



Section I--Violation Data

1. Date Mo Da Yr 12/06/2011	2. Time (24 Hr. Clock) 1020	3. Citation/ Order Number 8405577
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"/>

Evidence indicates the operator failed to protect miners to the hazards related to fires by not removing miners to a safe location outby alarming CO sensors, where 2 consecutive sensors were in alarm and hazards existed or the alarms were unknown to the AMS operator.

The event logs from the Pyott-Boone AMS system indicate high CO readings on the date of 9/11/2009. There are no records of the AMS operator removing miners outby the effected area. The Foreman's evening shift production reports indicate miners continued to work inby as CO traveled towards the working sections.

On the date of 9/30/2009 there were blasting shots conducted on the surface at Ellis Portals allowing CO to enter the mine causing the Pyott Boone CO monitoring system to go into an alarm state at 2 consecutive

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 75.352(c)
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Section II--Inspector's Evaluation

10. Gravity:

A. Injury or Illness (has) (is): No Likelihood  Unlikely  Reasonably Likely  Highly Lkely  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: 010

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 The area inby the Ellis Portal.

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 Randall Lewis		23. AR Number 24262

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 8405577	
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Section II--Justification for Action

Continuation of 8. Condition or Practice

sensors. The records reflect crews continued to run coal not being removed to safe areas of the mine or to the surface. The production reports for the day shift on the date indicate the longwall crew (located inby the alarming sensors) continued to produce coal 26 minutes after the CO recording log states "Everybody pulled outby Ellis Switch till CO cleared". According to the CO recording log the CO did not clear until 9:00 pm on the same date.

The review of the CO logs indicate the AMS operator failed to record the correction made to corrected the system failures and sensor malfunctions. There is recorded in one event log that CO sensor has went into alarm all weekend on 1-25-2010. The event log reflects the sensor has been in alarm most of the early morning.

On the date of 11/22/2009 the AMS event log indicates that 2 consecutive sensors went into alarm. There is no record of the longwall being contacted and removed to an area outby the alarming sensors. The production log indicates production work continued on the longwall.

This exposes miners to the health hazards of deadly CO gases. This is 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, 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 Randall Lewis		AR Number 24262	12. Date Mo Da Yr 12/06/2011	13. Time (24 Hr. Clock) 1020	