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	U·S·DEPARTMENT OF THE INTERIOR OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT DIRECTIVES SYSTEM	Subject Number: INE-18 Transmittal Number: 263 Date: 06/06/86

Subject: AUTHORIZED REPRESENTATIVES

Approval: Ted V. Christensen | Title: Director

1. Purpose. This directive establishes the Office of Surface Mining Reclamation and Enforcement (OSMRE) policy concerning designation of authorized representatives of the Secretary to:

a. perform functions related to inspections and enforcement actions under the Surface Mining Control and Reclamation Act of 1977 (SMCRA); or

b. perform functions related to audits and enforcement actions for non-payment or non-reporting of reclamation fees under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

2. Definitions.

a. Entry Authority for Inspections. The authority to enter and go throughout any surface coal mining and reclamation operation nationwide, including access to records and monitoring equipment required under SMCRA; or

b. Entry Authority for Audits. The authority to enter, review, examine, and copy books and records for audit purposes in determining Reclamation Fee liability.

c. Inspection Authority. The authority to conduct inspections and issue ten-day notices, notices of violation (NOV's) and cessation orders (CO's).

d. Audit Authority. The authority to conduct audits and issue ten-day notices, notices of violation (NOV's) and cessation orders (CO's).

e. Authorized Representatives. A person to whom the Director OSMRE has granted:

(1) entry and inspection authority for inspections in accordance with sections 517 and 521 of the Act, and this Directive; or

(2) entry and audit authority for audits in accordance with sections 402 and 412 of the Act, 30 CFR 870.16(b) and (c), and this Directive.

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3. Policy/Procedures.

*** INSPECTIONS ***

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a. General. Only authorized inspection representatives can conduct inspections and issue ten-day notices, NOV's and CO's for purposes of violations of the Act or any permit condition required by the Act.

(1) The following persons have entry authority:

Director
Deputy Directors
Associate Solicitor, Division of Surface Mining
Assistant Solicitor, Litigation, Assistant Solicitor, Enforcement and Collections, Field Solicitors, and Staff Attorneys
Assistant Director, Program Operations
Assistant Directors, Field Operations
Field Office Directors
Chief, Division of Regulation and Inspection
Chief, Branch of Inspection and all professional members of the Branch
Supervisory Regulatory Program Specialists
Supervisory Program Managers
Area Office Managers
Reclamation Specialists and Federal Project/Reclamation Specialists at the GS-9 level and above
Chief, Division of Assessments and qualified professional members of the Division at the GS-9 level and above

The Director, Deputy Directors, and Assistant Directors, Program Operations and Field Operations may grant entry authority to any other OSMRE employee.

(2) The following persons have inspection authority:

Supervisory Regulatory Program Specialists
Supervisory Program Managers
Area Office Managers
Reclamation Specialists and Federal Project/Reclamation Specialists at the GS-9 level and above who are designated as authorized representatives for inspections

The Director, the Deputy Directors, the Assistant Directors, Program Operations and Field Operations, and any Field Office Directors, may designate as an authorized representative or suspend or withdraw the designation of authorized representative status of any employee under their authority.

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b. Requirements for Designation as an Authorized Representative for Inspections.

(1) To be designated an authorized representative for inspections, a person must meet the following standards:

(a) Possess extensive knowledge and understanding of the Act, the regulations, applicable State programs, OSMRE oversight policies and procedures, and surface coal mining and reclamation techniques so that he or she can:

1 competently inspect a surface coal mining and reclamation operation;

2 determine whether any violation of the approved State or Federal program, permit, the Act, or regulations exist;

3 properly issue ten-day notices, NOV's and CO's;

4 properly gather evidence and insure complete chain-of-custody of samples and other evidence;

5 properly determine and establish appropriate remedial actions or affirmative actions and set reasonable times for abatement; and

6 properly participate in formal or informal hearings and conferences.

(b) Possess sufficient experience in dealing with a broad range of surface coal mining and reclamation operations, to be able to exercise good judgment and display at all times a proper attitude in dealing with the public, the press, State officials, and operators of surface coal mining and reclamation operations.

(c) Possess skills in oral and written communications so that he or she can:

1 concisely express the nature of the violations and the required remedial actions to the operator and/or the permittee;

2 organize and prepare clear and concise written reports as required by OSMRE enforcement and oversight systems; and

3 provide testimony in conferences or before administrative law judges in administrative hearings and Federal judges in judicial hearings.

(d) Possess a full understanding of oversight procedures and the experience necessary to conduct oversight inspections.

(Continued)

(2) Persons designated as authorized representatives for inspections shall be issued credentials indicating their authority. Such credentials shall be presented upon entry to a surface coal mining and reclamation operation.

(3) Entry Authority and Inspection Authority shall expire automatically when the incumbent ceases to be employed in one of the positions having such authority under paragraphs 3.a.(1) and 3.a.(2) of this Directive. The Field Office Director shall, in conjunction with the Personnel Officer, develop a procedure whereby inspector credentials are surrendered by the incumbent to the Field Office Director or designee upon termination or transfer of the person with entry or inspection authority.

*** AUDITS ***

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c. General. Only authorized audit representatives can conduct audits and issue ten-day notices, NOV's and CO's for the purposes of recovering delinquent, unpaid, or underpaid reclamation fees.

(1) Entry Authority for Audits. The following persons have entry authority for audits:

Director
Deputy Directors
Associate Solicitor, Division of Surface Mining
Assistant Solicitor, Litigation, Assistant Solicitor, Enforcement and Collections, Field Solicitors, and Staff Attorneys
Assistant Director, Finance and Accounting
Chief, Division of Reclamation Fee Management
Chief, Branch of Audit Operations
Supervisory Regional Auditors
Supervisory Area Office Auditors
Audit Reviewers
Auditors at the GS-9 level and above
Senior Audit Coordinator
Chief, Division of Assessments and qualified professional members of the Division at the GS-9 level and above

The Director, Deputy Directors, or Assistant Director, Finance and Accounting may grant entry authority to any other OSMRE employee.

(2) The following persons have audit authority:

Supervisory Regional Auditors
Supervisory Area Office Auditors
Audit Reviewers
Auditors at the GS-9 level and above

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The Director, the Deputy Directors, the Assistant Director, Finance and Accounting, and any Supervisory Regional Auditors may designate as an authorized representative or suspend or withdraw the designation of authorized representative status of any employee under their authority.

d. Requirements for Designation as an Authorized Representative for Audits.

(1) To be designated an authorized representative for audits, a person must meet the following standards:

(a) Possess extensive knowledge and understanding of the Act, the regulations, OSMRE audit policies and procedures, and surface coal mining techniques so that he or she can:

1 competently conduct an audit of the books and records pertaining to coal mining operations;

2 properly issue ten-day notices, NOV's and CO's;

3 properly determine and establish appropriate remedial actions or affirmative actions and set reasonable times for abatement; and

4 properly participate in formal or informal hearings and conferences.

(b) Possess sufficient experience in dealing with financial operations to be able to exercise good judgment and display at all times a proper attitude in dealing with the public, State officials, and operators of surface coal mining and reclamation operations.

(c) Possess skills in oral and written communications so that he or she can:

1 concisely express the nature of the violation and the required remedial actions to the operator and/or the permittee;

2 organize and prepare clear and concise written reports as required by OSMRE enforcement and audit systems; and

3 provide testimony in conferences or before administrative law judges in administrative hearings and Federal judges in judicial hearings.

(d) Possess the knowledge, experience, and has been given the authorized credentials to conduct audits of company books and records to determine compliance and liability for the Office of Surface Mining.

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(2) Persons designated as authorized representatives for audits shall be issued credentials indicating their authority. Such credentials shall be presented upon entry to surface coal mining and reclamation operations or locations where the financial books and records are maintained for a surface coal mining and reclamation operation.

(3) Entry Authority and Audit Authority shall expire automatically when the incumbent ceases to be employed in one of the positions having such authority under paragraphs 3.c.(1) and 3.c.(2) of this Directive. The Supervisory Regional Auditor shall, in conjunction with the Personnel Officer, develop a procedure whereby credentials are surrendered by the incumbent to the Regional Supervisory Auditor or designee upon termination or transfer of the person with entry or audit authority.

INSPECTIONS & AUDITS

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e. Program for Meeting Standards, Minimum Training, and Experience Requirements.

Field Office Directors or Supervisory Regional Auditors shall design programs that will provide their inspection or audit staff with the opportunity to fulfill the minimum training and experience requirements. These programs shall be developed in consultation with Headquarters and are subject to the approval of the Assistant Director, Program Operations, for inspectors, and the Assistant Director, Finance and Accounting, for auditors.

f. Issuance of Authorized Representative Identification Cards.

(1) Each Field Office Director and the Assistant Directors, Program Operations and Field Operations may issue or withdraw identification cards to inspectors.

(2) The Chief, Division of Reclamation Fee Management and the Assistant Director, Finance and Accounting may issue or withdraw audit credential cards to auditors.

(3) Authorized representatives shall place the identification or credential number appearing on the identification or credential card on all forms (NOV's, CO's, Ten-day Notices, etc.) used or issued.

4. Reporting Requirements. None

5. References. None

6. Effect on Other Documents. Supersedes Directive INE-15, "Authorized Representative," September 17, 1982; and memorandum from Chief, Division of Assessments and Collections to Deputy Director, Finance and Administration entitled "Authorization of Assessment Personnel."

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7. Effective Date. Upon Issuance.

8. Contact. Chief, Branch of Inspection (FTS 343-5384)
Chief, Division of Reclamation Fee Management (FTS 653-2875)