U. S. Department of Labor

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

Denial

SEP 27 2007

Mr. Chris Blanchard
President
Performance Coal Company
P. O. Box 69
Naoma, WV 25140

Dear Mr. Blanchard:

Subject: Mine Ventilation Plan, Section 75.370, 30 CFR 75, Upper Big Branch Mine - South, I.D. No. 46-08436, Performance Coal Company, Montcoal, Raleigh County, West Virginia

On May 22, 2007, MSHA promulgated an emergency temporary standard (ETS) which amended 30 C.F.R. Section 75.335 through 75.338. A copy of the ETS is posted at: http://www.msha.gov/REGS/FEDREG/FINAL/2007finl/07-2535.pdf. Pursuant to §75.335(b) mines such as yours, which have seals built before May 22, 2007, or which have seals built to withstand 50 psi after that date must submit a protocol to measure methane and oxygen concentrates and to maintain an inert atmosphere in the sealed areas. The specifics of the plan must address seven subject areas set forth in §75.335(b)(5). The protocol is subject to approval and is to become part of your mine's ventilation plan.

On June 21, 2007, you submitted your protocol to us for our consideration. We have carefully reviewed your protocol and have determined that it is deficient in the following ways:

Please reference the attached copy of the submitted plan which contains comments that need addressed.

Please submit a revised plan to this office, addressing the deficiencies noted, within seven (7) days after receipt of this letter.

Failure to respond to this letter within the allotted time may be considered a failure to comply with the terms of the standard and may result in the issuance of a citation alleging a violation of the above-cited section.

If you have any questions concerning this matter, please contact William L. Ross in the Ventilation Department at (304) 877-3900/Ext. 142.

Sincerely,

/s/ ROBERT G. HARDMAN

Robert G. Hardman
District Manager
Coal Mine Safety and Health, District 4

cc: Mt. Hope Field Office
Inspector
Field Office Supervisor
Files/dac

SUPERVISORY ACKNOWLEDGEMENT

Initials Date

BL 9-25-07

RDH 9-27-2007

U. S. Department of Labor

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Robert G. Hardman
District Manager
Coal Mine Safety and Health, District 4

Performance Coal Company
P.O. Box 69 Naoma, WV 25140

June 21, 2007

Mr. Robert G. Hardman
District Manager
Mine Safety and Health Administration
100 Bluestone Road
Mt. Hope, West Virginia 25880-0112

RE: Performance Coal Company - Upper Big Branch Mine-South
Federal I.D. 46-08436, State I. D. U-3042-92 – Ventilation Plan

Dear Mr. Hardman:

In compliance with the ETS dated May 22, 2007 new 30 CFR 75.335(3)(b), please find for your review and approval, the attached Sampling Protocol for the subject mine.

Your timely review and approval of this revision would be greatly appreciated. If you have any questions, or require further information, please call me at (304) 854-1761.

Respectfully Submitted,

George T. Levo

Performance Coal Co.
George T. Levo
Mining Engineer

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Performance Coal Company
P.O. Box 69 Naoma, WV 25140

June 21, 2007

Mr. Robert G. Hardman
District Manager
Mine Safety and Health Administration
100 Bluestone Road
Mt. Hope, West Virginia 25880-0112

RE: Performance Coal Company - Upper Big Branch Mine-South
Federal I.D. 46-08436, State I. D. U-3042-92 – Ventilation Plan

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Respectfully Submitted,

George T Levo

Performance Coal Co.
George T. Levo
Mining Engineer

Copy w/ Comments

MSHA copy

Sampling Protocol for Sealed Atmosphere Evaluation

Date of Plan:	June 21, 2007
Company Name:	Performance Coal Company, Inc
Mine Name:	Upper Big Branch Mine
MSHA ID:	46 – 08436
Seam Name:	Eagle Seam

A. Procedure for Sampling Sealed Atmospheres:

See attached template

A certified person, as defined in 75.100, shall sample atmospheres of sealed areas when the seal is outgassing. This certified person shall be trained in the sampling procedures included in this protocol, before they conduct sampling and annually thereafter. Sealed atmospheres will be sampled for methane and oxygen concentrations (% Volume CH_4 and % Volume O_2) with an approved detector capable of reading high and low levels of oxygen and methane. Equipment used may include, but is not be limited to the following: rubber and plastic tubing, Draeger PacEx2, Draeger pumps, MSA pumps, MSA Solaris Detector, Vac-u-Chamber, Industrial Scientific detectors and other equipment that may be necessary. The following procedure will be used to sample the sealed atmospheres:

- Provide model of detector

- detail physical connections from sample tube to detector and/or pumps
- purge time - dependent on size of tubes, hoses, detector type, etc.
- Calibration & maint. of equipment

a. When arriving at the seal with the sample tube, the certified person will examine the sample tube to determine if it is in proper condition to take a sample.
b. The certified person will then determine if the seal is outgassing by opening the cap or valve on the sample tube and determining direction of airflow. ← (how determined?)
c. If the seal is outgassing as verified above, a sample can be taken (proceed to e. below). If the seal is ingassing, a note of the time and date will be made and no sample will be taken.
d. If the seal is ingassing for two (2) consecutive weekly examinations, the examination will then become daily, until the seal is outgassing. If the seal does not outgas in seven (7) days, the atmosphere will continue to be monitored on a weekly basis and an alternative plan will be developed and submitted to the District Manager for approval.
e. If the seal is outgassing, the hand-held sampling device will be turned on, an airtight connection from the sampling tube to the sampling device will be made, and the sampling pump will be turned on. The sampling pump and device will be allowed to operate until the readings stabilize. Upon stabilization, the methane and oxygen concentrations in percent (%) will be read and recorded, along with the seal identification location, time, and date. ← detail purge method & times
f. The sampling tube valve or cap will then be shut off and the connection from sampling tube to sampling device will be removed. The certified person will date, time, and initial the area.
g. The certified person shall record the results of the examinations including: seal identification location, oxygen concentration in percent, and methane concentration in percent and sign the examination record.

MAP → make MAP LEGIBLE SIZE (or provide detail of SEAL sets) such that SEALS, SAMPLE POINTS, ESCAPEWAYS, AIRFLOW, FAN LOCATION, BELTS, ETC, CAN BE SEEN

B. Location of Sampling Points:

The location of sealed areas and sampling points is shown on the attached map. The mine currently contains fifteen sets of seals. Each seal set contains a single sampling point. (SAMPLE POINTS NOT LEGIBLE ON MAP)

Add from template → Sample locations are to be clearly identified underground.

C. Procedure to Establish a 14-Day Baseline Analysis of Methane and Oxygen:

See template

- For NEW SEALS Address SAMPLING of Both (2) tubes in each SEAL

A 14-day baseline analysis of oxygen and methane concentrations will be established for each sealed area. For newly constructed seals, seal sampling will begin upon completion of the seal construction. The baseline analysis will be started after the atmosphere in the sealed area becomes inert or reaches equilibrium. The following procedure will be used to establish the baseline analysis:

a. The sampling procedures in Section A from above will be used for baseline analysis.
b. Sampling will be attempted once every twenty-four (24) hours until fourteen (14) outgassing samples are taken. This baseline sampling will be done Monday thru Friday.

on days the mine works (excludes Holidays, idle days, etc)

- ESTABLISH PROCEDURE (Baseline) for EXISTING SEALS

INCLUDE STATEMENT: If during baseline or weekly sampling a CH_4 conc. of 3-20% and >10% O_2 is encountered, at a set of seals, the sampling freq. will be increased to that specified in the "ACTION LEVEL" (Part G) of this plan

D. Frequency of Sampling:

After the 14-day baseline sampling is completed and baseline reviewed, standard weekly sampling will start no more than seven (7) days later. Standard sampling will use the procedures described in Section A (sampling procedures) from above and the frequency of standard sampling will be weekly (not to exceed every seven (7) days) and taken while seals are outgassing or until another protocol is approved by the District Manager.

E. Size and Conditions of the Sealed Area:

Two areas of the mine are sealed and are separated by an internal barrier. The sealed areas by name are the South longwall bleeder area and the North longwall bleeder area.

South sealed area:

The South area was sealed in 2003 with 5 sets of seals with the number of seals per set being as follows:

Set 1: 7
Set 2 5
Set 3 8
Set 4 3
Set 5 9

In set 1, seal #1 has a .5" copper sample pipe and seal #7 has a 4" water trap
In set 2, seal #1 has a .5" copper sample pipe and seal #5 has a 4" water trap
In set 3, seal #1 has a .5" copper sample pipe and seal #8 has a 4" water trap
In set 4, seal #1 has a .5" copper sample pipe and seal #3 has a 4" water trap
In set 5, seal #1 has a .5" copper sample pipe and seal #9 has a 4" water trap

- make map legible such that sampling point (seal #1) in each set can be identified

The South seals are a mixture of both Micon and Strata Packsetter seals. → need specifics, which seals are Micon & which are Packsetter

There are no open boreholes, unsealed air shafts or open portals in this area. The water in the sealed area is kept pumped down by a vertical turbine pump with the water level at the pump maintained by automatic controls such that the water level at the pump is roofed at all times.

The South area has been extensively mined by longwall and continuous miner room and pillar. The nearest gob area is at least 700' from the seals.

The South sealed area is the 6' to 8' in height.

There is no bottom mining in this area.

There are no restrictions in the area of the seals.

The sealed area is approximately 4,000 acres.

Also address:

- # of drift openings & type of seals @ openings
- gaswells within sealed areas
- under/over mining at intervals & effect on sealed areas and entry/pillar stability @ seals
- water into (or out of) sealed area @ seals? flooded area w/i sealed area? (pumped from surface? W.E. maintained?)

- status of turbine (or water monitoring/air holes) pump boreholes w/i each sealed area

North sealed area:

The North area was sealed late 2006/early 2007 and completed on or about April 1, 2007. The area contains 10 sets of seals with a total of 32 seals. The seals are numbered sequentially from south to north and then west.

Seal numbers by set:

Set 1: 5 seals
Set 2: 3 seals
Set 3: 3 seals
Set 4: 3 seals
Set 5: 3 seals
Set 6: 3 seals
Set 7: 3 seals
Set 8: 6 seals
Set 9: 1 seal
Set 10: 2 seals

Each set of seals has a sample pipe in the seal of highest elevation in each set. Each set has a water trap installed in the seal of lowest elevation in each set. Several additional water traps were also installed so that the seals will not impound water in the future. Water trap and sample pipe information are as follows:

Set 1: one (1) 6" trap in #5 seal, .5 inch sample pipe in #1 seal
Set 2: one (1) 6" trap in #8 seal, .5 inch sample pipe in #6 seal
Set 3: one (1) 6" trap in #9 seal, .5 inch sample pipe in #11 seal
Set 4: one (1) 6" trap in #14 seal, .5 inch sample pipe in #12 seal
Set 5: one (1) 6" trap in #17 seal, .5 inch sample pipe in #15 seal
Set 6: one (1) 6" trap in #20 seal, .5 inch sample pipe in #18 seal
Set 7: one (1) 6" trap in #21, 22 and 23 seals, .5 inch sample pipe in #21 seal
Set 8: one (1) 8" trap in #24, 25 and 26, 27, 28 and 29 seals, .5 inch sample pipe in #24 seal
Set 9: two (2) 8" traps in #30 seal, .5 inch sample pipe in #30 seal
Set 10: two (2) 8" traps in #31 and 32 seals, .5 inch sample pipe in #31 seal

- make map legible such that sampling points can be identified

The North seals are Mitchell- Barrett seals.

Address "Same As Previous Page"

There are no open boreholes, unsealed air shafts or open portals in this area. The water in the sealed area is kept pumped down by a vertical turbine pump with the water level at the pump maintained by automatic controls such that the water level at the pump is roofed at all times.
The Upper Big Branch Mine is ventilated using a blowing fan. There is extensive mining in the coal seams above this mine.

The North area has been extensively mined by longwall and continuous miner room and pillar. The nearest gob area is at least 250' from the seals.

The North sealed area is 7' to 9' in height.

There is no bottom mining in this area.

There are no restrictions in the area of the seals.

The sealed area is approximately 3,875 acres.

F. Use of Atmospheric Monitoring Systems:

At this time, an Atmospheric Monitoring Systems (AMS) shall not be used for the sampling protocol in this mine. A revision to the protocol will be approved by the District Manager before using an Atmospheric Monitoring System.

Rethink: Affected area needs to include the effect (if an event should occur) within the entire sealed area (not each set) & the effect on belts, MMU's, adjoining mines (Castle), the ventilation system, ESWs, etc.

G. Actions To Be Taken:

The affected area for each set of seals is shown on the attached map. Action will be taken when the oxygen concentration reaches 10.0% or greater and the methane concentrations are between 3.0% and 20.0%. MSHA will be notified anytime that action is required under any of the three action levels.

If the oxygen concentration is 10.0% or greater and:

The methane concentration is between ~~3.0% and 4.5%~~: 3% or greater but less than 4.5%

a. Two additional samples will be taken at one-hour intervals. If the concentration remains between 3.0% and 4.5%, the sampling frequency will be increased to daily until the atmosphere returns to an inert state. ~~If the samples show the methane concentration between 4.5% and 17.0%, the action plan for that range will be followed.~~ every shift

b. ~~If the atmosphere is not restored to an inert state within 14 calendar days,~~ a revision to the protocol action plan containing a timeline to restore the atmosphere to an inert state will be submitted to MSHA and/or a 120 psi seal design in compliance with the ETS will be submitted.

Separate "b" into 2 actions:
1) Submit a protocol rev. to MSHA for appr. that outlines the procedures, safety precautions, & timeline to restore the area to Inert State and/or
2) Submit an approved 120 psi seal design for Approval to construct in compliance w/ the ETS.

The methane concentration is ~~between 4.5% and 17.0%~~: SEALED AREA 4.5% or greater but less than 17.0%

a. Miners within the affected area for the seal set in question will be withdrawn from the area. ~~Corrective action will then be promptly implemented. This may include, but is not limited to,~~ nitrogen injection or jet engine intertization.

b. → ?

c. ~~If the atmosphere is not restored to outside the 4.5% to 17% range within 14 calendar days, the plan must be revised and a timeline established to return to an inert state or re-seal with 120 psi or greater seals.~~

The methane concentration is between 17.0% and 20.0%:

a. The sampling frequency will be increased.

d. The operator shall submit a revision to the protocol action plan containing a timeline to restore the atmosphere to an inert state and/or submit a 120 psi seal design in compliance with the ETS.

→ MAKE IDENTICAL AS 3-4.5% Only action

A revision to this plan will be submitted and approved before any changes to the approved protocol are made.

- Increase sampling freq. to every shift
- Withdraw miners from the affected area [4.5-17% @ one seal set will be looked @ AS the entire sealed area] except those reffered to IN 104(c) of the Act
- Repeat #1 & #2 steps in left margin of page (same as other levels, ie. Submit rev. to MSHA for approval to vent and/or build 120 psi seals)