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| | U· S· DEPARTMENT OF THE INTERIOR<br>OFFICE OF SURFACE MINING<br>RECLAMATION AND ENFORCEMENT<br>DIRECTIVES SYSTEM | Subject Number: INE-1 REBINDER<br>Transmittal Number: 162<br>Date: 3/18/83 |

Subject: Presentation of Credentials at Minesites, INE-1

Approval: James [illegible] Harris | Title: Director, Office of Surface Mining

1. Purpose. This directive establishes uniform policy regarding proper presentation of credentials by inspectors.

2. Definitions.

a. Credentials. Inspectors' identification package issued by the Field Office Director to authorized representatives of the Secretary.

b. Extraordinary Circumstances. Extraordinary circumstances exist whenever presentation of credentials may reasonably be expected to prevent effective enforcement of the Act.

3. Policy/Procedures.

a. Background. 30 CFR 842.13(a)(1) provides that each authorized representative of the Secretary shall have a right of entry to, upon, and through any coal exploration or surface coal mining and reclamation operation, without advance notice or a search warrant, upon presentation of appropriate credentials. In extraordinary circumstances, as defined above and described below, an entry may be made by an authorized representative (inspector) without prior presentation of credentials.

Right of entry in extraordinary circumstances without prior presentation of credentials was deemed appropriate by the Interior Board of Surface Mining and Reclamation Appeals in Consolidation Coal Co. v. OSM (2 IBSMA 21, February 13, 1980) and upheld by the U.S. District Court in Consolidation Coal Co. v. Watt (Civ. No. 80-3037, Slip Opinion, February 8, 1982).

b. Procedure. In the absence of extraordinary curcumstances, presentation of credentials should be made at the earliest practical opportunity, normally by proceeding to the minesite office (or the first appropriate person) upon arrival. If an inspector briefly leaves the permit area, presentation of credentials before reentering, unless specifically requested, is not necessary.

(1) Exceptions.

(a) Extraordinary Circumstances. Credentials need not be presented when an inspector reasonably believes that doing so would provide the operator with notice that would thwart the inspector's ability to determine whether or not a violation existed. For example, if an inspector had reason to believe that presenting credentials prior to an inspection would give the operator time to shut off a pump that is discharging pit water directly into an off-site stream, then the inspector would not be required to present credentials before entering the minesite to collect evidence of the discharge.

In such a situation presentation of credentials would result in advance notice of the inspection, which is expressly prohibited by 30 CFR 842.13(a). In such a case, the inspector should present credentials subsequent to completing the inspection. In primacy States where extraordinary circumstances are anticipated or encountered, the State Regulatory Authority should be notified and apprised of the situation.

(b) Vacant Minesites. An inspection may lawfully be conducted where there is no one on the site to whom credentials can be presented (e.g., abandoned, temporarily vacated mines).

(2) Documentation. Because OSM may have to demonstrate the existence of extraordinary circumstances, the circumstances justifying the inspector's decision to enter the minesite without a prior presentation of credentials must be fully documented in the inspection report.

4. Reporting Requirements. None

5. References.

a. Consolidation Coal Company v. OSM, 2 IBSMA 21, February 13, 1980.

b. Consolidation Coal Company v. Watt, Civ. No. 80-3037, Slip Opinion February 8, 1982.

c. 30 CFR 842.13(a).

d. Directive, "Authorized Representative, INE-15.

6. Effect On Other Documents. Replaces Directive, "Presentative of Credentials at Minesite, "INE-1, February 28, 1980.

7. Effective Date: Upon issuance.

8. Contact. Chief, Branch of Inspection (FTS-343-5384).