



Section I--Violation Data\*

1. Date Mo Da Yr 01/12/2010	2. Time (24 Hr. Clock) 0800	3. Citation/ Order Number 9968823
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 a valid respirable dust sample during the November/December 2009 bimonthly sampling cycle on the MMU 062-0, as shown in the attached Advisory No. 0212 dated January 7, 2010.

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				E. Citation/ Order Number		F. Dated Mo Da Yr
A. Citation <input type="checkbox"/>		B. Order <input type="checkbox"/>		C. Safeguard <input type="checkbox"/>		D. Written Notice <input type="checkbox"/>

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 01/26/2010	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)
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Section IV--Automated System Data

19. Type of Inspection (activity code) T02	20. Event Number 9832268	21. Primary or Mill
22. Signal		23. AR Number 24025

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.

1/28/10  
TW  
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"/> <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 01/12/2010	3. Citation/ Order Number 9968823 - 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

Additional time will be granted to allow the operator to collect the respirable dust samples on the mechanized mining unit 062-0 MMU.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 02/11/2010	B. Time (24 Hr. Clock) 0800	<input type="checkbox"/> C. Vacated	<input 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	
AR Number 24025	12. Date Mo Da Yr 01/28/2010	13. Time (24 Hr. Clock) 1255

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"/> <input type="checkbox"/>	2. Dated (Original Issue) 01/12/2010 Mo Da Yr	3. Citation/ Order Number 9968823 - 02
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

The mechanized mining unit is currently in non-producing status; additional time will be granted to allow the operator to collect abatement samples.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 03/04/2010	B. Time (24 Hr. Clock) 0800	<input type="checkbox"/> C. Vacated	<input 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. [REDACTED]	AR Number 24025	12. Date Mo Da Yr 02/10/2010	13. Time (24 Hr. Clock) 1420

3/5/10

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"/> <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 01/12/2010	3. Citation/ Order Number 9968823 - 03
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) 062-0 has been in non-producing status until 1/26/2010. Additional time is granted to allow the Operator to collect the required samples.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 03/17/2010	B. Time (24 Hr. Clock) 0800	<input type="checkbox"/> C. Vacated	<input 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. Signatur [REDACTED]	AR Number 24024	12. Date Mo Da Yr 03/03/2010	13. Time (24 Hr. Clock) 1350

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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 01/12/2010	3. Citation/ Order Number 9968823 - 04
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

The mechanized mining unit 062-0 (MMU) has been in non-producing status beginning 01/26/2010 through 02/26/2010. The operator has began collecting abatement respirable dust samples, additional time will be granted to allow this to be completed and process.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 04/01/2010	B. Time (24 Hr. Clock) 0800	<input type="checkbox"/> C. Vacated	<input 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. [Redacted]	AR Number 24025	12. Date Mo Da Yr 03/18/2010	13. Time (24 Hr. Clock) 0740

R

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"/> <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 01/12/2010	3. Citation/ Order Number 9968823 - 05
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

The operator has collected the respirable dust samples for the mechanized mining unit 062-0 MMU to satisfied the requirements of the bi-monthly cycle. The Pittsburg lab is processing these cassettes and estimate release date is 03/30/2010. Additional time will be granted for this to be release.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 04/08/2010	B. Time (24 Hr. Clock) 0800	<input type="checkbox"/> C. Vacated	<input 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. S [REDACTED]	AR Number 24025	12. Date Mo Da Yr 04/01/2010	13. Time (24 Hr. Clock) 0912

R

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"/> <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 01/12/2010	3. Citation/ Order Number 9968823 - 06
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

The operator has collected five (5) valid respirable dust samples on the 062-0 MMU to satisfied this requirement. The average dust concentration is 0.587 mg/m3. This is within the applicable standard of 1.7 mg/m3; therefore this citation is 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. Sign	AR Number 24025	12. Date Mo Da Yr 04/08/2010	13. Time (24 Hr. Clock) 1251

P

\*\*0401-010

---REPORT OF COMPLIANCE---  
(MECHANIZED MINING UNIT-DESIG OCC)

APR 05, 2010

PERFORMANCE COAL COMPANY  
UPPER BIG BRANCH MINE-SOUTH

MINE I.D.46-08436  
MECHANIZED MINING UNIT I.D. 062-0  
DESIGNATED OCCUPATION  
036, CONTINUOUS MINER OPERATOR

CURRENT BIMONTHLY SAMPLING CYCLE MAR-APR 2010

IN ACCORDANCE WITH 30 CFR 70, THE FOLLOWING SAMPLING RESULTS ARE RELATIVE TO RESPIRABLE DUST SAMPLES RECEIVED FOR THE MECHANIZED MINING UNIT IDENTIFIED ABOVE. THE AVERAGE CONCENTRATION OF RESPIRABLE DUST IS EQUAL TO OR LESS THAN THE ALLOWABLE LIMIT PRESCRIBED IN 30 CFR 70 FOR THE BIMONTHLY SAMPLING CYCLE MAR-APR 2010.  
THE NEXT BIMONTHLY SAMPLING CYCLE IS MAY-JUN 2010.

CASSETTE NO.	DATE	SAMPLING START TIME (24-HR CLOCK)	MRE EQUIV CONCENTRATION	PRODUCTION	-----FOOTNOTES-----
51064985	03-22-2010	06	0.372	00744	*NORMAL PRODUCTION ESTABLISHED FOR NEXT BIMONTHLY CYCLE.
51064972	03-22-2010	16	0.667	01034	
51064964	03-23-2010	06	0.723	00827	
51064984	03-23-2010	16	0.211	01141	
51064980	03-24-2010	16	0.963	01099	

AVG. CONC. 0.587 NORM. PROD. 00969\*

APPLICABLE STANDARD 1.7

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

THIS IS A COPY OF A MESSAGE MAILED TO THE OPERATOR. THE MMU DESIGNATED OCCUPATION IS IN COMPLIANCE FOR THE CURRENT CYCLE.

9968823  
70.207a

\*\*0401-005

---ADVISORY OF NONCOMPLIANCE, FAILURE TO SUBMIT---  
(MECHANIZED MINING UNIT-DESIG OCC)  
ADVISORY NO 0212

JAN 07, 2010

PERFORMANCE COAL COMPANY  
UPPER BIG BRANCH MINE-SOUTH

MINE I.D.46-08436  
MECHANIZED MINING UNIT I.D. 062-0  
DESIGNATED OCCUPATION  
036, CONTINUOUS MINER OPERATOR

Mine: AA  
mmu: Prod(3/23/09)

CURRENT BIMONTHLY SAMPLING CYCLE JAN-FEB 2010

IN ACCORDANCE WITH 30 CFR 70, FIVE (5) DESIG OCC SAMPLES ARE REQUIRED DURING  
THE BIMONTHLY CYCLE NOV-DEC 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-----		
51039560	11-09-2009	06	0.882	00818	NOV	DEC	
51039569	11-10-2009	06	INVALID PRODUCTION	00515	I	I	I
51039571	11-11-2009	06	1.167	00749	IVXXXX	IS	I
51039568	11-12-2009	06	0.492	00749			
51039558	11-13-2009	06	1.134	00749			

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