



Section I--Violation Data

1. Date Mo Da Yr 12/06/2011	2. Time (24 Hr. Clock) 0800	3. Citation/ Order Number 8258564
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"/>

An agent of the operator failed to examine, test, and maintain the Fairchild scoop (serial # T339-224, Approval #2G-3599-2). This scoop is located 30 feet outby spad #24301, #3 entry, just inby the mouth of the Headgate #22 panel. This machine was in use on 04.05.2010, and is in the area affected by an explosion on 04.05.2010.

This machine was last examined on 03.24.2010 (HG 22 electrical record book). Numerous defects affecting the safety of the machine were not corrected.

The defects were extensive and some were obvious to the most casual observer. The following conditions are cited on the machine:

(1) Order #8258557 is issued citing 30 C.F.R. Part/Section 75.503 for failure to maintain the machine is permissible condition. There were 16

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.512
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Section II--Inspector's Evaluation

10. Gravity:				
A. Injury or Illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input type="checkbox"/> Reasonably Likely <input type="checkbox"/> Highly Likely <input checked="" 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 type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input checked="" type="checkbox"/>				
C. Significant and Substantial: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>				D. Number of Persons Affected: 008
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input checked="" type="checkbox"/>				
12. Type of Action 104(d)(2)		13. Type of Issuance (check one) Citation <input type="checkbox"/> Order <input checked="" type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>		
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
15. Area or Equipment Fairchild scoop (serial #T339-224)				

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 Patrick Alan Stanfield		23. AR Number 23908

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 8258564
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Section II--Justification for Action

Continuation of 8. Condition or Practice

defects observed. The defects ranged from small permissibility defects to more dangerous defects affecting machine safety. The machines emergency park brake solenoid was not properly mounted and the power cable to the solenoid had an unapproved taped splice. The voltage inverter was also not mounted.

(2) Citation #8258559 is issued citing 30 C.F.R. Part/Section 75.518 for failure to provide adequate overcurrent protection for motors/circuits on this machine. There were six protective circuitry issues observed.

(3) Citation #8258562 is issued citing 30 C.F.R. Part/Section 75.400 for accumulations of combustibles in the operator's compartment.

(4) Citation #8258563 is issued citing 30 C.F.R. Part/Section 75.1725(a) for not providing caps for the hydraulic PTO, in the event the control lever is accidentally engaged.

(5) citation #8258558 is issued citing 30 C.F.R. Part/Section 75.1403 for failure to maintain an audible warning device on the scoop.

(6) Citation #4900313 is issued citing 30 C.F.R. Part/Section 75.1107-16(a) for failure of a qualified miner to examine the fire suppression system, mounted on this scoop.

(7) citation #8258560 is issued citing 30 C.F.R. Part/Section 75.1107-9(a) (1) for defects that can affect the operation of the dry chemical fire suppression system, installed on this scoop.

In addition to the aforementioned citations, the scoops main controller safety interlock switch is bypassed. This interlock is designed to remove power from the control panel when the XP enclosure lid is removed. This switch was bypassed by taping the switch in the closed position. The operator has a practice of bypassing these types of interlock switches.

The operators (qualified electrician) failure to conduct proper examinations has created hazards that pose serious risk of injuries to the equipment operator and other miners. Miners are exposed to hazards of fire, smoke inhalation, crushing injuries, eye injuries, electrical shock, and explosions.

The operator is issued a high number of similar violations, upon inspection of the electrical equipment, following the explosion. This equipment was utilized on a working section that had methane and ventilation problems. This mine has a history of methane liberation- a methane explosion in 1997, and methane/natural gas outbursts in 2003 and 2004.

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 Patrick Alan Stanfield	AR Number 23908	12. Date Mo Da Yr 12/06/2011	13. Time (24 Hr. Clock) 0800
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Section I--Subsequent Action/Continuation Data

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Section II--Justification for Action

The Operator has engaged in aggravated conduct constituting more than ordinary negligence. This is an unwarrantable failure to comply with a mandatory standard. Continued negligence through lack of training and lack of care of the operator has led to the state of disrepair of this machine.

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

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