Condition or Practice										8a. Written Notice (103g) <input type="checkbox"/>						

There were no speed limit signs posted along the unbermed portion of the main haul road. This is a violation of Condition No. 3 of the Granted Modification of Mandatory Standard 56.9300 (Docket #M-90-20-M), which specifically requires signs to be posted along the unbermed portion. The Assistant Safety Manager stated that signs had been posted but must have been stolen.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR
			5 6 . 9 3 0 0

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 (See Reverse): Yes No D. Number of Persons Affected 0 0 1

11. Negligence (check one)

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

12. Type of Action	1 0 4 - a - , - -	13. Type of Issuance (check one)
		Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/>

14. Initial Action	D. Written Notice	E. Citation/Order Number	F. Dated	Mo	Da	Yr
A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/>	<input type="checkbox"/>					

15. Area or Equipment

16. Termination Due	A. Date	Mo	Da	Yr	B. Time (24 Hr. Clock)
	0 7 1 2 0 1				0 9 0 0

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)	0 0 1	20. Event Number	0 7 6 8 9 8 7	21. Primary or Mill
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22. Signature	TED JOHNSON	23. AR Number	0 4 7 8 9
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MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - VIOLATION OF A
 GRANTED PETITION FOR MODIFICATION

Mine Citation/Order

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

Section I -- Violation Data										
1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)		3. Citation/Order Number				
	0	7	1	0	0	4	4	1	0	1
4. Served To SYDNEY JONES, PRESIDENT					5. Operator TMC MINING COMPANY					
6. Mine TRIANGLE MINE					7. Mine ID 7 2 - 0 0 0 1 2 - (contractor)					
8. Condition or Practice										8a. Written Notice (103g)
<input type="checkbox"/>										

A miner (Payroll #9876) was injured on 04/06/01. This resulted in three lost work days. The company failed to complete and submit an MSHA #7000-1 (Mine, Accident, Injury, and Illness Report) for the injury. This company has received four previous Part 50 violations during the past twelve months for failing to report on-the-job injuries to MSHA and two violations for failure to submit quarterly employment reports (MSHA #7000-2 forms). Additionally, company personnel have been repeatedly instructed in Part 50 rules on completing and submitting the required forms to MSHA.

9. Violation										See Continuation Form (MSHA Form 7000-3a)									
A. Health Safety Other	B. Section of Act			C. Part/Section of Title 30 CFR						5 0 . 2 0 a									

Section II -- Inspector's Evaluation									
10. Gravity:									
A. Injury or Illness (has) (is): No Likelihood <input checked="" type="checkbox"/> Unlikely <input 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 checked="" type="checkbox"/> Lost Workdays or Restricted Duty <input type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input type="checkbox"/>									
C. Significant and Substantial (See Reverse): Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>									
D. Number of Persons Affected 0 0 0									
11. Negligence (check one)									
A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input type="checkbox"/> D. High <input checked="" type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>									
12. Type of Action 1 0 4 - a - , - -									
13. Type of Issuance (check one)									
Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <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	B. Time (24 Hr. Clock)					
	0	7	1	0	0	8	0	0	

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)										20. Event Number										21. Primary or Mill									
0 0 1										0 7 6 8 9 8 7																			

22. Signature										23. AR Number									
TED JOHNSON										0 4 7 8 9									

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - FAILURE TO PREPARE AND SUBMIT AN MSHA #7000-1 FORM

Mine Citation/Order

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

Section I -- Violation Data

1. Date	Mo 07	Da 11	Yr 01	2. Time (24 Hr. Clock)	0905	3. Citation/Order Number	4410192
4. Served To SYDNEY JONES, PRESIDENT				5. Operator TMC MINING COMPANY			
6. Mine TRIANGLE MINE				7. Mine ID 72 - 00012 - (contractor)			
8. Condition or Practice						8a. Written Notice (103g) <input type="checkbox"/>	

An MSHA #7000-2 (Quarterly Employment Report) for the 4th Quarter 2000 (October, November, December) was not completed nor mailed to MSHA's Health and Safety Analysis Center prior to January 15, 2001. This company has received four Part 50 violations during the past twelve months for failing to report on-the-job injuries to MSHA and two violations for failing to submit quarterly employment reports. Additionally, company personnel have been repeatedly instructed in Part 50 regulations on completing and submitting the required forms to MSHA.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR	5030a
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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 (See Reverse): Yes No D. Number of Persons Affected 000

11. Negligence (check one)

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

12. Type of Action 104 - a - , - -

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

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 071201
 B. Time (24 Hr. Clock) 0800

Section III -- Termination Action

17. Action to Terminate
THE QUARTERLY REPORT WAS FILLED OUT AND SUBMITTED TO MSHA.

18. Terminated
 A. Date Mo Da Yr 071201
 B. Time (24 Hr Clock) 0800

Section IV -- Automated System Data

19. Type of Inspection (activity code) 001
 20. Event Number 0768987
 21. Primary or Mill

22. Signature
 TED JOHNSON
 23. AR Number 04789

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - FAILURE TO PREPARE
 AND SUBMIT AN MSHA #7000-2 FORM

Mine Citation/Order

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

Section I -- Violation Data																
1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number											
	0	7	1	0	1	0	9	1	0	4	4	1	0	1	9	3
4. Served To SYDNEY JONES, PRESIDENT					5. Operator TMC MINING COMPANY											
6. Mine TRIANGLE MINE					7. Mine ID 7 2 - 0 0 0 1 2 - (contractor)											
8. Condition or Practice												8a. Written Notice (103g)	<input type="checkbox"/>			

A copy of MSHA Form #7000-1 (Mine Accident, Injury, and Illness Report) for a reported lost-time injury that occurred to a miner (Payroll #45678) on May 4, 2001, was not at the mine office for review by MSHA. This company has received four previous Part 50 violations during the past twelve months for failing to report on-the-job injuries to MSHA and two violations for failing to submit quarterly employment reports. Additionally, company personnel have been repeatedly instructed in Part 50 rules on completing and submitting required forms to MSHA. Those instructions also included keeping copies of the forms at the mine office for review by MSHA.

See Continuation Form (MSHA Form 7000-3a)												<input type="checkbox"/>				
9. Violation	A. Health Safety Other	B. Section of Act			C. Part/Section of Title 30 CFR						5	0	.	4	0	b

Section II -- Inspector's Evaluation																
10. Gravity:																
A. Injury or Illness (has) (is): No Likelihood <input checked="" type="checkbox"/> Unlikely <input 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 checked="" type="checkbox"/> Lost Workdays or Restricted Duty <input type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input type="checkbox"/>																
C. Significant and Substantial (See Reverse): Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>												D. Number of Persons Affected		0	0	0
11. Negligence (check one)																
A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input type="checkbox"/> D. High <input checked="" type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>																
12. Type of Action					13. Type of Issuance (check one)											
1 0 4 - a - , - -					Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <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												F. Dated		Mo	Da	Yr
15. Area or Equipment																

16. Termination Due											
A. Date			Mo	Da	Yr	B. Time (24 Hr. Clock)					
0 7 1 2 0 1						0 8 0 0					

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)			20. Event Number			21. Primary or Mill												
0 0 1			0 7 6 8 9 8 7															
22. Signature												23. AR Number		0	4	7	8	9
TED JOHNSON																		

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - FAILURE TO MAINTAIN PART 50 RECORDS

Mine Citation/Order

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

Section I -- Violation Data

1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number											
	0	8	2	0	1	0	8	0	0	4	4	1	0	0	2	2
4. Served To John Smith, Mine Foreman					5. Operator J and S Coal Company, Inc.											
6. Mine No. 1					7. Mine ID 4 4 - 0 3 5 3 6 - (contractor)											
8. Condition or Practice					8a. Written Notice (103g) <input type="checkbox"/>											

Citations issued during the inspections conducted on August 19 and 21, 2001, had not been posted on the mine bulletin board.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR
		1 0 9 - a	

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 (See Reverse): Yes No D. Number of Persons Affected 0 0 0

11. Negligence (check one)

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

12. Type of Action	1 0 4 - a - , - -	13. Type of Issuance (check one)
		Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/>

14. Initial Action	D. Written Notice	E. Citation/Order Number	F. Dated	Mo	Da	Yr
A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/>	<input type="checkbox"/>					

15. Area or Equipment

16. Termination Due	A. Date	Mo	Da	Yr	B. Time (24 Hr. Clock)					
	0	8	2	2	0	1	0	8	3	0

Section III -- Termination Action

17. Action to Terminate
 Copies of the citations and orders were posted on the bulletin board.

18. Terminated	A. Date	Mo	Da	Yr	B. Time (24 Hr Clock)					
	0	8	2	2	0	1	0	8	3	0

Section IV -- Automated System Data

19. Type of Inspection (activity code)	20. Event Number	21. Primary or Mill
A A A	0 8 8 8 8 3 1	
22. Signature James Lee	23. AR Number	
	2 0 7 7 7	

MSHA Form 7000-3 Mar 85 (Revised)

TITLE I VIOLATION AND TERMINATION

Appendix B

Training Violations

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Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action <input type="checkbox"/>	1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue)	Mo 0	Da 7	Yr 0		3. Citation/Order Number	4	4	1	0	1	8	1	-		
4. Served To JEFF CRIBS, PRESIDENT						5. Operator XYZ MINING COMPANY, INC.											
6. Mine XYZ Mine						7. Mine ID 7 3 - 0 1 2 3 6 - (contractor)											

Section II -- Justification for Action

Continuation of Section II, Inspector's Evaluation, to evaluate 30 CFR 48.8

- ITEM 10A - Reasonably Likely
- ITEM 10B - Lost Workdays
- ITEM 10C - Significant and Substantial - Yes
- ITEM 10D - Number of Persons Affected - 001
- ITEM 11 - Negligence - High

See Continuation Form

Section III -- Subsequent Action Taken

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

Section IV -- Inspection Data

9. Type of Inspection	0	0	1	10. Event Number	0	9	7	7	5	5	4				
11. Signature JOHN SMYTHED	AR Number		12. Date			13. Time (24 Hr. Clock)									
	0	3	3	3	4	0	7	0	3	0	1	1	0	0	0

MSHA Form 7000-3a, Mar 85 (Revised)

104(g)(1) ORDER - PART 48 CONTINUATION SHEET
SINGLE MINER AND MULTIPLE VIOLATIONS

Mine Citation/Order

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

Section I -- Violation Data																
1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)				3. Citation/Order Number								
	0	8	2	0	0	1	0	8	0	0	8	8	3	4	5	6
4. Served To KEN SWIFT, QUARRY FOREMAN						5. Operator NORTHEAST AGGREGATES										
6. Mine NORTHEAST						7. Mine ID 4 7 - 9 9 1 2 3 - (contractor)										
8. Condition or Practice												8a. Written Notice (103g)		<input type="checkbox"/>		

The training plan did not include the minimum information specified in 30 CFR Part 46.3(b)(1) through 46.3(b)(5), nor has the plan been submitted to MSHA for approval.

The following items contribute to the ineffectiveness of the plan:

- There was not a general description of the teaching methods to be used.
- No approximate time range was given for the subject areas to be covered.
- No evaluation procedures were included to determine the effectiveness of the training.
- No course material was provided for training new miners in recognizing and avoiding electrical and other hazards at the mine.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR			
			4	6	.	3 a

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 (See Reverse): Yes No D. Number of Persons Affected 0 1 2

11. Negligence (check one)

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

12. Type of Action 1 0 4 - a , - -

13. Type of Issuance (check one)

Citation Order Safeguard

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 0- 8 2 7 0 1

B. Time (24 Hr. Clock) 0 8 0 0

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) 0 0 1

20. Event Number 0 9 8 9 3 4 1

21. Primary or Mill

22. Signature Jay Lowe

23. AR Number 0 3 3 3 2

Mine Citation/Order

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

Section I -- Violation Data

1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number											
	0	8	2	1	0	1	0	9	0	0	8	8	3	4	5	7
4. Served To				5. Operator												
KEN SWIFT, QUARRY FOREMAN				NORTHEAST AGGREGATES												
6. Mine				7. Mine ID												
NORTHEAST				4 7 - 9 9 1 2 3 - (contractor)												
8. Condition or Practice											8a. Written Notice (103g)					

The miners were not provided a copy of a certified training record upon completion of new miner training.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR
			4 6 . 9 d 1

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 checked="" type="checkbox"/>	Lost Workdays or Restricted Duty	<input type="checkbox"/>	Permanently Disabling	<input type="checkbox"/>	Fatal	<input type="checkbox"/>						
		C. Significant and Substantial (See Reverse):		Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	D. Number of Persons Affected		0	0	0					
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		13. Type of Issuance (check one)		Citation		<input checked="" type="checkbox"/>		Order		<input type="checkbox"/>		Safeguard		<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								F. Dated		Mo		Da		Yr	
15. Area or Equipment																	

16. Termination Due	A. Date	Mo	Da	Yr	B. Time (24 Hr. Clock)					
	0	8	2	8	0	1	0	8	0	0

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)	0	0	1	20. Event Number	0	9	8	9	3	4	1	21. Primary or Mill				
22. Signature												23. AR Number				
Jay Lowe												0 3 3 3 2				

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - PART 46
TRAINING CERTIFICATES NOT PROVIDED

Mine Citation/Order

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

Section I -- Violation Data

1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number												
	0	8	2	1	0	1	0	9	3	0	8	8	8	3	4	5	8
4. Served To				5. Operator													
KEN SWIFT, QUARRY FOREMAN				NORTHEAST AGGREGATES													
6. Mine				7. Mine ID													
NORTHEAST				4 7 - 9 9 1 2 3 - (contractor)													
8. Condition or Practice											8a. Written Notice (103g)						<input type="checkbox"/>

The mine operator was not making the required records of training that was being completed in segments [30 CFR 46.9b(1-4)].

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR
			4 6 . 9 b

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 (See Reverse): Yes No D. Number of Persons Affected 0 0 0

11. Negligence (check one)

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

12. Type of Action 1 0 4 - a , - -

13. Type of Issuance (check one)

Citation Order Safeguard

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)					
	0	8	2	8	0	1	0	8	0	0

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)	20. Event Number	21. Primary or Mill
0 0 1	0 9 8 9 3 4 1	
22. Signature	23. AR Number	
Jay Lowe	0 3 3 3 2	

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - PART 46
INCOMPLETE TRAINING RECORDS

Mine Citation/Order

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

Section I -- Violation Data																				
1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)								3. Citation/Order Number								
	0	8	2	0	0	1			0	8	0	0	4	4	1	0	1	8	9	
4. Served To JAMES DOBSON, PRESIDENT						5. Operator QRS MINING COMPANY														
6. Mine WMC MINE AND MILL						7. Mine ID 7 3 - 0 1 2 3 6 -						(contractor)								
8. Condition or Practice												8a. Written Notice (103g)						<input type="checkbox"/>		

Chad Scott (payroll number 98342), truck driver, had not received the MSHA-required 24-hour new miner training within 90 days after beginning work at the mine. Mr. Scott had no previous mining experience, and he was only provided with 8 hours of training. The mine operator was aware of the Part 46 training requirements. The mine operator must withdraw Chad Scott from the mine until he receives the required training. The Federal Mine Safety and Health Act of 1977 states that an untrained miner is a hazard to himself and to others.

9. Violation												See Continuation Form (MSHA Form 7000-3a)						<input type="checkbox"/>		
A. Health Safety Other																				
B. Section of Act				C. Part/Section of Title 30 CFR				4				6				5				

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 type="checkbox"/> Fatal <input checked="" type="checkbox"/>																															
C. Significant and Substantial (See Reverse): Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>																															
D. Number of Persons Affected												0		0		1															
11. Negligence (check one)																															
A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input type="checkbox"/> D. High <input checked="" type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>																															
12. Type of Action												1		0		4		-		g		-		1		,		-		-	
13. Type of Issuance (check one)																															
Citation <input type="checkbox"/> Order <input checked="" type="checkbox"/> Safeguard <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												Chad Scott (payroll number 98342)																			

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

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)			0	0	1	20. Event Number						21. Primary or Mill													
						0	9	7	7	5	5	5													
22. Signature												23. AR Number						0		3		3		3	
John Redwood																									

Mine Citation/Order

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

Section I -- Violation Data

1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number
	0	8	2	0	0
	0	1		0	8
				0	0
					4
					4
					1
					0
					1
					8
					9

4. Served To: JAMES DOBSON, PRESIDENT
 5. Operator: QRS MINING COMPANY
 6. Mine: QRS MINE
 7. Mine ID: 73 - 01236 - (contractor)
 8. Condition or Practice:
 8a. Written Notice (103g)

Twenty-two miners working at the mine have not received annual refresher training within the last twelve months. Refresher training was last provided to these miners on April 11, 2000. The mine operator was aware of the training requirements. The mine operator must withdraw the 22 miners from the mine until they have received the required training. The Federal Mine Safety and Health Act of 1977 states that an untrained miner is a hazard to himself and to others.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR
			4
			6
			.
			8

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 (See Reverse): Yes No D. Number of Persons Affected: 0 2 2
 11. Negligence (check one)
 A. None B. Low C. Moderate D. High E. Reckless Disregard
 12. Type of Action: 1 0 4 - g - 1 , - -
 13. Type of Issuance (check one)
 Citation Order Safeguard
 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
 Joseph Johns, Harry Tee, Mike Mott, Mark Hank, Sam Wright, Harold Moody, et. al.

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

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)	20. Event Number	21. Primary or Mill
0 0 1	0 9 7 7 5 5 5	
22. Signature	23. AR Number	
John Redwood	0 3 3 3 3	

MSHA Form 7000-3 Mar 85 (Revised)

104(g)(1) ORDER - PART 46
 MULTIPLE MINERS AND A SINGLE VIOLATION

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action <input type="checkbox"/>	1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue)	Mo 0	Da 8	Yr 2	0	0	2	3. Citation/Order Number	4	4	1	0	1	9	0	-		
4. Served To JAMES DOBSON, PRESIDENT						5. Operator QRS MINING													
6. Mine QRS Mine						7. Mine ID 7 3 - 0 1 2 3 6 - (contractor)													

Section II -- Justification for Action

Continuation of Section II, Inspector's Evaluation, to evaluate 30 CFR 46.8

ITEM 10A - Unlikely

ITEM 10B - Lost Workdays

ITEM 10C - Significant and Substantial - No

ITEM 10D - Number of Persons Affected - 001

ITEM 11 - Negligence - High

See Continuation Form

Section III -- Subsequent Action Taken

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

Section IV -- Inspection Data

9. Type of Inspection	0	0	1	10. Event Number	0	9	7	7	5	5	5			
11. Signature JOHN REDWOOD	AR Number			12. Date	Mo	Da	Yr	13. Time (24 Hr. Clock)						
	0	3	3	3	0	8	2	0	0	2	0	9	3	0

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104(g)(1) ORDER - PART 46 CONTINUATION SHEET
SINGLE MINER AND MULTIPLE VIOLATIONS

Appendix C

Health Violations

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Mine Citation/Order

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

Section I -- Violation Data

1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number
	0	7	0	1	6 0 0
					4 4 1 0 1 8 8
4. Served To SYDNEY JONES, PRESIDENT				5. Operator TMC MINING COMPANY	
6. Mine TRIANGLE MINE				7. Mine ID 7 2 - 0 0 0 1 2 - (contractor)	
8. Condition or Practice				8a. Written Notice (103g) <input type="checkbox"/>	

The repair shop welder was exposed to a shift-weighted average of 2.35 mg/m³ of nickel welding fumes on July 1, 2001. This amount exceeded the Threshold Limit Value (TLV) of 1.0 mg/m³ times the error factor (1.10*) for welding fume sampling and elemental analysis. Analytical results were received and the citation was issued on July 18, 2001. The employee was welding tubing in the repair shop and visible fumes were produced during this process. The engineering control in use was one 24-inch exhaust fan in the shop roof. The welder was not wearing a respirator and a respirator program meeting the requirements of ANSI Z88.2-1969 was not in place. The original abatement date is for the institution of a respiratory protection program meeting the requirements of ANSI Z88.2-1969. When a respiratory protection program meeting the minimum requirements is established, the abatement date will be extended to allow the mine operator time to install additional engineering controls.

* Note: The error factor for metal dust and fume sampling is determined by, and will be supplied by, the Pittsburgh lab.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR
			5 6 . 5 0 0 1 a / . 5 0 0 5

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 (See Reverse): Yes No D. Number of Persons Affected 0 0 1

11. Negligence (check one)

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

12. Type of Action 1 0 4 - a - , - -

13. Type of Issuance (check one)

Citation Order Safeguard

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	B. Time (24 Hr. Clock)
	0	7	2	0	0 8 0 0

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)	20. Event Number	21. Primary or Mill
0 0 1	0 7 6 8 9 8 7	
22. Signature TED JOHNSON	23. AR Number 0 4 7 8 9	

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - "S&S" - OVEREXPOSURE
 TO WELDING FUMES

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue)	Mo 07	Da 01	Yr 01	3. Citation/Order Number	4410188-01
4. Served To SYDNEY JONES, PRESIDENT			5. Operator TMC MINING COMPANY				
6. Mine TRIANGLE MINE			7. Mine ID 72-00012- (contractor)				

Section II -- Justification for Action

A respiratory protection program meeting the requirements of ANSI Z88.2-1969 is in place. The welder is wearing a properly fitted and approved respirator (Wilson Model 1212, Approval No. TC-21C-142). The termination due date is extended until August 15, 2001, for the implementation of additional engineering controls. The welder shall continue to wear the respirator when welding until adequate engineering controls have been implemented and further sampling by MSHA confirms the exposure to be less than the permissible exposure limit times the error factor.

See Continuation Form

Section III -- Subsequent Action Taken

8. Extended To	A. Date	Mo 08	Da 15	Yr 01	B. Time (24 Hr. Clock)	1200	C. Vacated <input type="checkbox"/>	D. Terminated <input type="checkbox"/>	E. Modified <input type="checkbox"/>
----------------	---------	----------	----------	----------	------------------------	------	-------------------------------------	--	--------------------------------------

Section IV -- Inspection Data

9. Type of Inspection	002	10. Event Number	0768991				
11. Signature	AR Number	12. Date	Mo 07	Da 21	Yr 01	13. Time (24 Hr. Clock)	1530
TED JOHNSON	04789						

MSHA Form 7000-3a, Mar 85 (Revised)

104(a) CITATION - EXTENSION AFTER
RESPIRATORY PROTECTION PROVIDED

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue)	Mo 07	Da 01	Yr 01	3. Citation/Order Number	4410188-02
4. Served To SYDNEY JONES, PRESIDENT			5. Operator TMC MINING COMPANY				
6. Mine TRIANGLE MINE			7. Mine ID 72-00012- (contractor)				

Section II -- Justification for Action

The mine operator purchased and installed a local exhaust fume collection system that can be moved close to welding and cutting operations. The welder in the repair shop was exposed to a shift-weighted average of 0.13 mg/m3 of nickel welding fumes after a resample was conducted by MSHA on August 22, 2001. This average is less than the Threshold Limit Value (TLV) times the error factor (1.10) for welding fume sampling and elemental analysis. The analytical results were received and the termination issued on September 1, 2001.

See Continuation Form

Section III -- Subsequent Action Taken

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

9. Type of Inspection	002	10. Event Number	0768994			
11. Signature	AR Number	12. Date	Mo	Da	Yr	13. Time (24 Hr. Clock)
TED JOHNSON	04789		09	01	01	0915

MSHA Form 7000-3a, Mar 85 (Revised)

104(a) CITATION - TERMINATION AFTER RESAMPLING

Section I -- Violation Data

1. Date	Mo 07	Da 02	Yr 01	2. Time (24 Hr. Clock)	1600	3. Citation/Order Number	4410189
4. Served To J.B. SMITH, PRESIDENT				5. Operator S&S MINING COMPANY			
6. Mine S&S MINE				7. Mine ID 71-03798 (contractor)			
8. Condition or Practice						8a. Written Notice (103g) <input type="checkbox"/>	

The primary crusher operator was exposed to a shift-weighted average of 3.30 mg/m³ of respirable silica-bearing dust on 07/02/01. This exceeded the Threshold Limit Value (TLV) of 1.25 mg/m³ times the error factor (1.20 for respirable free silica dust sampling and analysis). Respiratory protection was not being used and a respiratory protection program meeting the requirements of ANSI Z88.2-1969 was not in place. All feasible engineering controls were not in use to control employee's dust exposure. An operator's control booth was in place but a window was broken and a ventilation system had not been provided for the booth. The original abatement date is for the institution of a Respiratory Protection Program. When a Respiratory Protection Program that meets the minimum requirements of ANSI Z88.2-1969 is in place, the abatement date will be extended to allow the mine operator time to install additional and repair existing engineering controls. The analytical results were received and the citation was issued on 07/18/01.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR	56.5001a/.5005
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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 (See Reverse): 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

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 072001
 B. Time (24 Hr. Clock) 0900

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) 001
 20. Event Number 3850189
 21. Primary or Mill

22. Signature TED JOHNSON
 23. AR Number 04789

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue)	Mo 07	Da 02	Yr 01	3. Citation/Order Number	4	4	1	0	1	8	9	-	0	1
4. Served To J.B. SMITH, PRESIDENT					5. Operator S&S MINING COMPANY											
6. Mine S&S MINE					7. Mine ID 7 1 - 0 3 7 9 8 - (contractor)											

Section II -- Justification for Action

A Respiratory Protection Program meeting the requirements of ANSI Z88.2-1969 is in place. The primary crusher operator is wearing a properly fitted and approved respirator (MSA COMFO II, Approval Number TC-21C-134). The termination due date is extended until August 15, 2001, for the implementation of additional engineering controls. The crusher operator shall continue to wear the approved respirator while operating the crusher until engineering controls have been implemented and further sampling by MSHA confirms the exposure to be less than the Threshold Limit Value (TLV) times the error factor.

See Continuation Form

Section III -- Subsequent Action Taken

8. Extended To	A. Date	Mo	Da	Yr	B. Time (24 Hr. Clock)	C. Vacated	<input type="checkbox"/>	D. Terminated	<input type="checkbox"/>	E. Modified	<input type="checkbox"/>
	081501				1200						

Section IV -- Inspection Data

9. Type of Inspection	002	10. Event Number	3	8	5	0	1	9	6								
11. Signature	TED JOHNSON	AR Number	0	4	7	8	9	12. Date	Mo	Da	Yr	13. Time (24 Hr. Clock)	1	5	3	0	
									0	7	2	1	0	1			

MSHA Form 7000-3a, Mar 85 (Revised)

104(a) CITATION - EXTENSION AFTER RESPIRATORY
PROTECTION PROVIDED FOR SILICA-BEARING DUST

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue)	Mo 07	Da 01	Yr 01	3. Citation/Order Number	4410189-02
4. Served To J.B. SMITH, PRESIDENT			5. Operator S&S MINING COMPANY				
6. Mine S&S MINE			7. Mine ID 71-03798- (contractor)				

Section II -- Justification for Action

The mine operator replaced the control booth's broken window and installed a heating and cooling unit in the booth of the primary crusher. Water sprays were also installed on the crusher which reduced source dust levels. The primary crusher operator was exposed to a shift-weighted average of 0.82 mg/m3 of respirable silica-bearing dust during a resample conducted on August 22, 2001. This shift-weighted average is less than the Threshold Limit Value (TLV) of 1.11 mg/m3. The analytical results were received and the termination issued on September 1, 2001.

See Continuation Form

Section III -- Subsequent Action Taken

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

9. Type of Inspection	002	10. Event Number	3850200			
11. Signature	AR Number	12. Date	Mo	Da	Yr	13. Time (24 Hr. Clock)
TED JOHNSON	04789		09	01	01	1130

MSHA Form 7000-3a, Mar 85 (Revised)

104(a) CITATION - TERMINATION AFTER RESAMPLING
FOR SILICA-BEARING DUST

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue)	Mo 07	Da 23	Yr 01	3. Citation/Order Number	4	4	1	0	1	9	0	-	0	1
4. Served To J.B. SMITH, PRESIDENT						5. Operator S&S MINING COMPANY										
6. Mine S&S MINE						7. Mine ID 7 1 - 0 3 7 9 8 - (contractor)										

Section II -- Justification for Action

The primary crusher operator has been restructured and retrained in the use of his fit-tested respirator. He will use the respirator whenever the crusher is in operation. The foreman and the plant manager will check periodically through the shift to ensure that he continues to use it. All provisions of ANSI Z88.2-1969 will be followed. Management will install the needed engineering controls at the primary crusher within two months and will notify MSHA when the controls are in place. The crusher operator will continue to wear the respirator until a resample analysis indicates that the quartz dust at the crusher is within the Threshold Limit Value (TLV). The Section 104(b) order is modified to include the above provisions and to allow crushing operations to resume. The order will be terminated when the silica dust overexposure has been fully abated.

Note: In this example, the 104(b) Order of Withdrawal is not terminated but modified to allow crushing operations to resume until the quartz dust overexposure is brought to within permissible limits.

See Continuation Form

Section III -- Subsequent Action Taken

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

9. Type of Inspection	0	0	2	10. Event Number	0	1	2	3	4	5	6				
11. Signature TED SMITH	AR Number				12. Date	Mo	Da	Yr	13. Time (24 Hr. Clock)						
	0	2	9	3	3	0	7	2	4	0	1	0	8	0	0

MSHA Form 7000-3a, Mar 85 (Revised)

104(b) ORDER MODIFICATION - ALLOWING
MINING OPERATIONS TO RESUME

Mine Citation/Order

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

Section I -- Violation Data											
1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)		3. Citation/Order Number					
	0	7	2	4	0	1	0	8	0	0	
4. Served To J.B. SMITH, PRESIDENT					5. Operator S&S MINING COMPANY						
6. Mine S&S MINE					7. Mine ID 7 1 - 0 3 7 9 8 - (contractor)						
8. Condition or Practice										8a. Written Notice (103g)	<input type="checkbox"/>

Section 104(b) Order No. 4410190, issued 07/23/01, required that the primary crusher be shut down and not started until the crusher operator was using a respirator for which he had been fit-tested and trained, as required by ANSI Z88.2-1969. The primary crusher is in full operation, the crusher operator is not wearing a respirator, and engineering controls have not been installed to control the dust. The crusher operator is working in visible silica-bearing dust. The condition has not been designated as "significant and substantial" because the conduct violated a provision of the Mine Act rather than a mandatory safety or health standard.

Note: Section I, Item 9B, is completed with 104(b).

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	1	0	4	-	b	C. Part/Section of Title 30 CFR												
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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 (See Reverse): Yes No D. Number of Persons Affected 0 0 1

11. Negligence (check one)

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

12. Type of Action 1 0 4 - a - , - -

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

14. Initial Action

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

E. Citation/Order Number 4 4 1 0 1 9 0 F. Dated Mo Da Yr 0 7 2 3 0 1

15. Area or Equipment

16. Termination Due

A. Date Mo Da Yr 0 7 2 4 0 1 B. Time (24 Hr. Clock) 0 9 0 0

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) 0 0 1 20. Event Number 0 1 2 3 4 5 6 21. Primary or Mill

22. Signature TED SMITH 23. AR Number 0 2 9 3 3

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - ALTERNATE SCENARIO -
 FAILURE TO COMPLY WITH 104(b) ORDER

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue)	Mo 07	Da 03	Yr 01	3. Citation/Order Number	4410192-01
4. Served To RICHARD JONES, SAFETY DIRECTOR			5. Operator INTERNATIONAL CEMENT CORPORATION				
6. Mine ICC MILL			7. Mine ID 75-00024- (contractor)				

Section II -- Justification for Action

The mine operator had repaired the holes and leaks in the dust control system duct work for the #2 bagging machine. The mine operator had also purchased and was using a vacuum system to clean up dust spills. The machine operator was found to be exposed to a shift-weighted average of 0.25 mg/m3 of respirable silica-bearing dust during a resample conducted on August 7, 2001. This shift-weighted average is less than the Threshold Limit Value (TLV) of 0.33 mg/m3. Analytical results were received and the termination issued on August 19, 2001.

See Continuation Form

Section III -- Subsequent Action Taken

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

9. Type of Inspection	002	10. Event Number	0088312
11. Signature TED SMITH	AR Number 02933	12. Date	Mo Da Yr 08 19 01
		13. Time (24 Hr. Clock)	1230

MSHA Form 7000-3a, Mar 85 (Revised)

104(a) CITATION - TERMINATION AFTER
RESAMPLING FOR SILICA-BEARING DUST

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue)	Mo 07	Da 03	Yr 01	3. Citation/Order Number	4	4	1	0	1	9	2	-	0	1
4. Served To RICHARD JONES, SAFETY DIRECTOR					5. Operator INTERNATIONAL CEMENT CORPORATION											
6. Mine ICC MILL					7. Mine ID 75 - 00024 - (contractor)											

Section II -- Justification for Action

The bagging machine was shut down and removed from service by disconnecting the electrical leads to the machine and wrapping it in plastic. The mill foreman stated that they would not be using the machine anymore as a new machine was being installed. The mine operator is notified that the basis for this termination is the removal of the bagging machine from service. Prior to the resumption of milling activities with this machine they are required to comply with the cited standard. Failure to comply will be considered by MSHA to be aggravated conduct constituting more than ordinary negligence.

See Continuation Form

Section III -- Subsequent Action Taken

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

9. Type of Inspection	0	0	2	10. Event Number	0	0	8	8	3	1	2		
11. Signature TED SMITH	AR Number		12. Date		Mo	Da	Yr	13. Time (24 Hr. Clock)		1	2	3	0
	0	2	9	3	3	0	8	1	9	0	1		

MSHA Form 7000-3a, Mar 85 (Revised)

104(a) CITATION - TERMINATION AFTER
REMOVAL OF EQUIPMENT FROM SERVICE

Mine Citation/Order

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

Section I -- Violation Data										
1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)		3. Citation/Order Number				
	0	7	0	16 00		4410194				
4. Served To SAMUEL ADAMS, LEVEL FOREMAN					5. Operator ABLE MINING, INC.					
6. Mine THE DOUBLE M MINE					7. Mine ID 57 - 06789 - (contractor)					
8. Condition or Practice										8a. Written Notice (103g)
<input type="checkbox"/>										

The 1402 stope driller was exposed to air containing 1.90 WL of radon daughters on July 6, 2001. This exceeded the maximum permissible exposure limit of 1.00 WL times the error factor (1.20) for radon daughter sampling. Several sections of ventilation tubing had large holes and the 1402 stope regulator door was damaged. The driller was not wearing a respirator.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR
			57.5039

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 type="checkbox"/> Fatal <input checked="" type="checkbox"/>										
C. Significant and Substantial (See Reverse): Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> D. Number of Persons Affected 001										
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"/>										
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 F. Dated Mo Da Yr										
15. Area or Equipment										
16. Termination Due										
A. Date Mo Da Yr B. Time (24 Hr. Clock) 070701 1600										

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)	20. Event Number	21. Primary or Mill
001	0345678	
22. Signature BILL WILLIAMS		23. AR Number 02555

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - "S&S" -
 OVEREXPOSURE TO RADON DAUGHTERS

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue)	Mo 0	Da 7	Yr 0		3. Citation/Order Number	4	4	1	0	1	9	4	-	0	1
4. Served To SAMUEL ADAMS, LEVEL FOREMAN						5. Operator ABLE MINING, INC.											
6. Mine THE DOUBLE M MINE						7. Mine ID 5 7 - 0 6 7 8 9 - (contractor)											

Section II -- Justification for Action

Repairs to the ventilation tube and the stope regulator door have brought the concentration of radon daughters under the exposure limit. The 1402 stope driller was exposed to air containing 0.22 WL of radon daughters when resampled on July 7, 2001. During resampling the driller was wearing a fit-tested and approved respirator. The amount is less than the maximum permissible exposure limit of 1.00 WL times the error factor (1.20) for radon daughter sampling.

See Continuation Form

Section III -- Subsequent Action Taken

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

9. Type of Inspection	0	0	1	10. Event Number	0	3	4	5	6	7	8				
11. Signature BILL WILLIAMS	AR Number				12. Date	Mo	Da	Yr	13. Time (24 Hr. Clock)						
	0	2	5	5	5	0	7	0	7	0	1	1	6	0	0

MSHA Form 7000-3a, Mar 85 (Revised)

104(a) CITATION - TERMINATION AFTER
RESAMPLING FOR RADON DAUGHTERS

Mine Citation/Order

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

Section I -- Violation Data										
1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)						3. Citation/Order Number
	0	7	03	01	1	6	0	0		4 4 1 0 1 9 6
4. Served To RICHARD JONES, SAFETY DIRECTOR					5. Operator INTERNATIONAL CEMENT CORPORATION					
6. Mine ICC MILL					7. Mine ID 7 5 - 0 0 0 2 4 - (contractor)					
8. Condition or Practice										8a. Written Notice (103g)
										<input type="checkbox"/>

The #2 bagging machine operator was exposed to a shift-weighted average of 1.56 mg/m³ of respirable silica-bearing dust when sampled for a full shift on 07/03/01. This amount exceeded the Threshold Limit Value (TLV) of 0.33 mg/m³ times the error factor (1.20) for respirable free silica sampling and analysis. The operator was not wearing an approved fit-tested respirator nor was a respiratory protection program meeting the requirements of ANSI Z88.2-1969 in place. Also, all feasible engineering controls were not used to reduce the bagger operator's exposure. A dust collection system was being used but numerous holes and leaks in the ductwork reduced the system's efficiency. Accumulations of dust, 5 to 6 inches deep in the area, were indicative of these leaks and the poor cleanup methods. Cleanup was done sporadically, when production permitted, with shovels and brooms causing more dust to become airborne. The workplace safety reports, for the week preceding this sample, indicated that the malfunctioning dust collection system had been noted and reported to the foreman. The foreman stated that he had production to worry about and that when customer orders slowed down he might get the collection system repaired. He also said that he had not purchased any respirators for the employees because they were too expensive. This company has received four previous violations for over-exposure to silica-bearing dust at the bagging plant within the past year. Management engaged in aggravated conduct constituting more than ordinary negligence by deeming production more important than the miner's health. This violation is an unwarrantable failure to comply with a mandatory standard. The analytical results were received and the citation issued on July 16, 2001.

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR
			5 6 . 5 0 0 1 a / . 5 0 0 5

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 (See Reverse): Yes No

D. Number of Persons Affected: 0 0 1

11. Negligence (check one)

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

12. Type of Action: 1 0 4 - d - 1 , - -

13. Type of Issuance (check one)

Citation Order Safeguard

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: 0 7 1 8 0 1

B. Time (24 Hr. Clock): 1 6 0 0

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): 0 0 1

20. Event Number: 0 0 8 8 3 0 1

21. Primary or Mill

22. Signature: JOHN REDWOOD

23. AR Number: 0 3 3 3 3

104(d)(1) CITATION - "S&S" - OVEREXPOSURE TO SILICA-BEARING DUST

Mine Citation/Order

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

Section I -- Violation Data											
1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)		3. Citation/Order Number					
	1	1	0	7	0	1	1	0	0	0	
4. Served To JANE DOE, SAFETY DIRECTOR					5. Operator ABC ROCK COMPANY						
6. Mine ABC MINE					7. Mine ID 7 0 - 7 7 7 7 7 - (contractor)						
8. Condition or Practice										8a. Written Notice (103g)	<input type="checkbox"/>

Clouds of dust were being produced by the No. 4 Ingersoll Rand air track drill when it was being used to drill blast holes in the south end of the quarry. The dust control system on the drill was not being used. The system functioned by water feeding through a hollow drill steel and out the drill bit. The water tank for the system was empty. No other dust control was being used. The drill operator was not wearing a respirator, and his clothing was covered with dust. He was drilling in non-water-soluble material. A respiratory protection program meeting all requirements of ANSI Z88.2 - 1969 was not in place.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR
			5 8 . 6 2 0

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 (See Reverse): Yes No D. Number of Persons Affected

11. Negligence (check one)

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

12. Type of Action - a - , - -

13. Type of Issuance (check one)

Citation Order Safeguard

14. Initial Action

A. Citation B. Order C. Safeguard D. Written Notice E. Citation/Order Number

F. Dated

15. Area or Equipment

16. Termination Due	A. Date	Mo	Da	Yr	B. Time (24 Hr. Clock)
	1	1	0	7	0
					1
					2
					0
					0

Section III -- Termination Action

17. Action to Terminate

The water tank on air trac was filled and the dust control system was activated. After the dust control system was activated, there was no visible dust when the drill was operated.

18. Terminated	A. Date	Mo	Da	Yr	B. Time (24 Hr Clock)
	1	1	0	7	0
					1
					1
					3
					0

Section IV -- Automated System Data

19. Type of Inspection (activity code)	20. Event Number	21. Primary or Mill
0 0 1	1 2 3 4 5 6 9	

22. Signature
TED OLSON

23. AR Number

Mine Citation/Order

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

Section I -- Violation Data										
1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)		3. Citation/Order Number				
	1	1	0	7	0	1	4	4	4	4
4. Served To SYDNEY JONES, PRESIDENT					5. Operator TMC MINING COMPANY					
6. Mine TRIANGLE MINE					7. Mine ID 8 0 - 0 0 0 1 2 - (contractor)					
8. Condition or Practice										8a. Written Notice (103g)
<input type="checkbox"/>										

The driver of a haul truck was exposed to a full-shift mixed noise level of 76% based on the 80 dBA to 130 dBA threshold. This is equivalent to an 8-hour exposure at 88 dBA. This exceeds the action level of 50% dose times the error factor of 1.32 (or 66%). This miner was not enrolled in a hearing conservation program, as required by 30 CFR 62.120.

The abatement date for this citation is to allow time for the mine operator to enroll this miner in a formal hearing conservation program that meets all the requirements of 30 CFR 62.120.

Equipment: Euclid Haul Truck, No. 31
 Location: Between the screen plant and stockpiles

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR
			6 2 . 1 2 0

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 (See Reverse): Yes No

D. Number of Persons Affected 0 0 1

11. Negligence (check one)

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

12. Type of Action 1 0 4 - a - , - -

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

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)

1 1 2 9 0 1 1 0 0 0

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) 0 0 1

20. Event Number 1 2 3 4 5 6 7

21. Primary or Mill

22. Signature
 TED JOHNSON

23. AR Number 0 5 5 5 5

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - 62.120 NOISE

Mine Citation/Order

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

Section I -- Violation Data																	
1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)						3. Citation/Order Number							
	1	2	0	3	0	1	1	7	0	0	4	4	4	4	4	4	5
4. Served To GEORGE JONES, SAFETY DIRECTOR				5. Operator XYZ MINING COMPANY													
6. Mine XYZ MINE				7. Mine ID 8 1 - 1 2 3 4 5 -						(contractor)							
8. Condition or Practice										8a. Written Notice (103g) <input type="checkbox"/>							

The operator of a front-end loader was exposed to a full-shift mixed noise level of 152% based on the 90 dBA to 140 dBA threshold. This is equivalent to an 8-hour exposure at 93 dBA. This exceeds the permissible exposure limit of 100% dose times the error factor of 1.32 (or 132%). A formal hearing conservation program meeting all the provisions of 30 CFR 62.120 has been implemented. The miner was wearing the approved hearing protection.

The muffler had a hole in it, and there were openings between the operator's compartment and the engine.

The abatement date for this citation is to allow time for the mine operator to install all feasible engineering and administrative controls.

Equipment: Caterpillar 880 front-end loader, No. B-31

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR						6 2 . 1 3 0 a					
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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 (See Reverse): Yes No D. Number of Persons Affected 0 0 1

11. Negligence (check one)

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

12. Type of Action 1 0 4 - a - , - -

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

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 1 2 1 6 0 1
 B. Time (24 Hr. Clock) 1 2 0 0

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) 0 0 1
 20. Event Number 7 6 5 4 3 2 1
 21. Primary or Mill

22. Signature JOE SOUTH
 23. AR Number 0 5 5 5 6

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue)	Mo 1 2	Da 0 3	Yr 0 1	3. Citation/Order Number	4	4	4	4	4	5	-	0	1
4. Served To GEORGE JONES, SAFETY DIRECTOR					5. Operator XYZ MINING COMPANY										
6. Mine XYZ MINE					7. Mine ID 8 1 - 1 2 3 4 5 - (contractor)										

Section II -- Justification for Action

The mine operator installed a new muffler, installed a noise insulating floor mat, and plugged all openings between the operator's compartment and the engine compartment with noise attenuating material.

On 12/16/01 the operator of the Caterpillar 880 front end loader, Number B-31, was resampled and was exposed to a full-shift mixed noise level of 76%, based on the 90 dBA to 140 dBA threshold. This amount is less than the permissible exposure limit of 100% times the error factor of 1.32 (or 132%), and is equivalent to an 8-hour exposure at 88 dBA.

See Continuation Form

Section III -- Subsequent Action Taken

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

9. Type of Inspection	0	0	2	10. Event Number	7	6	5	4	3	2	1			
11. Signature JOE SOUTH	AR Number			12. Date	Mo	Da	Yr	13. Time (24 Hr. Clock)						
	0	5	5	6	1	2	1	6	0	1	1	7	3	0

MSHA Form 7000-3a, Mar 85 (Revised)

104(a) CITATION - TERMINATED

Mine Citation/Order

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

Section I -- Violation Data											
1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)		3. Citation/Order Number					
	0	1	0	3	0	2	1	7	0	0	
4. Served To JOHN MILTON, PRESIDENT					5. Operator ONLY THE BEST ROCK						
6. Mine HARD ROCK MINE					7. Mine ID 9 0 - 8 8 8 8 8 8 - (contractor)						
8. Condition or Practice										8a. Written Notice (103g)	<input type="checkbox"/>

The operator of the jack leg drill was exposed to a full-shift mixed noise level of 1213% based on the 90 dBA to 140 dBA threshold. This is equivalent to an 8-hour exposure at 108 dBA. This exceeds the permissible exposure limit of 100% dose times the error factor of 1.32 (or 132%).

The jack-leg did not have a muffler installed.

The drill operator was wearing only a muff-type of hearing protector, not the dual hearing protection required. He was enrolled in a formal hearing conservation program; however, the operator failed to provide dual-hearing protection as required by 30 CFR 62.150

Equipment: Model 2 B-Barber jack leg drill, Number 10

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR																		
				6	2	.	1	3	0	a											

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 (See Reverse): Yes No

D. Number of Persons Affected

11. Negligence (check one)

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

12. Type of Action - a - , - -

13. Type of Issuance (check one)

Citation Order Safeguard

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

B. Time (24 Hr. Clock)

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)

20. Event Number

21. Primary or Mill

22. Signature
HORATIO ALGER

23. AR Number

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - 62.140 NOISE

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue)	Mo 0 1	Da 0 3	Yr 0 2	3. Citation/Order Number	4	4	4	4	7	6	-	0	1
4. Served To JOHN MILTON, PRESIDENT						5. Operator ONLY THE BEST ROCK									
6. Mine HARD ROCK MINE						7. Mine ID 9 0 - 8 8 8 8 8 - (contractor)									

Section II -- Justification for Action

The mine operator has provided the miner with both a muff and a plug-type hearing protector of the miner's choosing.
 The mine operator has trained the miner in the use of the dual hearing protection, and ensured that they are being used.
 The hearing conservation program now meets the requirements of 30 CFR 62.150.

The mine operator has ordered a manufacturer's muffler for the jack leg drill. The miner must continue to wear the dual hearing protection until the condition has been corrected, and the citation has been terminated.

This citation has been extended to allow the operator to install and test the muffler.

Equipment: Model 2 B-Barber Jack Leg Drill, Number 10

See Continuation Form

Section III -- Subsequent Action Taken

8. Extended To	A. Date	Mo 0 1	Da 1 7	Yr 0 2	B. Time (24 Hr. Clock)	1 2 0 0	C. Vacated <input type="checkbox"/>	D. Terminated <input type="checkbox"/>	E. Modified <input type="checkbox"/>
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Section IV -- Inspection Data

9. Type of Inspection	0 0 2	10. Event Number	1 2 3 4 5 6 8						
11. Signature	HORATIO ALGER	AR Number	6 0 0 0 0	12. Date	Mo 0 1	Da 1 1	Yr 0 2	13. Time (24 Hr. Clock)	1 3 0 0

MSHA Form 7000-3a, Mar 85 (Revised)

104(a) CITATION - EXTENSION 1 - 62.140 NOISE

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue)	Mo 0 1	Da 0 3	Yr 0 2	3. Citation/Order Number	4	4	4	4	7	6	-	0	2
4. Served To JOHN MILTON, PRESIDENT					5. Operator ONLY THE BEST ROCK										
6. Mine HARD ROCK MINE					7. Mine ID 9 0 - 8 8 8 8 8 - (contractor)										

Section II -- Justification for Action

The mine operator has installed a manufacturer's muffler on the No. 10 jack leg drill and other jack leg drills at this mine. The jack leg drill operator was resampled on 01/17/02 and was exposed to a full-shift mixed noise level of 700%. This is less than 800% dose times the error factor of 1.32 (or 1056%). The miner is no longer required to wear dual hearing protection.

The company stated they will require the miner to continue to use dual hearing protection.

This citation is extended to allow time to determine if there are other feasible engineering and/or administrative controls.

See Continuation Form

Section III -- Subsequent Action Taken

8. Extended To	A. Date	Mo 0 1	Da 3 1	Yr 0 2	B. Time (24 Hr. Clock)	1 2 0 0	C. Vacated <input type="checkbox"/>	D. Terminated <input type="checkbox"/>	E. Modified <input type="checkbox"/>
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Section IV -- Inspection Data

9. Type of Inspection	0 0 2	10. Event Number	1	2	3	4	5	6	8	
11. Signature	AR Number		12. Date		Mo	Da	Yr	13. Time (24 Hr. Clock)		
HORATIO ALGER	6 0 0 0 0				0 1	1 7	0 2	1 7 3 0		

MSHA Form 7000-3a, Mar 85 (Revised)

104(a) CITATION - EXTENSION 2 - 62.140 NOISE

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue)	Mo 0 1	Da 0 3	Yr 0 2	3. Citation/Order Number	4	4	4	4	7	6	-	0	3
4. Served To JOHN MILTON, PRESIDENT				5. Operator ONLY THE BEST ROCK											
6. Mine HARD ROCK MINE				7. Mine ID 9 0 - 8 8 8 8 8 - (contractor)											

Section II -- Justification for Action

The District Manager sent a request to Metal and Nonmetal Health Division requesting a "P" code for this jack leg drill occupation.

The District Manager request includes all information needed to evaluate whether a "P" code can be issued. The drill operator will continue to be enrolled in an HCP program meeting the requirements of Part 62.150.

This citation is extended to allow time for the evaluation.

See Continuation Form

Section III -- Subsequent Action Taken

8. Extended To	A. Date	Mo	Da	Yr	B. Time (24 Hr. Clock)	C. Vacated	<input type="checkbox"/>	D. Terminated	<input type="checkbox"/>	E. Modified	<input type="checkbox"/>
	0 4 0 2 0 2	0	4	0 2	1 2 0 0						

Section IV -- Inspection Data

9. Type of Inspection	0 0 2	10. Event Number	1	2	3	4	5	6	8	
11. Signature HORATIO ALGER	AR Number	12. Date	Mo	Da	Yr	13. Time (24 Hr. Clock)	1	0	0	0
	6 0 0 0 0	0 1 3 1 0 2	0	1	3 1 0 2	1	0	0	0	

MSHA Form 7000-3a, Mar 85 (Revised)

104(a) CITATION - EXTENSION "P" CODE

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue)	Mo 0 1	Da 0 3	Yr 0 2	3. Citation/Order Number	4	4	4	4	7	6	-	0	4
4. Served To JOHN MILTON, PRESIDENT						5. Operator ONLY THE BEST ROCK									
6. Mine HARD ROCK MINE						7. Mine ID 9 0 - 8 8 8 8 8 - (contractor)									

Section II -- Justification for Action

A "P" code for the occupation operating the No. 10, Model 2B Barber jack leg drill has been approved as number XXXX.

The operator of this drill must continue to meet requirements of 30 CFR 62. If MSHA finds any feasible engineering and/or administrative controls in the future, they must be implemented. All engineering and administrative controls in place must be used and maintained. For this occupation, the muffler must be kept in place and maintained. The drill operator must remain in an HCP program meeting the requirements of Part 62.150.

This citation is terminated.

See Continuation Form

Section III -- Subsequent Action Taken

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

9. Type of Inspection	0	0	2	10. Event Number	1	2	3	4	5	6	8		
11. Signature HORATIO ALGER	AR Number		12. Date		Mo	Da	Yr	13. Time (24 Hr. Clock)		1	3	0	0
	6	0	0	0	0	0	3	0	5	0	2		

MSHA Form 7000-3a, Mar 85 (Revised)

104(a) CITATION - TERMINATION "P" CODE

Mine Citation/Order

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

Section I -- Violation Data

1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number
	0	7	0	1	1 6 0 0
4. Served To	John Brown, Superintendent				5. Operator
6. Mine No. 2	XYZ Company				7. Mine ID
8. Condition or Practice	4 4 - 0 1 7 0 1 -				(contractor)
					8a. Written Notice (103g) <input type="checkbox"/>

The average concentration of respirable dust in the working environment of the designated work position was 13.0 mg/m³, which exceeds the 2.0 mg/m³ standard. This finding was based on the results of five valid dust samples collected by the operator [or inspector]. Management must take corrective action to lower the respirable dust, and then sample each production shift until five valid samples are taken. The samples must be submitted to the Pittsburgh Respirable Dust Processing Laboratory.

Designated work position: 001-0 368
 Advisory No. 0001 dated 7/6/01

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR
		-	7 1 . 1 0 0

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 (See Reverse): Yes No D. Number of Persons Affected 0 0 1

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

12. Type of Action 1 0 4 - a - , - - 13. Type of Issuance (check one)
 Citation Order Safeguard

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)
	0	7	2	7	0 1
					0 8 0 0

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)	20. Event Number	21. Primary or Mill
B A F	5 0 3 2 4 0 8	
22. Signature	23. AR Number	
Thomas Morris	0 2 4 2 0	

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION BASED ON MSHA OR OPERATOR SAMPLES

Mine Citation/Order

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

Section I -- Violation Data

1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number
	0	7	0	1	1 8 0 0
4. Served To	John Brown, Superintendent				5. Operator
6. Mine No. 3					XYZ Company
8. Condition or Practice					7. Mine ID
					4 4 - 0 1 7 0 2 - (contractor)
					8a. Written Notice (103g) <input type="checkbox"/>

The average concentration of respirable dust in the working environment of the designated occupation was 3.0 mg/m3, which exceeded the 1.2 mg/m3 applicable limit. This finding was based on the results of five valid dust samples collected by the operator [or inspector]. Management must take corrective action to lower the respirable dust, and then sample each production shift until five valid samples are taken. The samples must be submitted to the Pittsburgh Respirable Dust Processing Laboratory.

Designated occupation: continuous miner operator -036
 Location: MMU 001-0
 Advisory No. 0001 dated 7/6/01

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR
		-	7 0 . 1 0 1

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 (See Reverse): Yes No D. Number of Persons Affected 0 0 2

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

12. Type of Action 1 0 4 - a - , - - 13. Type of Issuance (check one)
 Citation Order Safeguard

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)
	0	7	2	7	0
					1
					0 8 0 0

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)	20. Event Number	21. Primary or Mill
B A B	5 0 3 2 4 0 9	
22. Signature	23. AR Number	
Thomas Morris	0 2 4 2 0	

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION BASED ON REDUCED DUST STANDARDS

Mine Citation/Order

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

Section I -- Violation Data

1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number
	1	0	05	0900	9000001
4. Served To John Brown, Superintendent				5. Operator TR Company	
6. Mine No. 40				7. Mine ID 45 - 51232 - (contractor)	
8. Condition or Practice					8a. Written Notice (103g) <input type="checkbox"/>

The mine operator did not collect the required bimonthly valid respirable dust samples in the designated area, as identified in Advisory No. 0001, dated October 5, 2001.

Bimonthly cycle missed: August - September
 Designated area: 212-0

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR
			70.208

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 (See Reverse): 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

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)
	100501				0910

Section III -- Termination Action

17. Action to Terminate
 No action required because bimonthly sampling requirements can only be satisfied during the established bimonthly period.

18. Terminated	A. Date	Mo	Da	Yr	B. Time (24 Hr Clock)
	100501				0910

Section IV -- Automated System Data

19. Type of Inspection (activity code)	20. Event Number	21. Primary or Mill
CFB	5123456	
22. Signature Thomas Morris		23. AR Number 02420

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION BASED ON FAILURE TO TAKE RESPIRABLE DUST SAMPLES

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue)	Mo 0	Da 7	Yr 0	1	3. Citation/Order Number	2	0	7	1	0	0	2	-	0	1
4. Served To John Brown, Superintendent					5. Operator XYZ Company												
6. Mine No. 3					7. Mine ID 4 4 - 0 1 7 0 2 - (contractor)												

Section II -- Justification for Action

MMU - 001 was idle for a period of 10 days during the period for abatement. Samples have been collected during each working shift, and MSHA has received two samples. Additional time is granted to allow more samples to be sent to MSHA so compliance or noncompliance can be determined.

See Continuation Form

Section III -- Subsequent Action Taken

8. Extended To	A. Date	Mo 0	Da 8	Yr 0	1	B. Time (24 Hr. Clock)	0	9	0	0	C. Vacated	<input type="checkbox"/>	D. Terminated	<input type="checkbox"/>	E. Modified	<input type="checkbox"/>
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Section IV -- Inspection Data

9. Type of Inspection	C	F	B	10. Event Number	5	0	3	2	4	1	9	11. Signature	AR Number	12. Date	Mo 0	Da 7	Yr 2	7	0	1	13. Time (24 Hr. Clock)	1	0	0	0	
			Thomas Morris												0 2 4 2 0				0 7 2 7 0 1							

MSHA Form 7000-3a, Mar 85 (Revised)

EXTENSION OF ABATEMENT TIME

Mine Citation/Order

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

Section I -- Violation Data

1. Date	Mo 07	Da 27	Yr 01	2. Time (24 Hr. Clock)	1800	3. Citation/Order Number	2071003
4. Served To John Brown, Superintendent				5. Operator XYZ Company			
6. Mine No. 3				7. Mine ID 44 - 01702 - (contractor)			
8. Condition or Practice							8a. Written Notice (103g) <input type="checkbox"/>

MSHA's analysis of the five most recent respirable dust samples collected from the working environment of the designated occupation shows an average concentration of 5.7 mg/m3. Due to the obvious lack of effort by the operator to control respirable dust, the reasonable time period for the abatement of the original violation will not be further extended. All miners working on this section must be withdrawn until the condition is corrected.

Designated occupation: continuous miner operator -036 in mechanized mining unit 001-0

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR	70101
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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 (See Reverse): Yes No 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 - b - , - -
 13. Type of Issuance (check one)
 Citation Order Safeguard

14. Initial Action
 A. Citation B. Order C. Safeguard D. Written Notice E. Citation/Order Number: 2071002 F. Dated: Mo 07 Da 07 Yr 01

15. Area or Equipment
 The mechanized mining unit 001-0

16. Termination Due	A. Date	Mo	Da	Yr	B. Time (24 Hr. Clock)
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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)	B	A	B	20. Event Number	5032410	21. Primary or Mill
22. Signature Thomas Morris						
23. AR Number 02420						

MSHA Form 7000-3 Mar 85 (Revised)

104(b) ORDER

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue)	Mo 0	Da 7	Yr 0	1	3. Citation/Order Number	2	0	7	1	0	0	3	-	0	1
4. Served To John Brown, Superintendent					5. Operator XYZ Company												
6. Mine No. 3					7. Mine ID 4 4 - 0 1 7 0 2 - (contractor)												

Section II -- Justification for Action

The operator has submitted and implemented a revised respirable dust control plan. Therefore, the order is modified to permit MSHA to collect respirable dust samples on MMU 001-0 to determine compliance.

See Continuation Form

Section III -- Subsequent Action Taken

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

9. Type of Inspection	C	F	B	10. Event Number	5	0	3	2	4	2	0				
11. Signature Thomas Morris	AR Number		12. Date			Mo	Da	Yr	13. Time (24 Hr. Clock)						
	0	2	4	2	0	0	7	2	8	0	1	0	8	0	0

MSHA Form 7000-3a, Mar 85 (Revised)

104(b) ORDER - MODIFICATION

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue)	Mo 0	Da 7	Yr 0	1	3. Citation/Order Number	2	0	7	1	0	0	3	-	0	2
4. Served To John Brown, Superintendent					5. Operator XYZ Company												
6. Mine No. 3					7. Mine ID 4 4 - 0 1 7 0 2 - (contractor)												

Section II -- Justification for Action

The average concentration of respirable dust in the working environment of the designated occupation was 1.0 mg/m³, which is within the applicable limit of 1.2 mg/m³. This finding was based on the results of five valid dust samples collected during an MSHA inspection.

Designated occupation: continuous miner operator -036
Location: MMU 001-0

See Continuation Form

Section III -- Subsequent Action Taken

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

9. Type of Inspection	C	E	D	10. Event Number	5	0	3	2	4	2	3				
11. Signature Thomas Morris	AR Number		12. Date			Mo	Da	Yr	13. Time (24 Hr. Clock)						
	0	2	4	2	0	0	8	1	0	0	1	1	4	0	0

MSHA Form 7000-3a, Mar 85 (Revised)

104(b) ORDER - TERMINATION

Mine Citation/Order
Continuation

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

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue)	Mo 0	Da 7	Yr 2	0	1	3. Citation/Order Number	2	0	7	1	0	0	3	-	0	2
4. Served To John Brown, Superintendent					5. Operator XYZ Company													
6. Mine No. 3					7. Mine ID 4 4 - 0 1 7 0 2 - (contractor)													

Section II -- Justification for Action

The average concentration of respirable dust in the working environment of the designated occupation was 4.9 mg/m³, which exceeded the applicable limit of 1.2 mg/m³. This finding was based on the results of five valid dust samples collected during an MSHA inspection.
The order is now in effect as originally issued.

Designated occupation: continuous miner operator -036
Location: MMU 001-0

See Continuation Form

Section III -- Subsequent Action Taken

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

9. Type of Inspection	C	E	D	10. Event Number	5	0	3	2	4	2	1	11. Signature	AR Number	12. Date	Mo	Da	Yr	13. Time (24 Hr. Clock)	0	8	0	0
Thomas Morris					0	2	4	2	0				0	2	4	2	0	0	8	0	0	

MSHA Form 7000-3a, Mar 85 (Revised)

MODIFICATION (REINSTATING) 104(b) ORDER AS ORIGINALLY ISSUED.

Mine Citation/Order

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

Section I -- Violation Data

1. Date	Mo 07	Da 15	Yr 01	2. Time (24 Hr. Clock)	0920	3. Citation/Order Number	9071004
4. Served To Ralph Bunny, Safety Director				5. Operator Bambu Company			
6. Mine No. 300				7. Mine ID 45-00020- (contractor)			
8. Condition or Practice							8a. Written Notice (103g) <input type="checkbox"/>

The Part 90 miner identified in Advisory No. 0012, dated 07/15/01, was exposed to an average respirable dust concentration of 1.4 mg/m³.
 This finding was based on the results of five valid dust samples collected by the operator [or inspector]. 30 CFR 90.201(d) requires management to take corrective action, and to collect five valid respirable dust samples in the Part 90 miner's work position. These samples must be submitted to the Pittsburgh Respirable Dust Processing Laboratory by the date of termination.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	-	C. Part/Section of Title 30 CFR	90.100
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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 (See Reverse): 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

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 08	Da 05	Yr 01	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)	C F B	20. Event Number	5032424	21. Primary or Mill
22. Signature Thomas Morris				23. AR Number 02420

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - PART 90 RESPIRABLE DUST STANDARD

Mine Citation/Order

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

Section I -- Violation Data

1. Date	Mo	Da	Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number
	0	8	05	1400	9071005
4. Served To Ralph Bunny, Safety Director				5. Operator Bambu Company	
6. Mine No. 300				7. Mine ID 45 - 00020 - (contractor)	
8. Condition or Practice					8a. Written Notice (103g) <input type="checkbox"/>

The Part 90 miner identified in Advisory No. 0012, dated 07/15/01, was exposed to an average respirable dust concentration of 1.4 mg/m³. This finding was based on the results of five valid dust samples collected by the operator [or inspector]. 30 CFR 90.201(d) requires management to take corrective action, and to collect five valid respirable dust samples in the Part 90 miner's work position. These samples must be submitted to the Pittsburgh Respirable Dust Processing Laboratory by the date of termination.

The operator failed to take corrective actions, and also failed to submit additional samples.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	C. Part/Section of Title 30 CFR
		-	90.100

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 (See Reverse): Yes No 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 - b - , - -
 13. Type of Issuance (check one)
 Citation Order Safeguard

14. Initial Action
 A. Citation B. Order C. Safeguard D. Written Notice E. Citation/Order Number: 9071004 F. Dated: Mo 07 Da 15 Yr 01

15. Area or Equipment
[The Part 90 miner identified in the attached Advisory No. 11](#)

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

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)	20. Event Number	21. Primary or Mill
CED	5032425	
22. Signature Thomas Morris		23. AR Number 02420

MSHA Form 7000-3 Mar 85 (Revised)

104(b) ORDER - FAILURE TO COMPLY WITH PART 90 RESPIRABLE DUST STANDARD

Mine Citation/Order

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

Section I -- Violation Data

1. Date	Mo 0	Da 8	Yr 2	0	1	2. Time (24 Hr. Clock)	1	2	0	0	3. Citation/Order Number	9	0	7	1	0	0	6		
4. Served To Ralph Bunny, Safety Director						5. Operator Bambu Company														
6. Mine No. 300						7. Mine ID 4 5 - 0 0 0 2 0 - (contractor)														
8. Condition or Practice																		8a. Written Notice (103g)		<input type="checkbox"/>

The operator failed to submit for approval a written respirable dust control plan for the Part 90 miner identified in Advisory No. 0012, dated 07/15/01. Citation No. 9071004, based on this Advisory, was issued on 7/15/01.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	B. Section of Act	-	C. Part/Section of Title 30 CFR	9	0	.	3	0	0	-	a
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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 (See Reverse): Yes No D. Number of Persons Affected

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

12. Type of Action
 1 0 4 - a - , - -
 13. Type of Issuance (check one)
 Citation Order Safeguard

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 0	Da 9	Yr 0	4	0	1	B. Time (24 Hr. Clock)	0	8	0	0
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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)	C	E	D	20. Event Number	5	0	3	2	4	2	6	21. Primary or Mill					
22. Signature Thomas Morris												23. AR Number	0	2	4	2	0

MSHA Form 7000-3 Mar 85 (Revised)

104(a) CITATION - FAILURE TO SUBMIT RESPIRABLE DUST CONTROL PLAN

Appendix D

Miscellaneous Forms and Codes

TABLE OF CONTENTS - MISCELLANEOUS FORMS AND CODES

Special Assessment Review Form----- 199
Possible Knowing/Willful Violation Review Form ----- 200
Coal MIS Activity Codes/Names ----- 201
M/NM MIS Activity Codes/Names ----- 204

Special Assessment
Review Form

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

1. MSHA District Office	2. Field Office	
3. Mine ID/Contractor ID	4. Mine Name	
5. Operator Name	6. Citation/Order Number	6. Citation/Order Issue Date

8. Accident Related Violation? Yes No If yes, all violations must be submitted together with any accident report or memorandum

9. A.) Operator Notified of Special Assessment? Yes No B.) Health and Safety Conference Held on Special Assessment? Yes No

10. Inspector's Recommendation:

Special Assessment? Yes No If yes, explain below the serious or aggravating circumstances involved.

See Continuation Sheet

Signature

Date

11. Supervisor's Review:

Special Assessment? Yes No

Comments

See Continuation Sheet

Signature

Date

12. Subdistrict Manager's/Assistant District Manager's Review:

Special Assessment? Yes No

Comments

See Continuation Sheet

Signature

Date

13. District Manager's Review (Mandatory for Metal/Nonmetal, Optional for Coal):

Special Assessment? Yes No

Comments

See Continuation Sheet

Signature

Date

POSSIBLE KNOWING/WILLFUL VIOLATION REVIEW FORM
(Confidential, Pre-decisional Information)

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

MINE ID _____ MSHA OFFICE _____

MINE NAME _____

COMPANY NAME _____

Citation/Order Number _____ Date _____

ACCIDENT INFORMATION

Was this violation associated with an accident which caused an injury? Yes No If yes: Fatal? Non-fatal?

REVIEW CRITERIA (Attach supplemental information if needed)

1. Did the condition or practice cited create the presence of a high degree of risk to the health and safety of miners? Yes No

a) Who was exposed to the hazard? (Name and Occupation) _____

b) How were they exposed to the hazard? _____

c) When and over what period of time did the exposure occur? _____

d) Is this first hand information? _____
If not, who provided the information? (Name and Occupation) _____

2. Did the operator or agent have actual knowledge, or reason to know, of the facts or conditions constituting the violation?

a) Who had this knowledge? (Name and Title) _____

b) How was this knowledge evidenced? _____

c) Is this first hand information? Yes No _____
If not, who provided the information? (Name and Occupation) _____

3. Any other pertinent information: _____

INSPECTORS CONCLUSION:

Based on this review, does this appear to be a possible knowing and/or willful violator of the Act or mandatory health or safety standard?

Inspector AR Number: _____ Signature: _____ Date: _____

Supervisor: Do you agree with the inspector's conclusion? Yes No
Signature: _____ Date: _____

POSSIBLE RECOMMENDED ACTIONS:

A. Conduct a special investigation. C. No further action.

Assistant District Manager: Recommendation _____ (A or C from the list above)

Signature: _____ Date: _____

Supervisory Special Investigator: Recommendation: _____ (A or C from the list above)

Signature: _____ Date: _____

District Manager: Action Decision: _____ (A or C from the list above)

Signature: _____ Date: _____

ADDITIONAL COMMENTS OR REMARKS

CASE ASSIGNMENT INFORMATION:

Investigation Case No. _____ Date Assigned _____

Investigator Assigned _____ ID No. _____

COAL MIS ACTIVITY CODES/NAMES

<u>Code</u>	<u>Activity</u>	<u>Code</u>	<u>Activity</u>
Category A – Mandatory Inspections and Investigations:		Category B – Policy Inspections and Investigations:	
AAA	Safety and Health Inspection	BAA	Safety and Health Policy Ventilation Saturation Inspection
AAB	Safety and Health (Saturation) Inspection	BAB	Safety and Health Policy Respirable Dust Technical Inspection
ABA	Safety and Health 103(i) Spot (Ignition or Explosion) Inspection	BAC	Safety and Health Policy Shaft, Slope or Major Construction Spot Inspection
ABB	Safety and Health 103(i) Spot (Hazard) Inspection	BAD	Safety and Health Policy Code-A-Phone Spot Inspection
ABC	Safety and Health 103(i) Spot (5-Day) Inspection	BAE	Regular Safety and Health Policy Inspections of Shafts, Slopes and Major Construction Sites
ABD	Safety and Health 103(i) Spot (10-Day) Inspection	BAF	Safety and Health Policy Respirable Dust Technical Inspection
ABE	Safety and Health 103(i) Spot (15-Day) Inspection	BBA	Safety and Health Policy Electrical Investigation
ACA	Safety and Health (Reopening) Inspection	BBB	Safety and Health Policy Noise Technical Investigation
ADA	Safety and Health 103(g) Spot Inspection	BBC	Safety and Health Policy Special Investigatory Investigations
ADB	Safety and Health 103(g)(1) Spot Inspection	BBD	Safety and Health Policy Mine Profile Investigation
AEA	Safety and Health Toxic Substance or Harmful Physical Agent Technical Investigation	BBE	Safety and Health Policy Alcohol, Tobacco and Firearms (ATF) Investigation
AEB	Safety and Health 101© Petition Technical Investigation	BBF	Part 50 Audit
AEC	Safety and Health 101(d) Petition Technical Investigation		
AFA	Safety and Health Fatal Accident Investigation		
AFB	Safety and Health Nonfatal Injury Accident Investigation		
AFC	Safety and Health Noninjury Accident Investigation		
AFD	Mine Emergency Operations		
AGA	Safety and Health Special Investigatory Investigations		
AGB	Safety and Health Willful Violation Special Investigations		
AGC	Safety and Health Special Investigatory Discrimination Investigation		

COAL MIS ACTIVITY CODES/NAMES (continued)

Category C - Auxiliary Inspections and Investigations:

CAA Safety and Health Spot Inspection
 CAB Safety and Health (Saturation) Spot Inspection
 CBA Safety and Health Electrical Inspection
 CBB Safety and Health (Saturation) Electrical Inspection
 CBC Safety and Health Electrical Spot Inspection
 CBD Respirable Dust Monitoring System
 CBE Respirable Dust Spot Inspection
 CCA Safety and Health Roof Control Technical Inspection
 CCB Safety and Health Haulage Technical Inspection
 CCC Safety and Health Ventilation Technical Inspection
 CCD Safety and Health Noise Technical Inspection
 CCE Safety and Health Water Sediment or Slurry Impoundment
 CCF Safety and Health Waste Pile Technical Inspection
 CDA Safety and Health Roof Control Spot Inspection
 CDB Accident Prevention Spot Inspection
 CEA Safety and Health Roof Control Technical Investigation
 CEB Safety and Health Haulage Technical Investigation
 CEC Safety and Health Ventilation Technical Investigation
 CED Safety and Health Respirable Dust Technical Investigation
 CEE Safety and Health Free Silica Technical Investigations
 CEF Other Safety and Health Technical Investigation
 CFA Safety and Health Mine Idle Activity
 CFB Safety and Health ADP Contact Activity
 CFC Other Contacts

Category D - Enforcement Activities Not on Mine Property:

DAA Investigative Case Review
 DEB Plan Approvals and Reviews
 DEC Roof Control Plan Approvals and Reviews
 DED Ventilation Plan Approvals and Reviews
 DFA Investigation of Complaint
 DGA Computer Generated Dust Violation (Office)
 DGB Computer Generated Noise Violations
 DGC Other Office Generated Violation Activity
 DHA Technical Assistance to Industry/ Union Personnel or Other Interested Parties

Category E - Education and Training:

EAB Training Plan Approval and Revisions (Office)
 EAC Training Plan Approval and Revisions (Field)
 EAP Compliance Analysis Program (Field)
 EBB Instructor Training Conducted
 EBC Instructor Approval
 ECA Informational Meetings, Seminars and Training Classes
 EDA Instructing Mine Rescue and First Aid
 EGA Evaluating Cooperative Instructors
 EHA Qualification and Certification
 EJA NFDL, Accident Reduction and Prevention Programs (Field)
 EKA Health and Safety Contacts (Field)
 ELA On-Site Training Program Evaluation (Field)
 EMA Holmes Safety Association (Assistance to Chapter/Councils)
 ENA State Grants Assistance and State Plans
 EYA Other Education and Training Field Activities
 EZA Other Education and Training Office Activities

COAL MIS ACTIVITY CODES/NAMES (continued)

Category F - Miscellaneous:

FAA Supervisory Duties (Office)
FBA Supervisory Duties (Field)
FED National Committee Meetings and
Assignments
FEE Internal Audits
FEF Review of Directives, Regulations,
Decisions, or Accident Reports
FGA Laboratory Duties
FHA Official Union Duties
FJA Legal Hearings/Documents
FKA Staff Meetings
FKB Instructing MSHA Personnel in
Training Classes
FKC Receiving Mine Rescue and First Aid
Training
FKD Training Received
FKE Inspector Trainees
FKF First Aid/Mine Rescue Contests/Mine
Emergency Response Development
(MERD)
FLA Vehicle Maintenance
FOA FOIA Requests/Congressional
Inquiries
FRA Medical Accommodation – On-the-
Job Injury
FRB Medical Accommodation – Personal
Injury
FVA Violation Conference
FWA Special Assignment
FZA Other Activities

Category G - Absence From Duty:

GAA Annual Leave
GBA Administrative Leave
GCA Compensatory Leave
GDA Holiday
GEA LWOP
GFA AWOL
GGA Military Leave
GHA Sick Leave
GIA OWCP
GJA Court Leave/Jury Duty
GKA Furlough (non-pay status)

Category T - Technical Compliance and Investigation Activities:

TEA Citation/Order Review

M/NM MIS ACTIVITY CODES/NAMES

<u>Code</u>	<u>Acronym</u>	<u>Activity</u>	<u>Code</u>	<u>Acronym</u>	<u>Activity</u>
01	REG	Regular Inspection	45	MHAUL	Haulage Training at Mine Site
02	CFI	Compliance Follow-up Inspection	46	SE4	Special Enforcement 4
07	DOE	Attempted Inspection (Denial of Entry)	47	FRP	Fatality Reduction Program
09	HAZ-V	Verbal Hazard Complaint	48	SE5	Special Enforcement 5
10	ATT	Attempted Inspection	51	ADMIN	Administrative Tasks
11	WVI	Willful Violation Investigation	52	SUPVY	Supervisory
12	GAS	Gas Inspection	53	CONF	Meetings or Conferences
13	HAZ-W	Hazard Complaint Inspection	55	UNION	Union Activities by Union Representatives
14	DIS	Discrimination Complaint Investigation	59	PUBL	Public Assistance
15	SEP	Special Emphasis Programs	60	SS1	Special Support 1
16	AUDIT	Part 50 Audit	61	ACR	Alternate Case Resolution
17	OCAA	Other Compliance Assistance Activities	62	SS2	Special Support 2
18	PAR	Program in Accident Reduction	63	COMM	Research Review & Committee Work
19	MOD	Petition for Modification Investigation	64	SS3	Special Support 3
20	ACR	Alternate Case Resolution	65	SPEC	Special & Miscellaneous Assignments
21	RESCU	Mine Rescue/Recovery	66	SS4	Special Support 4
30	ACCID	Accident Investigation	67	TRN-G	Training Given
33	SEA	Special Enforcement Activity	68	SS5	Special Support 5
35	LIT	Litigation	69	TRN-R	Training Received
37	MISC	Miscellaneous Inspection/ Investigation	71	LEAVE	Leave
40	SE1	Special Enforcement 1	81	EVAL	Safety Program Evaluation & Assistance
41	CAV	Compliance Assistance Visit	82	MTRNG	At Mine Training Activities
42	SE2	Special Enforcement 2	83	OTRNG	Off Site Training Activities
43	HAUL	Haulage Inspection	84	OHAUL	Haulage Training Off Site
44	SE3	Special Enforcement 3	85	REVU	Review & Approval of Training Plans & Revisions
			86	CNTST	Coordination of Mine Rescue Contests