



Section I—Violation Data

1. Date Mo Da Yr 12/06/2011	2. Time (24 Hr. Clock) 0800	3. Citation/ Order Number 8258546
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"/>

An agent of the operator has failed to make an adequate weekly electrical examination of the Joy Shuttle Car (serial #ET17017), during the weeks prior to 04.05.2010. Seven citations are issued that affect the safe operation of the car;

- (1) citation #8256999 is issued citing 30 C.F.R. Part 75.701 the anchor for the trailing cable is not insulated,
- (2) citation #8257000 is issued citing 30 C.F.R. Part 75.511 the disconnect is broken-(a) cannot be locked out and (b) back of outer shell is broken exposing insulated wiring,
- (3) citation #8258541 is issued citing 30 C.F.R. Part 75.1403, the audible warning device is broken,
- (4) citation #8258542 is issued citing 30 C.F.R. Part 75.1710, the canopy

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 75.512
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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: 008

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 <input type="checkbox"/> B. Order <input checked="" type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>	E. Citation/ Order Number 8082692	F. Dated Mo Da Yr 03/17/2009
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15. Area or Equipment Joy Shuttle Car (serial #ET17017)

16. Termination Due A. Date Mo Da Yr	B. Time (24 Hr. Clock)
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Section III—Termination Action

17. Action to Terminate

18. Terminated A. Date Mo Da Yr	B. Time (24 Hr. Clock)
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Section IV—Automated System Data

19. Type of Inspection (activity code) E16	20. Event Number 4440348	21. Primary or Mill
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22. Signature Patrick Alan Stanfield	23. AR Number 23908
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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 8258546
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

is not securely attached to the machine,, and
(5) citation #8258543 is issued citing 30 C.F.R. Part 75.503 for failure to maintain the car in Approved permissible condition, and
(6) citation #8258578 is issued citing 30 C.F.R. Part 75.902, the fail safe ground check is not configured to assure the circuit breaker will trip if the frame is not grounded.

The Operator's records indicate that a qualified electrician (Agent of the Operator) has not recorded examination results for the electrical examinations of this shuttle car for over one year prior to 04.05.2010.

The operator has a recent history of similar citations.

The car is located at the Mother Drive construction Area on the North Mains adjacent to spad 20406. The area was affected by a mine explosion on 04.05.2010. The car was not in use on this day; however, it is readily available for use. Failure to conduct an adequate weekly electrical examination has allowed the car to fall in this state of disrepair. Some of the cited conditions are obvious to a casual observer and have existed for a significant amount of time. The condition of the car is due to negligent examinations rather than from setting not being in use. This mine has a history of methane liberation and is on a 103(i) spot for methane liberation. The car is located outby the sections, however if one of the cars on either of the two sections inby becomes disabled then this car can be expected to be taken to the face area for use inby the last open crosscut.

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
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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