



Section I--Violation Data

|  |  |  |
|--|--|--|
| 1. Date<br>Mo Da Yr<br>12/06/2011              | 2. Time (24 Hr. Clock)<br>1105                 | 3. Citation/<br>Order Number<br>8405598            |
| 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"/> |

The operator has failed to adequately apply and maintain rock dust in such quantities that the incombustible content of the combined coal dust, rock dust, and other dust is not less than 65 per centum in intake air courses and 80 per centum in return air courses. Following a mine explosion on 04.05.2010 a mine dust survey was conducted by MSHA to determine the incombustible content of the combined coal dust, rock dust, and other dust in the mine. The incombustible content provides a depiction of the pre-explosion incombustible content in the affected areas of the mine.

MSHA divided the underground workings into 22 separate sampling areas beginning at survey station 22382 along the Ellis Track entry and survey station 7301 along the North Mains and extending inby to the deepest accessible portions of the mine affected by the explosion. Sampling

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<br>of Act | C. Part/Section of<br>Title 30 CFR<br>75.403 |
|--------------|--|----------------------|--|

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: 009

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 The area inby crosscut 54 on the Old North Mains.

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 Randall Lewis

23. AR Number 24262



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>8405598 |
| 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                              | (Contractor)                        |

Section II--Justification for Action

Continuation of 8. Condition or Practice

locations were designated on a mine map for each area. Those locations were spaced every 500 feet in areas outby crosscut 67 of Old North Mains and Parallel North Mains between every crosscut in areas inby crosscut 67. Sampling between every crosscut has shown to offset any dust transport that may have occurred during an explosion. MSHA took ban samples, if an area was too wet or inaccessible due to hazardous conditions, MSHA did not take a sample. In the 19 samples areas MSHA took samples at 1,803 locations because actual mine conditions dictated that 404 locations were either too wet or otherwise inaccessible for sampling.. MSHA sent all 1,803 samples for analysis to determine there incombustible content. The analytical results of the 1803 mine dust samples collected by MSHA shows that the operator failed to adequately apply and maintain rock dust on the roof, floor, and ribs of this underground coal mine. Of the 1803 samples collected and April 5, 2010 analyzed 1412 of the samples were non-compliant (78.31%). The sample from these areas were the flame did not propagate are outline as follows:

Area 1 was located in the Parallel North Mains. Area 2 North Mains. Area 3 Ellis Portal Mains. Area 4 located at the end of the Ellis Portal Mains. Area 6 Parallel Old North Mains. Area 7 North Glory Mains, Area 5 Old North Mains and Area 16 Tailgate I North where flames did not propagate in these areas. Of the 450 sample taken in these areas 187 samples were non-compliant (41.56%) and 263 samples were compliant (58.44%).

The operator has engaged in aggravated conduct and more than ordinary negligence by failing to adequately rock dust and maintain the incombustible content in these areas of the underground coal mine to control dangerously volatile accumulations of combustible material. 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, 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>Randall Lewis | AR Number<br>24262          | 12. Date Mo Da Yr<br>12/06/2011 | 13. Time (24 Hr. Clock)<br>1105 |