The mine operator did not submit a valid respirable dust sample during the October/November 2009 bimonthly sampling cycle on the Designated Area 940-0, as shown in the attached Advisory No. 0211 dated December 7, 2009.
---ADVISORY OF NONCOMPLIANCE, FAILURE TO SUBMIT---
(DESIGNATED AREA SAMPLING POINT)
ADVISORY NO 0211

DEC 07, 2009
PERFORMANCE COAL COMPANY
UPPER BIG BRANCH MINE-SOUTH

MINE I.D. 46-08436
DESIGNATED AREA SAMPLING POINT I.D. 9400
ROOF BOLTER OPERATOR ON MMU 040-0

CURRENT BIMONTHLY SAMPLING CYCLE DEC-JAN 2010

ACCORDING TO MSHA RECORDS A VALID RESPIRABLE DUST SAMPLE, RELATIVE TO THE DESIGNATED AREA SAMPLING POINT IDENTIFIED ABOVE, WAS NOT RECEIVED AS REQUIRED BY 30 CFR 70 FOR THE BIMONTHLY SAMPLING CYCLE OF OCT-NOV 2009.

<table>
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<tr>
<th>CASSETTE NO.</th>
<th>DATE</th>
<th>SAMPLING START TIME (24-HR CLOCK)</th>
<th>MRE EQUIV CONCENTRATION</th>
<th>CMS:___</th>
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<td>51039574</td>
<td>11-06-2009</td>
<td>99</td>
<td>99 (INVALID OR MISSING TIME)</td>
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