



Section I--Violation Data

1. Date Mo Da Yr 12/06/2011	2. Time (24 Hr. Clock) 0800	3. Citation/ Order Number 8258565
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) <input type="checkbox"/>

Doors have not been installed in pairs to form an airlock at the following locations;

(1) The mouth of HG 22, at the second crosscut between the #2 and #3 entries only one door (run-through approximate 6' X 6' each) is being used to separate the Primary Escapeway from the Return. When both doors are open, a 12' X 12' opening short circuits ventilation to the working section of HG 22 (section #1 029 MMU). HG 22 is the deepest active part of this mine, therefore it is the hardest to ventilate. The doors are used to facilitate unloading supplies. A scoop and electrical forklift are located near these doors.

(2) Headgate 1 North (to separate return and intake split going inby to HG22 and TG 22) near spad #22624 (#4 entry between the 11th and 12th

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health <input type="checkbox"/> Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.333(d)(3)
--------------	--	-------------------	---

Section II--Inspector's Evaluation

10. Gravity:			
A. Injury or Illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input type="checkbox"/> Reasonably Likely <input checked="" 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 type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input checked="" type="checkbox"/>			
C. Significant and Substantial: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>			D. Number of Persons Affected: 009
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 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 01/05/2012	B. Time (24 Hr. Clock) 0800
---------------------	--------------------------------	--------------------------------

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 <input type="checkbox"/> <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 12/06/2011	3. Citation/Order Number 8258565
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)

Section II—Justification for Action

Continuation of 8. Condition or Practice

crosscuts) only one door has been installed. This one door can allow the intake to be short-circuited outby the HG 22, TG22. The intake is not separated from the return when this one door is opened. This one door is shown on the Part 1200 map submitted by the Operator prior to 04.05.2010. The weekly examiner is required to travel both of these routes (intake and return) on a weekly basis.

(3) Headgate 1 North, 28th crosscut, a single door has been installed between #2 entry (survey station #22772) and #3 entry (survey station #22774). The #2 and #3 entries are both shown by the Part 1200 map, to be return entries off HG 22 and TG 22, as of 04.05.2010 when the mine was affected by an explosion. At the time of the explosion, the cited door would not significantly affect ventilation to the sections if opened or left opened. It is not used to separate any escapeways, intakes or returns.

The Operator haphazardly installs doors at this mine, without considering the consequences if left opened. 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 uninterrupted ventilation is one of the most basic requirements for the health and safety of all miners in an underground mine.

The Operator has engaged 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 E16	10. Event Number 4440348		
11. Signature Patrick Alan Stanfield	AR Number 23908	12. Date Mo Da Yr 12/06/2011	13. Time (24 Hr. Clock) 0800