



Section I--Violation Data

1. Date Mo Da Yr 11/17/2009	2. Time (24 Hr. Clock) 0800	3. Citation/ Order Number 9968780
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 064-0, as shown in the attached Advisory No. 0208 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)
--------------	--	----------------------	---

Section II--Inspector's Evaluation

10. Gravity:

A. Injury or illness (has) (is): No Likelihood Unlikely Reasonably Likely Highly Likely Occurred

B. Injury or illness could reasonably be expected to be: No Lost Workdays Lost Workdays Or Restricted Duty Permanently Disabling Fatal

C. Significant and Substantial: Yes No

D. Number of Persons Affected: 005

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

12. Type of Action 104(a) 13. Type of Issuance (check one) Citation Order Safeguard Written Notice

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

15. Area or Equipment

16. Termination Due A. Date Mo Da Yr 12/08/2009 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) T02 20. Event Number 9832268 21. Primary or Mill

22. Signature [Redacted] 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 <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 11/17/2009	3. Citation/ Order Number 9968780 - 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) 064-0 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
----------------	---------------------	------------------------	-------------------------------------	---	--------------------------------------

Section IV--Inspection Data

9. Type of Inspection T02	10. Event Number 9832268		
11. Signatu	AR Number 24024	12. Date Mo Da Yr 12/10/2009	13. Time (24 Hr. Clock) 1149

9968780
70.207a

**0401-006

---ADVISORY OF NONCOMPLIANCE, FAILURE TO SUBMIT---
(MECHANIZED MINING UNIT-DESIG OCC)
ADVISORY NO 0208

NOV 09, 2009

PERFORMANCE COAL COMPANY
UPPER BIG BRANCH MINE-SOUTH

MINE I.D.46-08436
MECHANIZED MINING UNIT I.D. 064-0
DESIGNATED OCCUPATION
036, CONTINUOUS MINER OPERATOR

*mine: AA
mmu: Prod (3/23/09)*

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-----	
51039542	10-27-2009	16	INVALID PRODUCTION	00148	SEP	OCT
51048080	10-28-2009	06	0.265	00236	I	I I
51048092	10-28-2009	16	1.803	00202	I	IVVVXXSI
51048157	10-29-2009	16	INVALID PRODUCTION	00135		
51048105	10-30-2009	16	1.562	00268		X=SAMPLE ACCREDITED
51048114	10-31-2009	06	INVALID PRODUCTION	00168		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

98 32268