



Section I--Violation Data

|  |                                |  |
|--|--------------------------------|--|
| 1. Date<br>Mo Da Yr<br>12/06/2011                | 2. Time (24 Hr. Clock)<br>0800 | 3. Citation/<br>Order Number<br>4900338            |
| 4. Served To<br>Berman Cornett (Safety Director) |                                | 5. Operator<br>PERFORMANCE COAL COMPANY, et al     |
| 6. Mine<br>UPPER BIG BRANCH MINE-SOUTH           |                                | 7. Mine ID<br>46-08436<br>(Contractor)             |
| 8. Condition or Practice                         |                                | 8a. Written Notice (103g) <input type="checkbox"/> |

Sealant has not been applied between the individual panels (approximately 16" wide X 20' long) used to construct overcasts at these locations;  
 (1) Seven overcasts outby the longwall have not had sealant applied between the individual panels to prevent leakage. These overcasts are not constructed in the traditionally accepted method. These overcasts are used to separate Primary and Alternate Escapeways and returns. The cited condition can allow the integrity of both Escapeways off the longwall to be compromised if a fire occurs either inby or outby the overcast. The cited condition can allow return air off the TG 22 and HG 22 to be used to ventilate the Longwall face. All miners working on the longwall are affected due to the cited condition.  
 (2) Three overcasts located at the mouth of TG 22 (#2 section) have not had

See Continuation Form (MSHA Form 7000-3a)

|              |  |                   |  |
|--------------|--|-------------------|--|
| 9. Violation | A. Health <input type="checkbox"/><br>Safety <input checked="" type="checkbox"/><br>Other <input type="checkbox"/> | B. Section of Act | C. Part/Section of Title 30 CFR<br>75.333(e)(1)(i) |
|--------------|--|-------------------|--|

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: 010

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

12. Type of Action 104(d)(2) 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 8082692 F. Dated Mo Da Yr 03/17/2009

15. Area or Equipment North Area of mine affected by explosion

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) E16 20. Event Number 4440348 21. Primary or Mill

22. Signature Patrick Alan Stanfield 23. AR Number 23908

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.



Section I--Subsequent Action/Continuation Data

|   |   |                                     |
|---|---|-------------------------------------|
| 1. Subsequent Action 1a. Continuation<br><input type="checkbox"/> <input checked="" type="checkbox"/> | 2. Dated (Original Issue)<br>Mo Da Yr<br>12/06/2011 | 3. Citation/Order Number<br>4900338 |
| 4. Served To<br>Berman Cornett (Safety Director)  | 5. Operator<br>PERFORMANCE COAL COMPANY, et al      |                                     |
| 6. Mine<br>UPPER BIG BRANCH MINE-SOUTH  | 7. Mine ID (Contractor)<br>46-08436                 |                                     |

Section II--Justification for Action

Continuation of 8. Condition or Practice

sealant applied between the individual panels to prevent leakage. These overcasts are not constructed in a traditionally accepted method. The overcasts separate Primary and Alternate Escapeway and returns. The miners on TG 22 (#2 Section) and HG 22 (#1 Section) are affected due to the cited condition. The cited condition can allow the integrity of both of the Escapeways off TG 22 to be compromised if a fire occurs outby the overcast or on HG 22.

(3) five overcasts located at the mouth of HG 22 (#1 Section) do not have sealant applied between the individual panels to prevent leakage. These overcasts have not been constructed in a traditionally accepted method. The overcasts are used to separate Primary and Alternate Escapeways and returns. The cited condition can allow the integrity of both of the Escapeways off HG 22 to be compromised if a fire occurs outby the overcasts.

These overcasts are all located in the North Area of the mine that was affected by an explosion on 04.05.2010.

The Operator haphazardly installed these 15 overcasts. This mine has a history of methane liberation; (1) 103(i) spot-10 day, methane explosion in 1997, and methane/natural gas outbursts in 2003 and 2004. Adequate interrupted ventilation is one of the most basic requirements for the health and safety of all miners in an underground mine.

The operator has received similar violations and the cited condition is present throughout the mine indicating it is a practice at the mine. Multiple examinations are conducted by multiple examiners through these areas three shifts daily. The cited condition is obvious (can be seen and heard), extensive, and poses a high degree of dangers to miners working on HG 22, TG 22, and the Longwall.

The Operator has engaged in aggravated conduct constituting more than ordinary negligence. This is an unwarrantable failure to comply with a mandatory standard.

This citation is being issued to the following entities as a unitary operator: Performance Coal Company, Massey Coal Services, Inc., A.T. Massey Coal Company, Inc., and Massey Energy Company.

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 type="checkbox"/> D. Terminated | <input type="checkbox"/> E. Modified |
|----------------|------------------|------------------------|-------------------------------------|--|--------------------------------------|

Section IV--Inspection Data

|   |                             |                                 |                                 |
|---|-----------------------------|---------------------------------|---------------------------------|
| 9. Type of Inspection<br>E16            | 10. Event Number<br>4440348 |                                 |                                 |
| 11. Signature<br>Patrick Alan Stanfield | AR Number<br>23908          | 12. Date Mo Da Yr<br>12/06/2011 | 13. Time (24 Hr. Clock)<br>0800 |

Mine Citation/Order  
Continuation

U.S. Department of Labor  
Mine Safety and Health Administration



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Section II--Justification for Action

See Continuation Form

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