



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

Subject Number:

INE-24

Transmittal Number:

336

Date: 5/26/87

Subject: Response to Citizen Complaints in Primacy States

Approval:

Jed D. Christensen

Title: Director

1. Purpose. This directive provides policy guidance for responding to citizen complaints received by Field Offices in primacy States. The attachments to the directive are to be used as guides in preparing letters to citizen complaints.

2. Definitions. None.

3. Policy/Procedure.

(a) Upon receipt of a written citizen complaint which does not allege an imminent danger/harm, all Field Offices shall promptly respond to the complainant using Attachment A as guidance. The response shall advise the complainant of the ten-day notice (TDN) procedures required under section 521(a)(1) of the Surface Mining Control and Reclamation Act (SMCRA), explain the circumstances under which a Federal inspection is necessary, and enclose a copy of the TDN.

(b) Upon final evaluation of a State's response to a TDN or if no response is received, the Field Office shall advise the complainant of the results of that response using the appropriate language provided in Attachments B or C. The response shall clearly describe whether the action taken by the State was appropriate or whether the State has shown good cause for not taking any action, and whether a Federal inspection is necessary. In addition, the response shall include copies of pertinent supporting documents and a statement of rights to informal review under 30 CFR 842.15.

(c) Based upon oral or written information provided by a complainant giving reason to believe that there exists any practice or violation which creates an imminent danger to the health or safety of the public or is causing or could reasonably be expected to cause a significant imminent environmental harm to land, air or water resources an authorized representative of the Secretary shall immediately conduct a Federal inspection. Using the language provided in Attachment D as guidance, the Field Office shall advise the complainant of its inspection findings and include a statement of rights to informal review under 30 CFR 842.15 where appropriate.

4. Reporting Requirements. None.
5. References. Section 521(a)(1) of SMCRA.
30 CFR 842.11.
30 CFR Section 842.12.
30 CFR Section 842.15.

6. Effects on Other Documents.

Supersedes "Boiler Plate Language for Citizen Complaint Letters" memorandum signed May 9, 1985 by the Acting Assistant Director, Program Operations and Inspection, OSMRE.

7. Effective Date. Upon Issuance.

8. Contact. Chief, Branch of Inspection, (202) 343-5384.

Attachment A

Dear _____:

This is to advise you that your written statement was received by this Office on _____ (date). In accordance with the Surface Mining Control and Reclamation Act, your statement has been transmitted to the (State regulatory authority). This State agency will be given ten days to take appropriate action to cause the alleged violation to be corrected or to show good cause for failure to do so. If the State agency fails to notify this Office within ten days, or the action taken by the State agency is not considered appropriate action, or the state fails to show good cause for such failure, a Federal inspection will be conducted. A copy of the ten-day notice is enclosed for your information.

Upon final examination of the State's response, you will be promptly informed of the results. If a Federal inspection is necessary, you will be notified as far in advance as practicable and will be given the opportunity to accompany the Federal inspector on the inspection. Meanwhile, if you have any further questions concerning this process, please contact me at _____ (telephone).

Sincerely,

Field Office Director
or
Area Office Manager
or
Supervisory Reclamation
Specialist

Enclosure

Attachment B

Dear _____:

This is to advise you that we have received a response to the ten-day notice from (State regulatory authority). We have determined that the State has failed to take appropriate action to cause the violation to be corrected or show good cause for such failure. Therefore, a Federal inspection will be conducted and if the violation exists, Federal enforcement will be taken. You will be notified by telephone as far in advance as practicable when the inspection will occur and be given the opportunity to accompany the Federal inspector during the inspection.

If you have any further questions, I can be reached by telephone at _____.

Sincerely,

Field Office Director
or
Area Office Manager

Attachment C

Dear _____:

Our letter of _____ (date), concerning your complaint dated _____, explained the Office of Surface Mining Reclamation and Enforcement's (OSMRE) ten-day notice procedures. We have received a response to the ten-day notice from (State regulatory authority) and have determined that the state has taken appropriate action to cause the violation(s) to be corrected. Therefore, no further action by OSMRE is required. Copies of the State's response and associated documents are enclosed for your review.

- or -

Dear _____:

Our letter of _____ concerning your complaint dated _____, explained the Office of Surface Mining Reclamation and Enforcement's (OSMRE) ten-day notice procedures. We have received a response to the ten-day notice from (State regulatory authority) and have determined that the State has shown good cause for not taking any action in this case. Therefore, no further action by OSMRE is required. Copies of the State's response and associated documents are enclosed for your review.

- and add the following paragraph to both of the above paragraphs-

If you do not agree with the actions taken by this Office concerning your complaint, you have the right under 30 CFR 842.15 to request an informal review of the actions taken. The request should contain statements of how you may be adversely affected and why you feel OSMRE's actions merit the informal review. Your appeal should be addressed to:

(title and address of informal review designee under
30 CFR 842.15)

If you have any further questions, please contact me
at _____.

Sincerely,

Field Office Director
or
Area Office Manager

Enclosure

Attachment D

Dear _____:

This is to advise you of the results of the Federal inspection conducted as a result of the information you provided this Office on _____ (date), alleging that there exists an imminent danger to the public health and safety or a significant, imminent environmental harm to land, air or water resources.

(Option #1, Paragraph #2)

The Federal inspection conducted on _____ (date), revealed that an imminent danger to the health and safety of the public or an imminent harm to the environment did exist and therefore in accordance with the Surface Mining Control and Reclamation Act, cessation of mining operations was immediately ordered until the violation is corrected. A copy of the Federal cessation order and associated documents are enclosed for your information.

(Option #2, Paragraph #2)

The Federal inspection conducted on _____ (date), revealed that an imminent danger to the health and safety of the public or an imminent harm to the environment did not exist. However, a violation of the (State program) was observed and in accordance with the Surface Mining Control and Reclamation Act, the (State regulatory authority) has been notified and will be given ten days to cause the violation to be corrected or to show good cause for not doing so. If the State agency fails to notify this Office within ten days, or take appropriate action or to show good cause for such failure, a Federal inspection will be conducted.

Upon final examination of the State's response, you will be promptly informed of the results. If a Federal inspection is necessary, you will be notified as far in advance as practicable and will be given the opportunity to accompany the Federal inspector on the inspection.

(Option #3, Paragraph #2)

The Federal inspection conducted on _____ (date), revealed that a violation of the Surface Mining Control and Reclamation Act does not exist and therefore, enforcement by the Office of Surface Mining Reclamation and Enforcement (OSMRE) or (State regulatory authority) is not required. A copy of the Federal inspection report is enclosed for your information.

