



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

Subject Number:

INE-30

Transmittal Number:

599

Date:

March 1, 1990

Subject: Alternative Enforcement Referrals for Criminal Penalties, Individual Civil Penalties, and Injunctive Relief

Approval: *[Signature]* Title: Director

1. Purpose. This Directive establishes procedures for Field Offices to refer enforcement cases to the Solicitor for criminal penalties or injunctive relief, and to provide the Field Assessment Unit with the requisite information for assessment of an individual civil penalty (ICP) where warranted.
2. Summary of Changes. This Directive consolidates agency policy and procedures necessary for Field Offices to implement alternative enforcement referrals for criminal penalties, ICP's, and injunctive relief pursuant to sections 518(e), 518(f), and 521(c) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA). This Directive has been modified and reorganized to clarify changes in policy and procedures concerning alternative enforcement referrals to reflect provisions of the Settlement Agreement between Save Our Cumberland Mountains, Inc., et al., and Manuel Lujan, Jr., Secretary of the United States Department of the Interior, et al., dated January 24, 1990. (See section 7 below, "Effect on Other Documents.")
3. Definitions.
 - a. Administrative or Procedural Violation means a violation that has neither direct environmental consequences nor environmental remedies (i.e., the remedial measures do not directly require compliance with one or more performance standards).
 - b. Agent means a person who exercises authority and control over a surface mining operation on behalf of a corporate permittee. See 53 FR 3664, February 8, 1988. Under United States v. Dix Fork Coal Co., 692 F.2d 336 (6th Cir. 1982), an "agent includes that person charged with the responsibility for protecting society and the environment from adverse effects of the surface coal mining operation and particularly charged with effectuating compliance with environmental performance standards during the course of a permittee's mining operation."
 - c. Alternative Enforcement means the documented consideration and/or implementation of any or all of the following actions under 30 CFR 845.15(b)(2) whenever a violator fails to abate a violation: criminal penalties (SMCRA section 518(e)); assessment of an individual civil penalty (SMCRA section 518(f)); injunctive relief (SMCRA section 521(c)); or suspension or revocation of a permit due to a pattern of violations (SMCRA section 521(a)(4)).

d. Corporate Official(s) means the president and the directors of a corporation and any other officer or agent who has line responsibility with respect to a mine site.

e. Knowingly means that an individual knew, or had reason to know, in authorizing, ordering, or carrying out an act or omission on the part of a corporate permittee that such act or omission constituted a violation, failure, or refusal. See 30 CFR 724.5 and 846.5.

f. Line responsibility with respect to a mine site means authority or demonstrated control over the conduct of surface mining operations, including the ability to directly cause the abatement of violations, and any level of supervisory responsibility over a person having such ability. (For example, the mine superintendent and each official in the superintendent's "chain of command," up to and including the chief executive officer, would have line responsibility with respect to the mine site.)

g. Violation, failure, or refusal means (1) a violation of a condition of a permit issued pursuant to a Federal program, a Federal lands program, Federal enforcement pursuant to section 502 of SMCRA, or Federal enforcement of a State program pursuant to section 521 of SMCRA; or (2) a failure or refusal to comply with any order issued under section 521 of SMCRA or any order incorporated in a final decision issued by the Secretary except an order incorporated in a decision issued under section 518(b) or section 703 of SMCRA. A failure or refusal to comply with any order issued under section 521 of SMCRA would include a failure or refusal to comply with an Imminent Harm Cessation Order (521(a)(2)) or a Failure To Abate Cessation Order (521(a)(3)). See 30 CFR 724.5 and 846.5.

h. Willfully means that an individual acted (1) either intentionally, voluntarily, or consciously, and (2) with intentional disregard or plain indifference to legal requirements in authorizing, ordering, or carrying out a corporate permittee's action or omission that constituted a violation, failure, or refusal. See 30 CFR 724.5 and 846.5.

4. Policy/Procedures.

a. Background. Section 518(e) of SMCRA provides for criminal penalties upon conviction when any person knowingly and willfully violates a condition of a permit, or fails or refuses to comply with any order issued under sections 521 or 526 of SMCRA. Section 518(f) of SMCRA provides that an individual who is the director, officer, or agent of a corporate permittee and who willfully and knowingly authorizes, orders, or carries out a violation, failure, or refusal (as defined above) may be assessed a civil penalty for violations committed by the corporation and shall be subject to the same civil

penalties, fines, and imprisonment that may be imposed upon a person under sections 518(a) and 518(e) of SMCRA.

Section 521(c) of SMCRA authorizes the Secretary to request a civil action for injunctive relief in the appropriate Federal district court when a permittee or agent violates or fails or refuses to comply with any order or decision issued by the Secretary under SMCRA; interferes with or hinders an authorized representative in carrying out the provisions of SMCRA; refuses entry to or inspection of a mine site; or refuses to furnish information or records necessary in carrying out SMCRA.

The Office of Surface Mining Reclamation and Enforcement (OSM) has implemented these statutory provisions under 30 CFR 845.15(b)(2). That rule provides, in part, that whenever a violation remains unabated, a daily civil penalty shall be assessed for not more than 30 days. If the violation remains unabated after that 30-day period, OSM shall take appropriate action pursuant to SMCRA sections 518(e), 518(f), 521(a)(4), or 521(c) within 30 days to ensure that abatement occurs or to ensure that there will not be a reoccurrence of the failure to abate. This Directive specifies procedures for initiating the 518(e) criminal penalty, 518(f) individual civil penalty, and 521(c) injunctive relief processes. Procedures for suspension or revocation of a permit due to a pattern of violations and for actual assessment of ICP's are addressed under separate Directives referenced in Paragraph 6.

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

(1) For any Failure to Abate Cessation Order (FTACO) or Imminent Harm Cessation Order (IHCO) issued after the date of this Directive with respect to a site on which coal extraction had not been completed as of the time of issuance of the FTACO or IHCO:

(a) OSM conducts follow-up inspections of the mine site within three working days after the issuance of a cessation order and as appropriate thereafter to determine whether mining has ceased and abatement of the violation(s) has begun;

(b) All cases are immediately referred to the Solicitor's Office to seek a temporary restraining order or preliminary injunction (or both) if, as a result of a follow-up inspection, it appears either that the operator is removing from the mine site equipment needed to perform the abatement work or that no significant effort to abate the violation has commenced; and

(c) If a violation is not abated within 30 days after issuance of an FTACO or within 30 days after the abatement date set for an IHCO, whichever is applicable, OSM proposes and undertakes all necessary procedures to assess an ICP against each corporate official who was served a Notice of Potential Liability and who has knowingly and willfully authorized, ordered or carried out a violation, failure,

or refusal. Prior to any final ICP assessment, such officer, director, or agent shall be afforded due process of law in accordance with 30 CFR 846.17.

(2) For any FTACO or IHCO issued after the date of this Directive with respect to a site on which coal extraction had been completed as of the time of issuance of the FTACO or IHCO, and for any FTACO or IHCO issued prior to the date of this Directive with respect to any site:

(a) OSM evaluates each FTACO or IHCO on a case-by-case basis and initiates injunctive relief where appropriate in order to bring about abatement of the violation in an expeditious manner; and

(b) Field Office Directors decide which alternative enforcement measures to implement for all FTACO's that remain unabated more than 30 days following issuance of an FTACO or 30 days following the abatement date set for an IHCO. Except in the circumstances described in paragraphs 4.c.(2)(a)(i)-(iii) of this Directive, all such Cessation Orders (CO's) shall be referred to the Solicitor's Office for injunctive relief or criminal penalties, and subsequent to any Solicitor's Office action on those referrals (or concurrent with those actions if so requested by the Solicitor's Office), such CO's shall also be referred to the Field Assessment Unit for possible ICP assessment in order to bring about abatement of the violations (see also Directive INE-40, "Individual Civil Penalty Assessments").

(3) Injunctive, criminal penalty, and ICP referral decisions are tracked on the Collection Management Information System (CMIS), and pertinent information about the violation is included in the Applicant/Violation System (AVS) for the purpose of permit blocking or conditional permit issuance.

c. Procedures.

(1) Injunctive Relief Referrals for FTACO's or IHCO's issued after the date of this Directive with respect to a site on which coal extraction had not been completed as of the time of issuance of the FTACO or IHCO.

(a) Field Office Directors are responsible for tracking abatement dates and conducting mine site reinspections in order to determine the need for alternative enforcement.

(i) An initial follow-up reinspection shall be conducted within three working days after issuance of an FTACO or expiration of the abatement period set in an IHCO, whichever is applicable. If abatement work is in progress, the Field Office shall conduct such further inspections thereafter as are reasonably necessary to verify that the operator is not conducting mining

operations in violation of the CO and that abatement of the violations is proceeding satisfactorily.

(ii) If any reinspection indicates that the cited violations have been abated, the inspector will terminate the CO. However, if any reinspection indicates that any violation remains unabated and that the operator (A) is conducting mining operation in violation of the CO, (B) is not making satisfactory progress toward abatement of the violation, and/or (C) is removing from the site equipment needed to perform the abatement work, the inspector will immediately prepare an injunctive relief referral for the Solicitor's Office, using the "Field Office Referral to the Solicitor for Injunctive Relief or Criminal Penalty (and Information for Possible Assessment of an Individual Civil Penalty by the Field Assessment Unit" worksheet (Appendix 2). (The Solicitor's Office may seek a temporary restraining order or preliminary injunction, or both, if any of these situations occurs.)

(iii) If the operator or permittee is granted temporary relief from the FTACO or IHCO under section 525 or 526 of SMCRA, further inspection and enforcement efforts will be curtailed to the extent provided under the grant of temporary relief.

(b) Necessary documentation to be included in the injunctive relief referral for the Solicitor's Office includes:

(i) A copy of the underlying Notice of Violation (NOV), CO, and associated inspector's statements;

(ii) Copies of all relevant modifications, vacations, and termination notices for the NOV and CO;

(iii) Copies of relevant service of process receipts;

(iv) Inspection reports, including reports of the reinspections under paragraph 4.c.(1)(a) documenting whether the operator has ceased mining at the site, is making satisfactory progress toward abatement, or has removed from the site equipment needed to perform abatement work;

(v) Informal hearing or conference requests and reports;

(vi) Administrative review requests and decisions;

(vii) Other pertinent documents (additional reports, letters, maps, photographs, etc.);

(viii) Identification of ownership and control information, including the names and addresses of the company agent() or representative(s) who were served;

(ix) A chronology of events;

(x) Recommendations of remedial measures needed for abatement;

(xi) A Reclamation Cost Estimate (RCE), using the methodology contained in Appendix 1;

(xii) Permit information (including information regarding whether the violator has other permits and their status);

(xiii) Bond information;

(xiv) A map showing the location of the mine site;

(xv) Directions for service of process; and

(xvi) A copy of the required Notice(s) of Potential Liability for an ICP (if the violator is incorporated) and evidence of service.

(c) If one or more of the items listed in section 4.c.(1)(b) above is not available at the time the case is otherwise ready for referral to the Solicitor's Office, and inclusion of the missing item(s) would delay the referral by more than a few days, the referral package containing all other necessary documentation should be forwarded to the Solicitor's Office promptly and the missing item(s) should be sent as soon as possible thereafter. In instances where an NOV or CO has not been properly served, an explanation of the service problem should be included in the referral package, but the lack of service should not delay the referral to the Solicitor's Office.

(2) Injunctive Relief Referrals for FTACO's or IHCO's issued after the date of this Directive with respect to a site on which coal extraction had been completed as of the time of issuance of the FTACO or IHCO, and for any FTACO or IHCO issued prior to the date of this Directive with respect to any site.

(a) Field Office Directors are responsible for tracking abatement dates and conducting mine site reinspections in order to determine the need for alternative enforcement. If the violation(s) remain unabated more than 30 days following the issuance of an FTACO or 30 days following the abatement date set in the IHCO, the Field Office shall, within 30 days thereafter, prepare the necessary documentation and refer the case to the Solicitor's Office for injunctive relief, unless:

(i) An appropriate written abatement plan has been entered into between the permittee and OSM, and the permittee is proceeding in accordance with the provisions of the plan;

(ii) The case involves only an administrative or procedural violation (if, however, one or more other violations are involved, the entire case should be referred, including the administrative or procedural violation); or

(iii) A CO or an underlying NOV (other than a CO or NOV for an administrative or procedural violation) has not been properly served on the permittee. In those instances, the Field Office shall proceed in accordance with the terms of any service contract OSM may have in place at the time, to ensure proper service prior to making a referral to the Solicitor's Office.

(b) The contents of the referral package shall include the items listed in section 4.c.(1)(b) of this Directive.

(3) Criminal Penalties. In particularly serious cases, in addition to injunctive relief, Field Office Directors may refer FTACO and IHCO cases to the Solicitor's Office for criminal penalties if sufficient evidence exists of knowing and willful conduct on the part of a violator.

(a) In cases referred for criminal action, the Field Office Director shall, using the form provided in Appendix 3 ("Knowing and Willful Determination Required for Recommended Criminal Penalty"):

(i) List each person allegedly responsible for any knowing and willful violation, failure, or refusal (indicate the person's position in the company and current address); and

(ii) Document those actions by the person which establish a knowing and willful violation, failure, or refusal, including any statement by the person which indicates an intention to violate a permit condition, or a failure or refusal to comply with a CO or decision of the Secretary (include dates, times, names, and current addresses of witnesses).

(b) In addition, the Field Office shall prepare the "Field Office Referral to the Solicitor for Injunctive Relief or Criminal Penalty (and Information for Possible Assessment of an Individual Civil Penalty by the Field Assessment Unit" worksheet (Appendix 2) and provide all of the information required for an injunctive relief referral under paragraph 4.c.(1)(b) of this Directive.

(4) Individual Civil Penalties.

(a) If a violation committed by a corporate permittee is not abated within 30 days after the issuance of an FTACO or 30 days after the abatement date set for an IHCO, whichever is applicable, the Field Office Director shall refer the case to the Field Assessment Unit, using the form in Appendix 2, for a decision on whether to propose an ICP, in accordance with Directive INE-40 on ICP assessments.

(b) Such referral shall be made within 15 days of the deadline by which any officer, director, or agent of the permittee who has been served a Notice of Potential Liability for an Individual Civil Penalty must provide documentation that he or she has taken all reasonable steps within his or her authority to bring about abatement of the violation. (Such deadline is 45 days after issuance of the FTACO or 45 days after the abatement date set for the IHCO, whichever is applicable.)

(c) The Field Assessment Unit shall have 30 days thereafter to decide whether to propose an ICP and, if so, the amount of the proposed ICP, using the criteria set forth in Directive INE-40.

(5) Field Office Directors shall, during the preparation of any alternative enforcement referral, review available information, including permit applications, inspection and enforcement files, and the Applicant/Violator System (AVS), to develop complete and accurate ownership and control information about the permittee and operator responsible for the CO and any underlying NOV. The Field Office Director shall provide to the AVS Office all ownership and control information acquired through the preparation of the alternative enforcement referral package by transmitting to that Office a copy of the "Field Office Referral to the Solicitor for Injunctive Relief or Criminal Penalty (and Information for Possible Assessment of an Individual Civil Penalty by the Field Assessment Unit)" worksheet (see Appendix 2). The AVS Office is responsible for updating AVS violator file data and, in coordination with the Field Offices, notifying State regulatory authorities (SRA's) of any additional ownership and control data for the updating of SRA databases and for other permitting or enforcement measures which the regulatory program may require. (For example, the SRA may need to require the permittee to apply for a transfer, assignment, or sale of permit rights to reflect changes in ownership or effective control.)

5. Reporting Requirements. Field Office Directors shall ensure that records are maintained documenting all referral decisions and that CMIS is updated to track the dates and results of those decisions. Field Office Directors are responsible for providing case-specific data to the appropriate Field Assessment Office and to the AVS Office for inclusion in quarterly reports to SOCM, as required by the Settlement Agreement.

6. References.

- a. 30 CFR 724.5, 845.15(b)(2), 846.5, and 846.17.
- b. Section 518(e) of SMCRA.
- c. Section 518(f) of SMCRA.
- d. Section 521(a)(4) of SMCRA.
- e. Section 521(c) of SMCRA.
- f. Section 525 of SMCRA.
- g. Section 526 of SMCRA.
- h. Settlement Agreement Between Save Our Cumberland Mountains, Inc., et al., and Manuel Lujan, Jr., Secretary of the United States Department of the Interior, et al., dated January 24, 1990.
 - i. Directive INE-4, "Notice of Potential Liability for an Individual Civil Penalty," dated March 1, 1990.
 - j. Directive INE-36, "Suspensions and Revocation of Federal Permits Due to Patterns of Violations," dated September 26, 1988.
 - k. Directive INE-40, "Individual Civil Penalty Assessments," dated March 1, 1990.

7. Effect On Other Documents. Supersedes Temporary Directive 89-22, "Alternative Enforcement Referrals for Criminal Penalties, Individual Civil Penalties, and Injunctive Relief" dated July 12, 1989.

8. Effective Date. Upon Issuance.

9. Contact. Chief, Branch of Inspection and Enforcement, FTS 343-4550.

10. Appendices.

Appendix 1: Violation Abatement Cost Estimate Worksheet.

Appendix 2: Field Office Referral to the Solicitor for Injunctive Relief or Criminal Penalty (and Information for Possible Assessment of an Individual Civil Penalty by the Field Assessment Unit).

Appendix 3: Knowing and Willful Determinations Required for Recommended Criminal Penalty.

VIOLATION ABATEMENT COST ESTIMATE WORKSHEET

<u>Item</u>	<u>Cost</u>
1. Structure Removal	\$ _____
2. Earthmoving	_____
3. Revegetation	_____
4. Other Reclamation Cost	_____
Specify _____	_____
_____	_____
_____	_____
Total of items 1-4 \$	_____

1. Demolition Costs

a. Buildings and Facilities

$$\frac{\text{(Length in Feet)}}{\text{X}} \frac{\text{(Width in Feet)}}{\text{X}} \frac{\text{(Height in Feet)}}{\text{X}} \frac{\text{\$0.13 (Cost of Demolition Per Cubic Foot)}}{\text{=}} \frac{\text{(Total Demolition Cost)}}{\text{}}$$

b. Mine Entry Seals

$$\frac{\text{(Number of Entries)}}{\text{X}} \frac{\text{\$1000* (Cost Per Entry Seal)}}{\text{=}} \frac{\text{(Total Cost For Sealing Entries)}}{\text{}}$$

c. Debris Handling and Disposal (includes misc. equipment, roof bolts, mine timbers, general site clean up)

Total cost = \$2000 per site**

d. Conveyor Removal

$$\frac{\text{(Conveyor Length in Feet)}}{\text{X}} \frac{\text{\$16 (Removal Cost Per Linear Foot)}}{\text{=}} \frac{\text{(Total Removal Costs)}}{\text{}}$$

*Just sealing the entry. Does not include backfilling and grading.

**Must be adjusted depending on amount to be disposed.

2. Backfilling and Grading

a. Highwall Elimination (Contour Mining)

$$\frac{\text{_____}}{\text{(Highwall Height in Feet)}} \times \frac{\text{_____}}{\text{(Length of Highwall in Feet)}} \times \frac{\text{_____}}{\text{(Width of Bench in Feet} \div 2)} \div 27 \times \$1.00^* = \frac{\text{_____}}{\text{(Total Backfilling and Grading Costs)}}$$

(Conversion from Cubic Feet to Cubic Yards) (Backfilling and Grading Cost Per Cubic Yard)

b. Box Cut Reclamation (Area Mining)

$$\frac{\text{_____}}{\text{(Length in Feet)}} \times \frac{\text{_____}}{\text{(Width in Feet)}} \times \frac{\text{_____}}{\text{(Height in Feet)}} \div 27 \times \$1.00^* = \frac{\text{_____}}{\text{(Total Backfilling and Grading Costs)}}$$

(Conversion from Cubic Feet to Cubic Yards) (Backfilling and Grading Cost Per Cubic Yard)

c. Final Grading **

$$\frac{\text{_____}}{\text{(Acres of Disturbed Area Requiring Final Grading)}} \times \frac{43,560}{\text{(Conversion From Acres to Square Feet)}} \times \frac{1}{\text{(Approximately One Foot Will Require Final Grading)}} \div 27 \times \$1.00 = \frac{\text{_____}}{\text{(Total Final Grading Costs)}}$$

(Conversion From Cubic Feet to Cubic Yards) (Costs Per Cubic Yard For Final Grading)

d. Topsoil Redistribution

$$\frac{\text{_____}}{\text{(Acres of Disturbed Area Requiring Topsoil)}} \times \frac{43,560}{\text{(Conversion From Acres to Square Feet)}} \times \frac{0.5}{\text{(Topsoil Will be Redistributed to a Depth of 6 inches (.5ft))}} \div 27 \times \$1.00 = \frac{\text{_____}}{\text{(Total Costs for Topsoil Redistrib.)}}$$

(Conversion From Cubic Feet to Cubic Yards) (Cost Per Cubic Yard For Topsoil Redistrib.)

e. Pond Removal

$$\frac{\text{_____}}{\text{(Surface Acreage of Pond)}} \times \frac{43,560}{\text{(Conversion From Acres to Square Feet)}} \times \frac{2}{\text{(Two Foot Average Depth To Be Graded)}} \div 27 \times \$1.00 = \frac{\text{_____}}{\text{(Total Cost For Pond Removal)}}$$

(Conversion From Cubic Feet to Cubic Yards) (Cost Per Cubic Yard For Pond Removal)

*Should be adjusted to local economic conditions and site conditions (distance of soil movement and machinery requirements, type of material to be handled).

**This is to be used when only slight grading or final grading is left to be done on the site.

3.

A. Revegetation

Seedbed Preparation = \$180/acre
Seeding, Fertiliser, Mulch = \$720/acre
Tree Planting = \$270/acre

B. Re seeding

$$\frac{\text{acres}}{\text{(\# of acres to be reseeded)}} \times \left(\frac{\$180}{\text{(\$/acre for seedbed preparation)}} \text{ per acre} + \frac{\$720}{\text{(\$/acre for seeding, fertilizing, and mulching)}} \text{ per acre} \right) = \$ \frac{\text{Total Cost}}{\text{(costs for re seeding)}}$$

C. Planting Trees and Shrubs

$$\frac{\text{acres}}{\text{(\# of acres for planting)}} \times \frac{\$270}{\text{(\$/acre for planting trees and shrubs)}} \text{ per acre} = \$ \frac{\text{Total Cost}}{\text{(Costs for Planting)}}$$

4. Other Reclamation Costs

a. Pond Treatment and Pumping Prior To Removal

Pumping Only = \$0.05/10 ft³
Treatment = \$0.10/10 ft³
(Required if pH is < 6.0)

$$\frac{\text{(Pond Volume in Cubic Feet - 10)}}{\text{(\# of 10 ft}^3 \text{ units)}} \times \left[\frac{\text{(Cost of Pumping)}}{\text{(\$/unit)}} + \frac{\text{(Cost of Treatment)}}{\text{(\$/unit)}} \right] = \frac{\text{(Total Cost)}}{\text{(\$/unit)}}$$

*Required only if Pond pH < 6.0

b. Construction Of Rock-Lined Channels

$$\frac{\text{(Channel Length in Feet)}}{\text{(Channel Length in Feet)}} \times \frac{\$16.20}{\text{(Construction Cost Per Linear Foot)}} = \frac{\text{(Total Construction Costs)}}{\text{(Total Construction Costs)}}$$

c. Removal Of Haul And Access Roads (Excluding Revegetation)

$$\frac{\text{(Road Length in miles)}}{\text{(Road Length in miles)}} \times \frac{5,280}{\text{(Conversion to Feet)}} \times \frac{\$2.00}{\text{(Removal Cost Per Linear Foot)}} = \frac{\text{(Total Removal Costs)}}{\text{(Total Removal Costs)}}$$

Field Office Referral to the Solicitor for Injunctive Relief or Criminal Penalty (And Information for Possible Assessment of an Individual Civil Penalty by the Field Assessment Unit)

Priority Designations:

- Priority 1: _____ Imminent Harm Cessation Order is unabated; or
 _____ The permittee is actively conducting mining operations after a cessation order has been issued; or
 _____ The permittee has interfered with or hindered an authorized representative in his duties or has refused entry for the purposes of inspecting a mine or obtaining relevant inspection records; or
 _____ Settlement Agreement case.

- Priority 2: _____ Non-Settlement Agreement case where a cessation order has been issued and the permittee has ceased mining or abandoned the site without abating violation(s) which are or may become serious. (NOTE: An unabated violation would be considered serious if the extent and duration of the impact would progress to an imminent harm/danger condition; would fail to stabilize naturally before causing substantial environmental damage to offsite air, water, or land resources; or would substantially interfere with the planned postmining land use.)

- Priority 3: _____ Non-Settlement Agreement case where the site is abandoned or inactive with environmental harm not as great as priority 2 above.

1. Permittee(s) Name _____

Permittees' Officer(s):

(1) _____
Name

(2) _____
Name

Position

Position

*** Source

*** Source

*** source = Indicate source of information, e.g., permit, AVS, furnished by violator, etc.

Permittees' Officer(s):

(3) _____
Name

Position

*** Source

(4) _____
Name

Position

*** Source

Permittee's Director(s):

(1) _____
Name

Position

*** Source

(2) _____
Name

Position

*** Source

(3) _____
Name

Position

*** Source

(4) _____
Name

Position

*** Source

Permittee's Shareholder(s) (10% or more):

(1) _____
Name

Position

*** Source

(2) _____
Name

Position

*** Source

(3) _____
Name

Position

*** Source

(4) _____
Name

Position

*** Source

2. Operator(s) Name _____

Operator's Officer(s):

(1) _____
Name

Position

*** Source

(2) _____
Name

Position

*** Source

*** Source = Indicate source of information, e.g., permit, AVS, furnished by violator, etc.

Operator's Officer(s):

(3) _____
Name _____
Position _____
*** Source _____

(4) _____
Name _____
Position _____
*** Source _____

Operator's Director(s):

(1) _____
Name _____
Position _____
*** Source _____

(2) _____
Name _____
Position _____
*** Source _____

(3) _____
Name _____
Position _____
*** Source _____

(4) _____
Name _____
Position _____
*** Source _____

Operator(s) Shareholder(s) (10% or more):

(1) _____
Name _____
Position _____
*** Source _____

(2) _____
Name _____
Position _____
*** Source _____

(3) _____
Name _____
Position _____
*** Source _____

(4) _____
Name _____
Position _____
*** Source _____

*** Source = Indicate source of information, e.g., permit, AVS, furnished by violator, etc.

Permit Information

Permit Number _____
MSHA Number _____
Expiration Date _____

Type: Interim _____ Permanent _____
Status: Active _____ Inactive _____

Additional Information: _____

CO#	V/T	NOV#	ST	COUNTY	PERMIT#	INJ	CRIM
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____

- _____ A copy of the underlying NOV, CO, and associated inspector's statements.
- _____ Copies of all relevant modifications, vacations, and termination notices of the associated CO(s).
- _____ Copies of relevant service of process receipts.
- _____ Inspection reports.
- _____ Hearing or conference requests/reports.
- _____ Administrative review requests/decisions.
- _____ Other pertinent documents (additional reports, letters, maps, photographs, etc.).
- _____ Identification of ownership and control information including names and addresses of the company agent(s) or representative(s) who were served.
- _____ Chronology of events.
- _____ Recommendations for remedial measures needed for abatement.
- _____ Reclamation cost estimates using methodology contained in "Violation Abatement Cost Estimate Worksheet."
- _____ Permit information (including information regarding whether the violation has other permits and their status).
- _____ Bond information.
- _____ Map to mine site.
- _____ Directions for service of process.
- _____ Copy of the required notice of potential liability for an individual civil penalty (if violator is incorporated) and evidence of service.

_____ Field Office

_____ Field Contact Person

_____ Telephone Number

_____ Date

Knowing and Willful Determination Required
for Recommended Criminal Penalty

1. Document those actions by the permittee/operator which are considered to be a knowing and willful violation of a permit condition or a knowing and willful refusal or failure to comply with a cessation order or decision of the Secretary.

2. List those persons allegedly responsible for the above-described knowing and willful actions, or failure or refusal to comply (indicate position in company and current address).

3. List any statements by persons which indicate an intention to violate a permit condition, or failure or refusal to comply with a cessation order or decision of the Secretary (include dates, time, name, and current address of witnesses).
