

## Chapter 7 - HEALTH CITATIONS AND ORDERS

### A. Respirable Dust Violations

Due to changes in 30 CFR Part 70 and in the interest of conformity, all citations or orders issued for excessive respirable dust (underground or surface) shall be issued under Sections 104(a), 104(d), or 104(e). Therefore, Section 104(f) is no longer cited when issuing any citation or order.

When a respirable dust standard at a surface or underground mine is exceeded based on MSHA or operator samples, a 104(a) citation shall be issued to the operator prescribing a reasonable time in which the condition is to be abated (see Example 1).

When a respirable dust standard is reduced because of excess quartz in a surface or underground mine and when the reduced standard is exceeded based upon operator (or MSHA) samples collected in the working environment of the miners, a 104(a) citation shall be issued to the operator prescribing a reasonable time in which the condition is to be abated (see Example 2).

A citation for failure to take valid respirable dust samples (for a bimonthly period) for the first time should be issued and terminated before it is delivered or mailed to an operator (see Example 3). In situations where the requirement to take bimonthly samples is again violated during the next bimonthly period, a citation should be issued and not terminated until the required number of samples are received. The citation must set a reasonable period of time within which the bimonthly samples are to be collected.

NOTE: Because each Form 7000-3 has a unique preprinted number, it was necessary to reserve numbers 9,000,000 through 9,950,000 for Coal's health program and assign a portion of these numbers to each district. This procedure allows clerical personnel to type a master copy of each type of health citation issued and photocopy a supply of the forms for their use. Anytime a photocopy form is used, it will be necessary to place a unique number from the reserved numbering sequence in item 3 on the citation form.

Upon issuing a citation or order for excessive dust the following actions must be taken. For a nondesignated entity, a MMU/DA/DWP form (see Respirable Dust System User's Manual) is to be completed and entered into the computer's data base. Item 3 (Effective Date of Action on the MMU/DA/DWP form and item 6A.1 (Date) on the Citation/Order Data form should reflect the actual date the citation or order was issued. Both forms must be completed and entered into the system on the next workday following the issuance of the citation.

Upon issuing a citation, the inspector shall establish the code for the operator to use in transmitting samples with respect to the work environment cited and include this code in the narrative statement of the citation. Also, he shall inform the operator of the importance of using the code to identify samples transmitted from the operator's sampling program to satisfy the requirements of the violation.

Because the operator must first take corrective action before collecting samples, inspection personnel shall determine what corrective actions are needed when they decide on the reasonable time for abatement of respirable dust violations.

The inspector shall remind the operator of his obligation to sample during each production shift, after corrective action has been taken, until five valid samples are collected and transmitted. The specific environment or occupation to be sampled shall be written on the citation. When two or more occupations are involved in a violation, the inspector determines the dust generation sources and requires the operator to sample the environment of the occupation which is most affected by these sources. In most cases, this will be the working environment with the highest dust concentration.

Citations that result from a mine operator's samples shall not be sent by certified mail if an inspection is in progress at that mine. The inspector shall go to the area identified on the noncompliance message to assess the engineering aspects of the dust control problem that has been identified and to establish a reasonable time for abatement.

If the citation is not terminated as a result of the operator's samples, an inspector shall, upon the expiration date, determine whether the reasonable time should be extended (see Example 4). In making this determination, the inspector shall consider the following:

1. Was the initial time granted sufficient?;
2. Has the mine operator provided a plan, in writing, which prescribes additional dust control measures to be taken and a schedule of implementation to further reduce respirable dust concentrations to the acceptable limit?;
3. Was the revised plan, which resulted from MSHA's sampling, being implemented?;
4. Are respirable dust concentrations being reduced in the miners' working environment? and,
5. Has an approved respirator been made available to each miner in the affected area? NOTE: The use of respirators shall not be submitted for environmental control measures in the active workings.

#### **B. Respirable Dust - 104(b) Order**

If an inspector finds that an extension of the period of reasonable time on a citation for respirable dust is not justified, i.e., the operator does not take corrective action to reduce the concentration of dust before taking samples and the sampling results show continuing noncompliance, the inspector shall not extend the time for abatement of the violation and the inspector shall issue a 104(b) withdrawal order. Such an order shall not be issued by certified mail. The order shall describe the same area specified in the citation; in cases where an exact description of the

affected area would be impractical (i.e., laborer, occupation 016, etc.), the order shall show the affected area to include the entire mechanized mining unit or the entire mine (see Example 5).

The order shall be modified permitting workers to return to the affected area when the inspector has reason to believe, based on actions taken by the operator, that the violation has been abated. To justify the modification of an order, the inspector shall describe on the modification each of those actions which have been taken by the operator. An order modification may be warranted if the following conditions are met (see Example 6):

1. A revised plan containing specific corrective actions, which the inspector believes will reduce concentrations to the applicable limit, has been submitted by the operator;
2. The specific corrective measures are in place and ready to be implemented; and
3. The inspector has evaluated the corrective actions by measuring velocities and quantities of ventilation, water pressure, etc., and verified that these improvements are ready for implementation.

An MSHA representative will sample each workday during the modified order period.

If the mine operator does not maintain the controls prescribed in the revised dust control plan, the inspector shall issue citations or orders under Sections 104(a), 104(d) or 104(e) as appropriate, citing 30 CFR 75.316, and shall reinstate the order for excessive respirable dust.

If, after corrective action has been taken and compliance is achieved, based on results of from two to five samples, the inspector shall terminate the order (see Example 7). A Citation/Order Data form must be completed and entered into the computer system the day after the order is terminated (see Respirable Dust System User's Manual).

If compliance is not achieved, the withdrawal order shall be modified to its original state (see Example 8). When the inspector believes that new actions taken by the operator have abated the violation, this paragraph and the preceding four paragraphs (steps) would again be applicable.

### **C. Part 90 Violations**

Citations of 30 CFR 90 shall not identify the Part 90 miner by name, social security number, work position, etc.

The condition or practice that constitutes the violation will be described in the citation (see Example 9).

If a citation of Part 90 is based on findings resulting from an inspection, that information shall be provided to the Subdistrict/District office by the next workday so that a citation input Form 2000-146 can be completed for a remote terminal transmission to the computer in Denver, Colorado.

If an inspector finds that an extension of the reasonable time period on a 104(a) citation for exceeding the respirable dust standard for a Part 90 miner is not justified, the inspector shall issue a 104(b) withdrawal order. This order shall affect only the Part 90 miner (see Example 10).

The operator must submit a respirable dust control plan to the District Manager within 15 days after termination of a citation for a violation of the applicable dust standard. However, if the mine operator moved the Part 90 miner to another less dusty position to abate the violation, a respirable dust control plan is not required. If, after 15 days, this plan is not submitted by the operator, a citation shall be issued to the operator prescribing a reasonable time in which the condition must be abated (see Example 11).

#### **D. Noise Violations**

If the results of a supplemental noise survey show that (1) the multiple noise exposure of any miner is 1.32 or greater, (2) a single reading lasting at least 30 seconds is equal to or greater than 117 dBA, or (3) each of three or more 30-second (or longer) readings is 116 dBA; the permissible noise exposure prescribed in Table 1 of Section 70.510 has been exceeded, a citation under Section 70.501 shall be issued to the operator.

A reminder to the operator to submit a hearing conservation plan within 60 days should be given in the body of the citation.

The body of the citation should not identify the miner by name or social security number. Identification should be made by section identification number, occupation code and if necessary, other data such as "right side roof bolter operator." This does not apply to citations issued to mine operators for failure to collect periodic noise surveys in accordance with Sections 70.508 and 71.803 (see Examples 12 and 13).

Periodic surveys of the noise levels to which each miner is exposed are required at intervals of at least every 6 months. If the operator fails to conduct this survey, a citation shall be issued to the operator prescribing a reasonable time in which the condition is to be abated (see Example 14).





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	0	0	9
	0	5	8	0	0
	7			0	1
4. Served To	5. Operator				
John Brown	TR Company				
6. Mine No. 40	7. Mine ID				
	4	5	-	5	
				1	
				2	
				3	
				2	
				-	
8. Condition or Practice	8a. Written Notice (103g)				
	<input type="checkbox"/>				

The mine operator did not collect the required valid respirable dust sample(s) August-September bimonthly cycle for the designated area 212-0 as identified in Advisory No. 0001, dated October 5, 1987.

See Continuation Form (MSHA Form 7000-3a)

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

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)

0 1 0 8 8 7 0 9 0 0

Section IV -- Automated System Data

19. Type of Inspection (activity code) C F B

20. Event Number 5 1 2 3 4 5 6

21. Primary or Mill

22. Signature Thomas Morris

23. AR Number 0 2 4 2 0

MSHA Form 7000-3 Mar 85 (Revised)



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	8	7	0	8	0	0	2	0	7	1	0	0	3
4. Served To John Brown				5. Operator XY Company													
6. Mine No. 40				7. Mine ID 44 - 01702 - (contractor)													
8. Condition or Practice											8a. Written Notice (103g)				<input type="checkbox"/>		

Results of the five most recent samples received my MSHA and collected from the working environment of the designated occupation (Continuous miner operator - 036) in mechanized mining unit 001-0 shows an average concentration of 5.7 mg/m<sup>3</sup>. Due to the obvious lack of effort by the operator to control respirable dust, the period of reasonable time for the abatement of this violation is not further extended, and all miners working on this section shall be withdrawn until the violation is corrected.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	<input checked="" type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR
				70.101

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 - 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 Da Yr 070787

15. Area or Equipment  
The mechanized mining unit - 001-0.

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

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)

Section IV -- Automated System Data

19. Type of Inspection (activity code)	C	F	B	20. Event Number	5	0	3	2	4	1	0	21. Primary or Mill					
22. Signature Thomas Morris											23. AR Number		0	2	4	2	0

MSHA Form 7000-3 Mar 85 (Revised)

EXAMPLE 5 - 104(b) 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	7	15	0900	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"/>	

Section 90.201(d), 30 CFR, requires that corrective action shall be taken and that five valid respirable dust samples shall be collected in the Part 90 miner's work position and transmitted by the date to termination. The Part 90 miner identified in the Advisory No. 0012, dated 07/15/84, was exposed to an average respirable dust concentration of 1.4 mg/m<sup>3</sup>.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	<input checked="" type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR
				090100

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 0001

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

12. Type of Action 000-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 00000000 F. Dated 000000

15. Area or Equipment

16. Termination Due	A. Date	Mo	Da	Yr	B. Time (24 Hr. Clock)
	0805	8	7		0800

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 F B	5032424	
22. Signature Thomas Morris		23. AR Number 02420

MSHA Form 7000-3 Mar 85 (Revised)

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	0	1 4 0 0	2 0 7 1 0 0 5
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 respirable dust concentration for the Part 90 miner identified in Citation NO. 9071004, dated 07/15/87, is still in excess of the applicable standard and the time for abatement should not be further extended.

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 . 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

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: 9 0 7 1 0 0 4 F. Dated: Mo 0 7 Da 1 5 Yr 8 7

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
C E D	5 0 3 2 4 2 5	
22. Signature Thomas Morris		23. AR Number 0 2 4 2 0

MSHA Form 7000-3 Mar 85 (Revised)

EXAMPLE 10 - 104(b) Order - Failure to Comply with Part 90 Respirable Dust Violation





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	06	87	1500	2071008
4. Served To Rene Tower				5. Operator COM Company	
6. Mine No. 275				7. Mine ID 45.10101- (contractor)	
8. Condition or Practice					

8a. Written Notice (103g)

As indicated by the results of a supplemental noise survey conducted during an MSHA inspection on 07/06/87, the continuous miner operator in the South off Main West Section (I.D. No. 009-0) was exposed to 95 dBA for 40 minutes, 102 dBA for 25 minutes, 98 dBA for 90 minutes and 92 dBA for 25 minutes. The results obtained using the formula in Section 70.502 and Table I in Section 70.510 of 30 CFR is 1.47 and therefore exceeds the noise standard. A hearing conservation plan, as required by Section 70.510, shall be submitted to MSHA within 60 days from the date of this citation.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	X	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 001

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

F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due

A. Date Mo Da Yr 072387

B. Time (24 Hr. Clock) 0800

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) B B B

20. Event Number 5032428

21. Primary or Mill

22. Signature Thomas Morris

23. AR Number 02420

MSHA Form 7000-3 Mar 85 (Revised)

EXAMPLE 13 - Noise Citation (Sound Level Meter)

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 8 0 0	2 0 7 1 0 0 9
4. Served To Rene Tower				5. Operator Bambu Company	
6. Mine No. 275				7. Mine ID 4 4 - 1 0 1 0 1 - (contractor)	
8. Condition or Practice				8a. Written Notice (103g) <input type="checkbox"/>	

Periodic noise level surveys for the second quarter of 1987 have not been collected for the miner (s) identified below:

1. Ron Casey - 673-10-1020
2. Ben Casey - 671-11-1120
3. Frank Smith - 680-14-3030

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety Other	<input checked="" type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR
				7 0 . 0 5 0 8

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
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											
1 0 4 - b - , - -											
13. Type of Issuance (check one)											
Citation		<input checked="" type="checkbox"/>		Order		<input type="checkbox"/>		Safeguard			
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			
15. Area or Equipment											

16. Termination Due	A. Date	Mo	Da	Yr	B. Time (24 Hr. Clock)
	0	9	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)	B	B	B	20. Event Number	5	0	3	2	4	2	9	21. Primary or Mill				
22. Signature																
Thomas Morris										23. AR Number		0	2	4	2	0

MSHA Form 7000-3 Mar 85 (Revised)

EXAMPLE 14 - Failure to Conduct Noise Survey