



Section I--Violation Data

1. Date Mo Da Yr 12/06/2011	2. Time (24 Hr. Clock) 0800	3. Citation/ Order Number 4900494
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 Fairchild scoop, S/N T339-267, on the TG22 section was not being maintained in approved condition. The following conditions were observed:

- 1) The main circuit breaker panel has four packing nuts that are not secured against loosening.
- 2) the circuit breaker panel has one packing nut that does not have 1/8 inch clearance between the nut and the box.
- 3) the circuit breaker panel lid had 14 bolts that did not have flat washers.
- 4) the power lead between the headlights on the battery end of the scoop is spliced.
- 5) the battery diagnostic enclosure in the operator's deck has a plug in an unused entrance that is not spot-welded.

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 75.503
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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: 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 Fairchild scoop serial #T339-267.

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 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.



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 4900494
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)

Section II--Justification for Action

Continuation of 8. Condition or Practice

- 6) the main controller enclosure has five packing nuts that are not secured against loosening.
- 7) the pump motor has a plug in an unused entrance that is not spot-welded.
- 8) one packing gland in the main controller does not have 1/8 inch clearance between the packing nut and the box.
- 9) the pump motor is not bolted down.
- 10) the main panel lid interlock switch was taped closed.
- 11) a 140 amp pump motor fuse was installed in the main controller. The correct fuse is 100 amps.
- 12) the rating of the tram motor fuse could not be determined. The marking on the fuse was not legible.
- 13) two lighting fuses in the master control station were not legible.

This condition was observed during the investigation of a fatal accident that occurred on April 5, 2010. The operator has engaged in aggravated conduct constituting more than ordinary negligence. This violation 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
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Section IV--Inspection Data

9. Type of Inspection E16	10. Event Number 4440348		
11. Signature Keith McElroy	AR Number 24153	12. Date Mo Da Yr 12/06/2011	13. Time (24 Hr. Clock) 0800