



Section I--Violation Data

1. Date Mo Da Yr 02/24/2010	2. Time (24 Hr. Clock) 0800	3. Citation/ Order Number 9968852
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 five (5) valid respirable dust samples during the Transition Period for Part 90 Miner, [REDACTED] as shown in the attached Advisory No. 0213 dated February 19, 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 90.208(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: 001
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input type="checkbox"/> D. High <input checked="" 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
15. Area or Equipment			

16. Termination Due	A. Date Mo Da Yr 03/17/2010	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)

Section IV--Automated System Data

19. Type of Inspection (activity code) T02	20. Event Number 9832268	21. Primary or Mill
22. Signa [REDACTED]		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.

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 02/24/2010	3. Citation/ Order Number 9968852 - 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

Based on the results of five (5) valid respirable dust samples submitted by the operator from the Part 90 Miner, [REDACTED] the average respirable dust concentration was 0.785 mg/m3. This is within limit of 1.0 mg/m3. 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. Site [REDACTED]	AR Number 24025	12. Date Mo Da Yr 03/18/2010	13. Time (24 Hr. Clock) 0715

9968852  
90.208a

+ 0401-001

ADVISORY OF NONCOMPLIANCE, FAILURE TO SUBMIT TRANSITION PERIOD SAMPLES  
(PART 90 MINER)  
ADVISORY NO 0213

FEB 19, 2010

PERFORMANCE COAL COMPANY  
UPPER BIG BRANCH MINE-SOUTH

MINE I.D.46-08436  
DESIGNATED AREA SAMPLING POINT I.D. 8500

PART 90 MINER KIBLINGER, MICHAEL W, M82240234, OCCUPATION 109 SUPPLY MAN

IN ACCORDANCE WITH 30 CFR 90, (5) VALID SAMPLES ARE REQUIRED TO COMPLETE  
THE TRANSITION PERIOD FOR THE ABOVE MENTIONED PART 90 MINER.  
THE BIMONTHLY CYCLE IS NOT ESTABLISHED.

CASSETTE NO.	DATE	SAMPLING START TIME (24-HR CLOCK)	MRE EQUIV CONCENTRATION
51039592	02-01-2010	06	PART 90 MINER NOT AVAILABLE
51039566	02-02-2010	06	PART 90 MINER NOT AVAILABLE
51039591	02-03-2010	06	MINER NOT ACTIVE WITH Q&C
51048823	02-04-2010	06	MINER NOT ACTIVE WITH Q&C
51048862	02-05-2010	06	MINER NOT ACTIVE WITH Q&C

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

9832268