



Section I--Violation Data

1. Date Mo Da Yr 12/06/2011	2. Time (24 Hr. Clock) 0800	3. Citation/ Order Number 4900281
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 (qualified electrician) of the operator has failed to make an adequate weekly electrical examination of the Ingersol Rand "Maintenance Scoop (serial #488-1253, located on HG22) for the weeks prior to 04.05.2010. The following citations/orders are issued for failure to maintain the scoop in a safe and Approved condition;

- (1) order #4900279 is issued citing 30 C.F.R. Part 75.503 for failure to maintain the scoop in permissible condition (12 defects cited).
- (2) citation # 4900276 is issued citing 30 C.F.R. Part 75.1107-9(a)(1) for two defects affecting the dry chemical fire suppression system.
- (3) citation #4900277 is issued citing 30 C.F.R. Part 75.1107-6(a)(1) for the fire suppression system not of sufficient size to protect permanently mounted hydraulic pumps and tanks.

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 75.512
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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: 008

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 <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
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15. Area or Equipment Ingersol Rand Scoop (serial # 488-1253)

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.

Mine Citation/Order
Continuation

U.S. Department of Labor
Mine Safety and Health Administration



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 4900281
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

(4) citation #4900278 is issued citing 30 C.F.R. Part 75.1107-16(a) for failure of a person qualified to make examinations of the fire suppression systems to make an adequate examination of the fire suppression system of this machine.

These conditions are obvious, extensive, and some of which have existed for a significant amount of time. The mine is on a 103(i) spot for methane liberation. This machine is used in by the last open crosscut and returns. The cited condition poses a high degree of dangers to miners on the HG 22 section.

This equipment is located in an area affected by a mine explosion on 04.05.2010. The operator is issued a high number of similar citations/orders, upon inspection of the underground electrical equipment, following the explosion. The cited condition is a practice at this mine (failure to maintain permissible condition as approved and failure to make an adequate weekly electrical examination to assure the equipment is maintained as approved).

The operator has engaged in aggravated conduct constituting more than ordinary negligence. This 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 Patrick Alan Stanfield	AR Number 23908	12. Date Mo Da Yr 12/06/2011	13. Time (24 Hr. Clock) 0800
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