



Section I--Violation Data

1. Date Mo Da Yr 12/06/2011	2. Time (24 Hr. Clock) 0800	3. Citation/ Order Number 8250025
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 Long Airdox shield hauler, Serial Number 636-1010, located on the Headgate 21 longwall section was not being maintained in approved condition. The following conditions were observed:

- 1) A plug in an unused gland in the battery indicator in the operator's deck was not spo-welded,
- 2) two packing gland nuts in the master controller in the operator's deck were not secured against loosening,
- 3) the main panel lid interlock switches were both held closed with tape,
- 4) several lock washers were missing from the main panel lid mounting bolts,
- 5) the opposite operator side battery lead was 51 inches in length,
- 6) no lock washers were present on the main breaker panel lid mounting

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: 009

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 Shield Hauler #636-1010.

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)

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 8250025	
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

bolts,  
7) both battery leads were improperly entered into the main controller panel,  
8) two 200 amp pump fuses were installed. The proper size pump fuses are 125 amps,  
9) the operator's side power lead exiting the breaker panel and extending to the main controller was not properly entered into the breaker panel,  
10) the shunt trip fuse in the main controller is 30 amps. The correct size fuse is 15 amps. Four other fuses in the main controller are overrated.  
11) the lighting circuit fuse in the master controller in the operator's compartment is 20 amps. The size fuse is 15 amps,  
12) two fuses in the main controller are not readable. These fuses should be 2 amps.  
13) one of the master control station panel lid bolts did not have a flat washer.

These conditions were 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