



Section I--Violation Data

1. Date Mo Da Yr 12/06/2011	2. Time (24 Hr. Clock) 1005	3. Citation/ Order Number 8405573
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"/>

Employees have not been trained annually to perform seal sampling at this mine. The following individuals were not trained before an accident occurred on April 5, 2010:

- 1) Scott Halstead. Mr. Halstead had last been task trained for seals on 1/30/2009.
- 2) Lacy Stewart. There was nothing provided indicating that Mr. Stewart was trained to perform seal sampling.
- 3) George Curry. There was nothing provided indicating that Mr. Curry was trained to perform seal sampling.
- 4) Jim Bowyer. There was nothing provided indicating that Mr. Bowyer was trained to perform seal sampling.
- 5) Tim Williams. There was nothing provided indicating that Mr. Williams

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 75.338(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
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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 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 8405573	
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

was trained to perform seal sampling.

Proper seal sampling is necessary to ensure the health and safety of all miners in the mine. Training must be given to sampling personnel so they can identify hazards that may require miners to be withdrawn from the affected area. Improperly trained sampling personnel can also be exposed to harmful atmospheres without knowing when these atmospheres warrant quick removal from the area.

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) 1005	