



Section I--Violation Data

1. Date Mo Da Yr 12/06/2011	2. Time (24 Hr. Clock) 0800	3. Citation/ Order Number 8250019
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)

The Co. No.1 battery powered Brookville personnel carrier S/N 8110 located on the end of the track at the 1 North Longwall is not provided with two portable fire extinguishers or an operative fire suppression system. Several of the fire suppression components are damaged and would not serve its intended purpose in the event of a fire.

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 (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 75.380(f)(5)
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Section II--Inspector's Evaluation

10. Gravity:						
A. Injury or Illness (has) (is):		No Likelihood <input type="checkbox"/>	Unlikely <input checked="" type="checkbox"/>	Reasonably Likely <input type="checkbox"/>	Highly Likely <input type="checkbox"/>	Occurred <input type="checkbox"/>
B. Injury or illness could reasonably be expected to be:		No Lost Workdays <input type="checkbox"/>	Lost Workdays Or Restricted Duty <input checked="" type="checkbox"/>	Permanently Disabling <input type="checkbox"/>	Fatal <input type="checkbox"/>	
C. Significant and Substantial:			Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	D. Number of Persons Affected: 001	
11. Negligence (check one)						
A. None <input type="checkbox"/>		B. Low <input type="checkbox"/>		C. Moderate <input checked="" type="checkbox"/>		D. High <input type="checkbox"/>
E. Reckless Disregard <input type="checkbox"/>						
12. Type of Action 104(a)			13. Type of Issuance (check one)			
			Citation <input checked="" type="checkbox"/>		Order <input type="checkbox"/>	Safeguard <input type="checkbox"/>
			Written Notice <input type="checkbox"/>			
14. Initial Action					E. Citation/ Order Number	
A. Citation <input type="checkbox"/>		B. Order <input type="checkbox"/>		C. Safeguard <input type="checkbox"/>		D. Written Notice <input type="checkbox"/>
					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
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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 Keith McElroy		23. AR Number 24153

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.