



Section I--Violation Data

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|--|--------------------------------|--|
| 1. Date Mo Da Yr 12/06/2011 | 2. Time (24 Hr. Clock) 0800 | 3. Citation/ Order Number 4900588 |
| 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 Operator has failed to develop, implement, and train select supervisory employees, to assure they have received the required first-aid training, for all sections, on all shifts. Many of Performance Coal Company's select supervisory employees were EMT's (emergency medical technicians). This has been long accepted as a substitute for the required first-aid training. Most of the Supervisory employees that are EMT's were on the day shift. The Operator did not provide the first-aid training to any of the select supervisory employees.

This is a large mine, with miners working miles from the surface. All miners must be provided with trained first-aid persons, within close proximity to possible injured miners to assure the response time is adequate.

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 75.1713-3 |
|--------------|--|-------------------|--|

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: 003

11. Negligence (check one) A. None B. Low C. Moderate D. High E. Reckless Disregard

12. Type of Action 104(a) 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 F. Dated Mo Da Yr

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 4900588 |
| 4. Served To Berman Cornett (Safety Director) | 5. Operator PERFORMANCE COAL COMPANY, et al | |
| 6. Mine UPPER BIG BRANCH MINE-SOUTH | 7. Mine ID (Contractor) 46-08436 | |

Section II--Justification for Action

Continuation of 8. Condition or Practice

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 |
|----------------|------------------|------------------------|-------------------------------------|--|--------------------------------------|

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 |