



Section I--Violation Data

1. Date Mo Da Yr 12/06/2011	2. Time (24 Hr. Clock) 0800	3. Citation/ Order Number 4900545
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)

The operator has a magnet placed around the main controller assembly on the Joy Continuous Miner (JM 4918B) on the Headgate #22 section (MMU 029-0). This magnet results in the machine not being maintained in safe operating condition. This machine is equipped with a TX3 remote control system. The use of permanent magnets can cause inadvertent machine operation. The operator was notified by PIB09-36 of the hazards associated with magnets being used in close proximity to a TX3 remote control.

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 (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 75.1725(a)
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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: 001

11. Negligence (check one) A. None B. Low C. Moderate D. High E. Reckless Disregard

12. Type of Action 104(a)

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

F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due

A. Date Mo Da Yr
01/05/2012

B. Time (24 Hr. Clock) 0800

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.