



Section I-Violation Data

1. Date Mo Da Yr 12/06/2011	2. Time (24 Hr. Clock) 0800	3. Citation/ Order Number 4900696
4. Served To BERMAN CORNET (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 exhibited a practice of failure to comply with 30 CFR 75.1107-16(c). Examiners did not record multiple examinations conducted on the following equipment. 1) Fletcher Double Head Roof Bolter, SN 2007060. 2) CLA Battery Powered Forklift, CO #181. 3) CLA Battery Powered Forklift, CO #152. 4) The Fire Suppression System protecting the Battery Charger provided for the CLA Forklift, co # 152. 5) A.L. Lee Battery Powered Forklift, SN 05-E8075-8. 6) Joy Shuttle Car, SN ET17649. 7) The Fletcher Double Head Roof Bolter, SN 2007046. 8) Brookeville Battery Powered Mantrip, CO# MT12. 9) Stamler Feeder, SN 13283. 10) Joy Shuttle Car SN 17650. 11) Long Airdox Shield Hauler, SN 636-1010.

The lack of proper record keeping can cause mandatory examinations to be  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 75.1107-16(c)
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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: 001

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 1) Fletcher roof bolter, SN 2007060. 2) CLA Forklift CO# 181. 3) CLA Forklift CO# 152. 4) Battery Charger for Forklift CO# 152. 5) A.L. Lee Forklift, SN 05-E8075-8. 6) Joy Shuttle Car SN ET17649. 7) Fletcher

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 Jeffery A. Miles	23. AR Number 24457
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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 4900696
4. Served To BERMAN CORNET (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

missed thereby allowing defects affecting the performance of fire suppression devices to continue undetected exposing persons to the hazards associated with fire or smoke inhalation.

This is an extensive practice involving eleven pieces of equipment located in different areas of the mine which involved different examiners.

The operator has engaged in aggravated conduct constituting more than ordinary negligence.

This is a 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

Continuation of 15. Area or Equipment

Roof Bolter, SN 2007046. 8) Brookeville Mantrip CO# 12. 9) Stamler Feeder, SN 13283. 10) Joy Shuttle Car SN 17650 11) Long Airdox Shield Hauler, SN 636-1010.

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 Jeffery A. Miles	AR Number 24457	12. Date Mo Da Yr 12/06/2011	13. Time (24 Hr. Clock) 0800