



Section I--Violation Data

1. Date Mo Da Yr 12/06/2011	2. Time (24 Hr. Clock) 0940	3. Citation/ Order Number 8405567
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 mine operator failed to provide annual refresher training to a number of miners on an annual basis as required. These miners were required to work past their annual refresher anniversary months. A MSHA's Educational and Field Services Representative conducted a thorough review of PCC's training documents and miner testimony and determine many miner were not given annual refresher training as required. Employees did not receive annual refresher training included:

- 1) [REDACTED] has worked for approximately 3 years. The only indication of training received is experienced miner training on February and March of 2010.
- 2) [REDACTED] did not receive annual refresher by the end of the month of March 2010. He had previously received annual refresher

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 48.8(a)
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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 checked="" type="checkbox"/> Highly Likely <input 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: 001	
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input type="checkbox"/> D. High <input checked="" type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>				
12. Type of Action 104(a)		13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>		
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>			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
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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 Randall Lewis		23. AR Number 24262

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 8405567
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

on March 28, 2009.

- 3) [REDACTED] did not receive annual refresher training by the end of the March 2010. A record showing his last annual refresher was dated March 21, 2009.
- 4) [REDACTED] did not receive annual refresher training by the end of the month of March 2010. His previous annual refresher training was March 28, 2009.
- 5) [REDACTED] did not receive annual refresher training before the end of March 2010. He had previously received annual refresher on March 30, 2009.
- 6) [REDACTED] did not receive annual refresher training before the end of March 2010. He had previously received annual refresher on March 28, 2009.
- 7) [REDACTED] began employment at the Upper Big Branch Mine on December 12, 2008. His annual refresher was due by the end of December 2009. He did not receive annual refresher until March 27, 2010.
- 8) [REDACTED] had not received annual refresher training for the Upper Big Branch Mine. He had received annual refresher training at the Parker Peerless Mine, ID # 4609193 on February 28, 2009.
- 9) [REDACTED] did not receive annual refresher training before the end of March 2010. He had previously received annual refresher training on March 21, 2009.
- 10) [REDACTED] did not receive annual refresher training before the end of March 2010. He had previously received annual refresher training on March 21, 2009.

The Federal Mine Safety and Health Act of 1977 states that an untrained miner is a hazard to himself and others.

This citation is being issued to the following entities as a unitary operator: Performance Coal Company, Massey Coal Services, 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 Randall Lewis	AR Number 24262	12. Date Mo Da Yr 12/06/2011	13. Time (24 Hr. Clock) 0940