



Section I--Violation Data

1. Date Mo Da Yr 12/06/2011	2. Time (24 Hr. Clock) 0800	3. Citation/ Order Number 4900578
4. Served To Berman Cornett - Safety Director	5. Operator Performance Coal Company, et al	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)
8. Condition or Practice		8a. Written Notice (103g)

The operator failed to immediately correct or post with conspicuous "Danger" signs hazardous conditions observed and recorded during the on-shift examinations of the belt conveyor systems in the north area of the mine (the area affected by the explosion on 4.5.2010). From 03.01.2010 through 04.05.2010, the operator's on-shift examination records identified approximately 982 hazardous conditions. Of these hazardous conditions, approximately 937 were listed as accumulations of coal and/or lack of rock dusting.

The preshift and onshift records do not indicate that the corrective actions required to address the listed accumulations were taken. Although some corrective actions were listed, most instances where cleaning and

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.363(a)
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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: 029

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 on 4/5/2010.

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) E06

20. Event Number 4440347

21. Primary or Mill

22. Signature Pat Stanfield 23908 Charles J. Maggard

23. AR Number 24038

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 type="checkbox"/> <input checked="" type="checkbox"/>		2. Dated (Original Issue) Mo Da Yr 12/06/2011			3. Citation/Order Number 4900578	
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Section II--Justification for Action

Continuation of 8. Condition or Practice

dusting was listed as being needed do not indicate that the required corrective actions were adequately performed.

The operator's failure to immediately correct these hazardous conditions contributed to the death of 29 miners, disabling injuries to one miner, and serious injuries to another miner. Witness statements indicated that the belts were in need of cleaning and additional rock dusting. Investigators observed accumulations of combustible materials in the form of loose and compacted coal throughout the area affected by the explosion. Laboratory Analysis of the rock dust spot survey conducted by MSHA in the affected area after the April 5, 2010 explosion indicated significant non-compliance. The explosion propagated throughout this area where records show cleaning and rock dusting was needed but was not performed.

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

This violation is issued as a flagrant violation.

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.

Section III--Subsequent Action Taken

See Continuation Form

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 E06		10. Event Number 4440347							
11. Signature Pat Stanfield 23908 Charles J. Maggard			AR Number 24038		12. Date Mo Da Yr 12/06/2011			13. Time (24 Hr. Clock) 0800	