



Section I--Violation Data

1. Date Mo Da Yr 12/06/2011	2. Time (24 Hr. Clock) 0800	3. Citation/ Order Number 8258570
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"/>

The CLA forklift (Serial #153) is not being maintained in a safe operating condition, in that;

(1) the hinge on the junction box for the electrical controls is broken allowing dust/moisture to enter,

(2) the handle in the operator's deck to de-energize the breaker is in-operative. This machine is not equipped with a panic bar. This is corrected at the time of the inspection.

(3) the guard over the fan belts for the hydraulic pump motor is not secured,

(4) the 12 volt battery for the automatic fire suppression is not secured. It is setting in the motor compartment.

(5) the bare metallic battery terminals of the battery for the automatic

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 B. Order C. Safeguard D. Written Notice

E. Citation/Order Number 8082692

F. Dated Mo Da Yr 03/17/2009

15. Area or Equipment CLA forklift (serial #153)

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
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 8258570	
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Section II—Justification for Action

Continuation of 8. Condition or Practice

fire suppression are not insulated.

(6) the back-up alarm switch has the wires disconnected.

The battery is located near hydraulic components. The cited condition poses a serious fire hazard. The equipment is located in the Primary Escapeway (2nd crosscut HG22 between #1 and #2 entries. Spad #24301 is located in #3 entry. If a fire occurs on the machine, the smoke and/or noxious gasses will travel rapidly inby affecting miners on the HG 22 (029 MMU).

Testimony received from the construction foreman, revealed this machine was allowed to operate in the return off HG 22. Citation #8258566 is issued for doors not installed in pairs, between the intake where the Forklift is located and the HG 22 return. This allows easy access for the non-permissible forklift to access the return. This mine has a history of methane liberation—a methane explosion in 1997, and methane outbursts in 2003, 2004. Numerous other ignition sources are present on this machine due to cited condition, increasing the likelihood of an ignition of flammable/explosive gases. This area is also cited for accumulations of combustibles, which could allow an ignition to become an explosion, affecting the HG 22 miners.

An agent of the Operator (Qualified Electrician) failed to make a weekly electrical examination of the HG-22 (#1) Section, CLA electric Forklift (serial #153) during the week prior to 04.05.2010 (03.28.2010 through 04.03.2010).

Other citations are issued for Hazards observed on this machine. These are: (1) citation #4900310 citing 30 C.F.R. Part 75.1107-16 (a) for failure to properly examine the fire suppression system, (2) citation #8258567 citing 30 C.F.R. Part 75.1107-9, and (3) citation #8258569 citing 30 C.F.R. Part 75.518 for failure to provide adequate overload/short-circuit protection.

Upon inspection of the electrical equipment, following the explosion, the high number of similar citations/orders indicate the operator's serious lack of reasonable care of maintaining the electrical equipment in a safe operating condition.

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

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



Section I--Subsequent Action/Continuation Data

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Section II--Justification for Action

operator: Performance Coal Company, Massey Coal Services, Inc., A.T. Massey Coal Company, Inc., and Massey Energy Company.

See Continuation Form

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