



U. S. DEPARTMENT OF THE INTERIOR
OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT
DIRECTIVES SYSTEM

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INE-13

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Subject: Revision of Inspection and Enforcement Policy

Approval: James R. Bartlett *James R. Bartlett* Title: Director, Office of Surface Mining

1. Purpose.

This directive modifies inspection and enforcement policy under Federal programs or Federal land programs to eliminate issuance of notices of violation (NOV) where no useful enforcement purpose is served.

2. Definitions.

"Appropriate enforcement action" means any action required by the Act and regulations which will result in the timely abatement of all violations. This means all violations must be properly cited and the remedial action must be sufficient to result in complete abatement within a reasonable period of time.

3. Policy/Procedures.

The following policy changes revise existing Office of Surface Mining enforcement policies with respect to any violation which does not constitute a significant, imminent environmental harm or public danger:

If a violation is completely abated during an inspection, an NOV should not be issued unless failure to issue an NOV would render the applicable regulation unenforceable. For example, turning off a pump to cease a discharge which obviously exceeds the effluent limits immediately abates the violation, but often there is no practical and/or effective remedial action which may be ordered to remedy the effects of the discharge. Similarly, there is often no

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effective remedial action for improper blasting or topsoil contamination although an operator may cease the practice during the inspection. There would be no incentive for an operator to comply with regulations if he knew that he could avoid receiving an NOV simply by ceasing the violation during the time the inspector was on the site.

Where, however, there is remedial action that can be taken and the operator takes it during the inspection, issuing an NOV serves no useful purpose. For example, there is no point in issuing an NOV where the operator has one or two perimeter markers missing when the inspector arrived but posted them before the inspector left.

Existing policy is not changed as it relates to significant imminent harm to the public and/or the environment.

4. Reporting Requirements. The inspector must document his action in the inspection report.

5. References.

(a) Public Law 95-87, Section 521(a)(2) and (3).

(b) 30 CFR Part 843.

6. Effect on Other Documents. Replaces Temporary Directive, "Revision of Inspection and Enforcement Policy," INE-13 issued April 9, 1982.

7. Effective Date. Upon issuance.

8. Contact. Carl Pavetto, Chief, Inspection Branch, FTS 343-5384.