



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

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Subject:

Authorized Representatives

Approval:

*Joseph A. Salasby*

Title: Director

*Deputy Assistant Secretary*

1. Purpose. This Directive establishes policy and procedures pertaining to the training and certification of Reclamation Specialists and Fee Compliance Officers as authorized representatives of the Secretary of the Interior. Under this Directive, only incumbents and those new agency employees who have been formally certified may conduct surface coal mining and reclamation inspections or reclamation fee audits. The Directive explains agency policy and prescribes minimum certification requirements for entry level inspectors and auditors to be certified as authorized representatives for the purposes of inspecting surface coal mining operations and associated facilities, auditing records, and issuing enforcement actions to implement sections 402, 412, 517, and 521 of the Surface Mining Control and Reclamation Act (the Act). The Directive also addresses which employees have the right of entry onto surface coal mining and reclamation operations and associated facilities for purposes of conducting inspections or audits or supervising or assisting in such activities.

2. Summary of Changes. This Directive has been modified to establish a formal process for the training and certification of reclamation specialists and auditors as "authorized representatives".

3. Definitions.

a. Authorized Representative. A person certified by the Director of the Office of Surface Mining Reclamation and Enforcement (OSM), or designee, to either:

(1) enter and inspect surface coal mining and reclamation operations and other associated facilities subject to regulation or oversight by OSM in accordance with 517 and 521 of the Act and this Directive; or

(2) enter facilities and audit records in accordance with 402 and 412 of the Act, 30 CFR 870.16(b) and (c), and this Directive.

b. Entry Authority for Inspectors. The authority to enter or go through any surface coal mining and reclamation operation or associated facility subject to regulation or oversight by the Office of Surface Mining Reclamation and Enforcement, including

access and copying of records and inspecting monitoring equipment required by section 517 of the Act, 30 CFR 773.17(d) and 842.13.

c. Inspection Authority. The authority to conduct inspections and issue Ten-Day Notices (TDN's), Cessation Orders, Notices of Violations (enforcement actions), and provide remedies for such enforcement actions in accordance with 30 CFR Parts 842 and 843.

d. Entry Authority for Auditors. The authority to enter, review, examine, and copy books and records for audit purposes in determining reclamation fee liability.

e. Audit Authority. The authority to conduct audits and recommend the issuance of TDN's and enforcement actions relating to reclamation fee liability .

4. Policy/Procedures.

a. Policy. It is agency policy to ensure that:

(1) inspections and audits are performed in accordance with agency policy and procedures;

(2) employees hired as potential inspectors and auditors after the effective date of this Directive, have satisfactorily completed minimum training requirements prior to being certified as authorized representatives; and

(3) only those certified as authorized representatives with inspection authority may issue TDN's and enforcement actions for violations of the Act or the applicable State program, any permit condition required by the Act or the applicable State program, and only those with audit authority may conduct reclamation fee audits and recommend the issuance of TDN's and enforcement actions for those violations.

This Directive does not require certification of incumbent employees who are presently serving as inspectors or auditors, except those incumbent employees who receive less than fully satisfactory (Level III) performance evaluations may be subject to recertification by their supervisors.

b. Procedures.

(1) Inspectors and Inspections.

(a) Right of Entry to Surface Coal Mine and Reclamation Operations.

The following individuals are hereby certified as having authority to enter surface coal mining and

reclamation operations and associated facilities without additional certification:

Director  
Deputy Director, Operations and  
Technical Services  
Assistant Director, Program Policy  
Assistant Director, Field Operations  
Field Office Directors and Deputy Field  
Office Directors  
Chief, Division of Regulatory Programs  
Chief, Branch of Inspection and  
Enforcement, the National  
Inspection and Enforcement Officer  
and other designated professional  
staff members of the Branch  
Supervisory Regulatory Program  
Specialists  
Supervisory Program Managers  
Area Office Managers  
Incumbent Reclamation Specialists and  
those certified in accordance with  
this Directive

Those granted authority for entry by the  
Director,  
Deputy Director, Operations and  
Technical Services,  
Assistant Director, Program Policy, and  
Assistant Director, Field Operations

Those employees of the Division of Surface  
Mining with authority to enter surface  
coal mining and reclamation operations  
and associated facilities are:

Associate Solicitor  
Assistant Solicitor, Litigation  
Assistant Solicitor, Enforcement and  
Collections  
Field Solicitors, and  
Staff Attorneys

(b) Authority to Conduct Inspections of Surface  
Coal Mining and Reclamation Operations.

The following OSM employees are hereby  
certified as authorized representatives to perform inspections  
and issue TDN's and enforcement actions:

Supervisory Regulatory Program Specialists  
Supervisory Program Managers

Area Office Managers  
Incumbent Reclamation Specialists and those  
certified in accordance with this  
Directive, and  
The National Inspection and Enforcement  
Officer.

(c) Inspector Certification Authority.

The Director; Deputy Director, Operations and Technical Services; Assistant Director, Program Policy; Assistant Director, Field Operations; and Field Office Directors may certify an OSM employee as an authorized representative upon satisfactory completion of the minimum training and certification requirements, and may suspend or withdraw the certification of any authorized representative they supervise.

(d) Requirements for Inspector Certification as Authorized Representatives.

To be certified as authorized representatives inspector candidates must demonstrate their knowledge and ability to the satisfaction of both their supervisors and Field Office Director to properly prepare for, conduct, and accurately document the findings from surface coal mining and reclamation inspections, and be able to provide accurate and expert testimony in formal and informal hearings as specified by the detailed certification criteria contained in Appendix 1.

(e) Approval of Inspector Certification by Field Office Directors.

1. Field Office Directors are required to establish uniform certification standards for their offices' jurisdictions including requirements specific to their State and Federal programs. Field Office Directors must also specify what documentation Supervisory Inspectors need to complete to support his/her recommendations for inspector candidate's certification.

2. It is the responsibility of each Field Office Director to ensure that supervisors develop individualized training and certification document plans which will provide acceptable inspector training and will demonstrate an inspector candidate's competence.

3. Field Office Directors retain sole authority for the certification of inspectors whom they employ as authorized representatives. This authority cannot be re-delegated.

(f) Requirements - Supervisory Recommendations for Inspector Certification.

1. Supervisory Inspectors are responsible for ensuring that individuals are qualified to become authorized representatives by meeting the basic standards outlined in Appendix 1. New inspector candidates should successfully complete the elements through direct observation by the Supervisory Inspector and through satisfactory completion of formalized training.

2. Supervisory Inspectors shall develop individualized training and certification documentation plans for each inspector to be certified using the Individual Development Plan process. The training and certification plans should include the type of formalized training inspector candidates will need, and plans specifying what areas of competence candidates must demonstrate, taking into account the inspector candidate's qualifications, background and experience. The certification plans shall also include methods to be utilized by the supervisor to observe candidate performance, and be presented with the formalized training recommendations to the Field Office Director for written concurrence prior to commencement of inspector training. The Individual Development Plan, once approved/disapproved, shall be filed in the employee's supervisory work folder in accordance with OSM Directive PER-32. To the extent possible, Supervisory Inspectors are encouraged to have new inspector candidates (particularly entry-level) complete OSM training courses in order to provide the candidates with fundamental knowledge needed to conduct inspections, issue TDN's and enforcement actions, and prepare evidence and provide testimony in court. In developing training and certification documentation plans, Supervisory Inspectors should distinguish between candidates for certification for entry level inspectors as opposed to mid- and upper-grade inspector candidates with demonstrated successful inspection experience. The Supervisory Inspectors shall document the successful completion of each demonstrated element. Upon completion of the requirements under all elements supervisors shall summarize observations made, in writing, and provide the observations, with written recommendations, for the certification of inspectors by the respective Field Office Director.

(2) Auditors and Audits.

(a) Right of Entry to Surface Coal Mine and Reclamation Operations.

The following individuals are hereby certified as having authority to enter an audit unit without additional certification:

Director  
Deputy Director, Administration and  
Finance  
Assistant Director, Finance and  
Accounting  
Chief, Division of Compliance Management  
Chief, Branch of Audit Coordination and  
designated professional staff  
members of the Branch  
Supervisory Regional Auditors  
Supervisory Area Office Auditors  
Senior Audit Coordinators  
Audit Reviewers  
Incumbent Fee Compliance Officers and  
those certified in accordance with  
this Directive

Those granted authority for entry by the  
Director,  
Deputy Director, Administration and  
Finance,  
Assistant Director, Finance and  
Accounting

Those employees of the Division of Surface  
Mining with authority to enter surface  
coal mining and reclamation operations  
and associated facilities are:

Associate Solicitor  
Assistant Solicitor, Litigation  
Assistant Solicitor, Enforcement and  
Collections  
Field Solicitors, and  
Staff Attorneys

(b) Authority to Perform Audits of Surface Coal  
Mining and Reclamation Operations.

The following OSM employees are hereby  
certified as authorized representatives to perform reclamation  
fee audits and recommend the issuance of TDN's and enforcement  
actions relating to reclamation fee liability:

Supervisory Regional Auditors  
Supervisory Area Office Auditors  
Senior Audit Coordinators  
Audit Reviewers, and  
Incumbent Fee Compliance Officers and those  
certified in accordance with this  
Directive.

(c) Auditor Certification Authority.

The Director; Deputy Director, Administration and Finance; Assistant Director, Finance and Accounting; and Supervisory Regional Auditors may certify an OSM employee as an authorized representative upon satisfactory completion of the minimum training and certification requirements, and may suspend or withdraw the certification of any authorized representative they supervise.

(d) Requirements for Auditor Certification as Authorized Representatives.

To be certified as authorized representatives auditor candidates must demonstrate their knowledge and ability to the satisfaction of both their immediate and second-level supervisors to properly prepare for, conduct, and appropriately document the findings of site audits, and be able to provide accurate and expert testimony in formal and informal hearings as specified by the detailed certification criteria contained in Appendix 1.

(e) Approval of Auditor Certification by Supervisory Regional Auditors.

1. Supervisory Regional Auditors are required to establish uniform certification standards for their offices' jurisdictions including requirements specifying areas of competence fee compliance officer candidates must demonstrate to qualify as an authorized representative. Supervisory Regional Auditors must also base certification, in part, upon written recommendations from Supervisory Area Office Auditors to support their recommendations for auditor candidate's certification.

2. It is the responsibility of each Supervisory Regional Auditor to ensure that supervisors develop training and certification plans which will provide acceptable auditor training and will demonstrate auditor candidate's competence.

3. Supervisory Regional Auditors retain sole authority for the certification of auditors whom they employ as authorized representatives. This authority cannot be re-delegated.

(f) Requirements - Supervisory Recommendations for Auditor Certification.

1. Supervisory Area Office Auditors are responsible for ensuring that individuals are qualified to become

authorized representatives by meeting the basic standards outlined in Appendix 1.

2. Supervisors shall develop training and certification plans for new auditors for the purpose of certification as authorized representatives using the Individual Development Plan process. The plans shall include the type of formalized training and areas of competence candidates must demonstrate, taking into account the auditor's qualifications, background and experience. The training and certification plans shall also include methods to be utilized by supervisors to observe each candidate's performance, and shall be presented to the respective Supervisory Regional Auditor for written concurrence prior to commencement of auditor training. The Individual Development Plan, once approved/disapproved, shall be filed in the employee's supervisory work folder in accordance with OSM Directive PER-32. To the extent possible, Supervisory Area Office Auditors are encouraged to have new auditor candidates (particularly entry-level) complete OSM training courses in order to provide the auditor with specialized training, OSM specific auditing practices, and training for court testimony. The Supervisory Area Office Auditors shall document the successful completion of all elements, providing a recommendation for the certification of auditor candidates by the respective Supervisory Regional Auditor.

(3) Authorized Representative Identification Cards.

(a) Newly certified authorized representatives shall be issued identification cards after completion of the certification process, indicating their authority.

1. Field Office Directors, the Assistant Director, Program Policy, and the Assistant Director, Field Operations, may issue or withdraw identification cards to their inspector employees.

2. Supervisory Regional Auditors, the Assistant Director, Finance and Accounting, and the Chief, Division of Compliance Management may issue or withdraw identification cards to their auditor employees.

(b) Such credentials shall be presented upon entry to surface coal mining and reclamation operations and associated facilities, or locations where the financial books and records are maintained for the mining and reclamation operation.

(c) Authorized representatives shall place their identification/credential number appearing on the card on all TDN's, enforcement actions and inspection or audit reports.

(d) Entry authority and inspection/audit authority shall expire automatically when the incumbent ceases to be employed in one of the positions having such authority listed under paragraph 4(b)(1)(a) and (b), and 4(b)(2)(a) and (b) of this Directive or upon departure from the certifying office. Field Office Directors and Supervisory Regional Auditors shall, in conjunction with the servicing Personnel Office, develop procedures whereby authorized representative credentials are surrendered by the incumbent to the Field Office Director/Supervisory Regional Auditor (or designate) upon transfer or departure of the person with entry or inspector/audit authority. All authorized representatives who depart from the office which certified them must surrender his/her credentials, and must be recertified in accordance with this directive if he/she intends to continue to function in the same capacity at a different office, or when returning after being terminated or resigning.

(e) When authorized representatives require replacement of their original identification or credential cards due to loss, theft, or damage, they will be issued new credentials. In these cases, issuing offices will utilize un-numbered credentials and will type the same number as on the original card and will indicate the words "replacement card" after the number.

5. Reporting Requirements. None
6. Effect on Other Documents. This Directive supersedes Directive INE-18, Transmittal Number 263, dated June 6, 1986.
7. References. None
8. Effective Date. Upon Issuance.
9. Contact. Chief, Branch of Inspection and Enforcement. 202-208-2550 (Commercial) or 268-2550 (FTS) or Chief, Branch of Audit Coordination. 202-343-3159 (Commercial or FTS).
10. Keywords. Entry Authority, Audit Authority, Inspection Authority, Authorized Representative, Certification.
11. List of Appendices.

Appendix 1 - Certification Standards to Qualify as Authorized Representatives

CERTIFICATION STANDARDS TO QUALIFY  
AS AUTHORIZED REPRESENTATIVES

1. Inspector Candidates.

In order to qualify as a certified Authorized Representative each inspector candidate must demonstrate the following:

a. A comprehensive knowledge and understanding of the Surface Mining Control and Reclamation Act of 1977 (the Act), applicable State and Federal program regulations and policies in order to:

(1) Readily identify regulatory program requirements applicable to each surface coal mining and reclamation operation;

(2) Readily locate and correctly cite applicable statutory or regulatory requirements or relevant policy;

(3) Recognize the interrelationship among statutes, regulations, and related regulatory requirements; and

(4) Recognize additional site-specific requirements included as part of an operations' permit and reclamation plans;

b. A thorough understanding of surface coal mining and reclamation operations in order to:

(1) Readily analyze the mining method, progression of the mining operation and reclamation, and identify critical areas for inspection;

(2) Read and properly interpret maps, cross sections, monitoring reports, and other technical mining information; and

(3) Have a good knowledge of the types of equipment used in mining and their appropriate capabilities for mining and reclamation;

c. A thorough understanding of safety policies and practices in surface coal mining and reclamation operations;

d. The ability to conduct an effective inspection by:

(1) Conducting a thorough pre-inspection review including review of any permit conditions, outstanding enforcement actions, or patterns of violations;

(2) Identifying all significant violations and collecting sufficient evidence capable of successfully defending any enforcement actions;

(3) Properly preparing and serving Ten-Day Notices, Notices of Violation, and Cessation Orders;

(4) Prescribing appropriate remedial actions to abate violations within reasonable time frames;

(5) Thoroughly documenting all conditions observed during the inspection including violations, evidence collected, and relevant conversations; and

(6) Displaying professional attitude and conduct in relations with the permittee, operator, public, and State officials.

## 2. Auditor Candidates.

In order to qualify as a certified Authorized Representative each auditor candidate must demonstrate the following:

a. A comprehensive knowledge and understanding of the Act, the Fee Compliance Audit Operations Manual, and audit policies in order to:

(1) Readily identify regulatory program requirements applicable to each surface coal mining and reclamation operation;

(2) Readily locate and correctly cite applicable statutory or regulatory requirements or relevant audit policy;

(3) Recognize the interrelationship among statutes, regulations, and related regulatory requirements; and

(4) Recognize additional site-specific requirements included as part of an operations' permit and reclamation plans;

b. A thorough understanding of safety policies and practices in surface coal mining and reclamation operations;

c. The ability to conduct an effective reclamation fee audit to determine compliance status and potential reclamation liability by:

(1) Conducting a thorough pre-audit review of the audit and enforcement records including review of prior reclamation fee payments, outstanding enforcement actions, or patterns of delinquent reclamation fee compliance;

(2) Prescribing appropriate remedial actions to abate violations within reasonable time frames;

(3) Thoroughly documenting all conditions observed during the audit including violations, evidence collected, and relevant conversations; and

(4) Displaying professional attitude and conduct in relations with the permittee, operator, public, and State officials.