



Section I--Violation Data

1. Date Mo Da Yr 11/17/2009	2. Time (24 Hr. Clock) 0800	3. Citation/ Order Number 9968781
4. Served To CHRIS BLANCHARD	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

The mine operator did not submit the required five (5) additional respirable dust sample/samples during the September/October 2009 bimonthly sampling cycle on the Mechanized Mining Unit 065-0, as shown in the attached Advisory No. 0207 dated November 9, 2009.

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

9. Violation	A. Health <input checked="" type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 70.207(a)
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Section II--Inspector's Evaluation

10. Gravity:				
A. Injury or Illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input checked="" type="checkbox"/> Reasonably Likely <input type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>				
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input checked="" type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input type="checkbox"/>				
C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>				D. Number of Persons Affected: 005
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>				
12. Type of Action 104(a)		13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>		
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>		E. Citation/ Order Number		F. Dated Mo Da Yr
15. Area or Equipment				

16. Termination Due	A. Date Mo Da Yr 12/08/2009	B. Time (24 Hr. Clock) 0800
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Section III--Termination Action

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

Section IV--Automated System Data

19. Type of Inspection (activity code) T02	20. Event Number 9832268	21. Primary or Mill
22. Signature	23. AR Number 24024	

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

Mine Citation/Order
Continuation

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



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 11/17/2009	3. Citation/ Order Number 9968781 - 01
4. Served To Chris Blanchard	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	

Section II--Justification for Action

This Mechanized Mining Unit (MMU) 065-0 has been placed in abandoned status, therefore this citation is hereby terminated.

See Continuation Form ☐

Section III--Subsequent Action Taken

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

9. Type of Inspection T02	10. Event Number 9832268		
11. Signat [REDACTED]	AR Number 24024	12. Date Mo Da Yr 12/10/2009	13. Time (24 Hr. Clock) 1152

**0401-007

---ADVISORY OF NONCOMPLIANCE, FAILURE TO SUBMIT---
(MECHANIZED MINING UNIT-DESIG OCC)
ADVISORY NO 0207

NOV 09, 2009

PERFORMANCE COAL COMPANY
UPPER BIG BRANCH MINE-SOUTH

MINE I.D.46-08436
MECHANIZED MINING UNIT I.D. 065-0
DESIGNATED OCCUPATION
036, CONTINUOUS MINER OPERATOR

mine: AA
mmu: Prod (4/28/09)

CURRENT BIMONTHLY SAMPLING CYCLE NOV-DEC 2009

IN ACCORDANCE WITH 30 CFR 70, FIVE (5) DESIG OCC SAMPLES ARE REQUIRED DURING
THE BIMONTHLY CYCLE SEP-OCT 2009, FOR THE MECHANIZED MINING UNIT IDENTIFIED
ABOVE. ACCORDING TO MSHA RECORDS, THE FOLLOWING SAMPLES WERE RECEIVED.

CASSETTE NO.	DATE	SAMPLING START TIME (24-HR CLOCK)	MRE EQUIV CONCENTRATION	PRODUCTION	-----FOOTNOTES-----	
51039572	10-27-2009	16	INVALID PRODUCTION	00207	SEP	OCT
51048147	10-28-2009	06	INVALID PRODUCTION	00000	I	I I
51048164	10-28-2009	16	OPERATOR VOID; PRODUCTION	00000	I	IVVVVSSSI
51048138	10-29-2009	06	INVALID PRODUCTION	00101		

X=SAMPLE ACCREDITED
V=VOID SAMPLE
S=SAMPLE REQUIRED

---0401---081---46-08436---B ---A
PERFORMANCE COAL COMPANY
UPPER BIG BRANCH MINE-SOUTH
ATTN:CHRIS BLANCHARD
POB 69
NAOMA WV 25140

9832268