



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

Subject Number:

INE-6

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Date:

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Subject: Informal Public Hearing Under 30 CFR 843.15

Approval: *James O. Harris*

Title: Director, Office of Surface Mining

1. Purpose. This directive establishes the Office of Surface Mining's (OSM) policy on informal public hearings under 30 CFR 843.15, August 16, 1982.

2. Definitions. None.

3. Policy/Procedures.

a. Background. 30 CFR 843.15 provides that a notice of violation or cessation order which requires cessation of mining...shall expire within 30 days after it is served unless an informal public hearing has been held within that time.

30 CFR 843.15(b) provides that written notice be delivered or sent by certified mail to the person to whom the notice of violation or cessation order was issued no later than five days after service of the notice of violation or the cessation order.

b. Policy.

(1) OSM will make diligent efforts to conduct informal hearings under 30 CFR 843.15.

(2) The attachment, "Notice of Right to Informal Public Hearing," and the formatted response will be used to satisfy the written notice requirement of 30 CFR 843.15(b)(1)(i).

c. Procedures.

(1) When a cessation order or notice of violation requiring cessation of mining is served, the attached form letter "Notice of Right to Informal Public Hearing" shall be included.

(2) In the event that the "Notice of Right to Informal Public Hearing" is not served personally or by certified mail, with the cessation order or notice of violation, it must be served personally or sent by certified mail within five days.

(3) If a request for an informal hearing is received on or after the 21st day after service of the notice of violation or cessation order, the permittee will be deemed to have consented to an extension of time for holding the hearing. The extension of time shall be equal to the number of days elapsed after the 21st day.

3.c.(3)

(4) When citing violations, inspectors should separate violations which require an informal minesite hearing from those which do not, and issue separate notices of violation for each type.

(5) Inspectors should record service of the "Notice of Right to Informal Public Hearing" in the inspection report. Refusal of the permittee to acknowledge receipt of the form does not invalidate its service.

4. Reporting Requirements. See paragraph 3.c.(5) above

5. References.

(a) Section 521 of the Surface Mining Control and Reclamation Act of 1977.

(b) 30 CFR 843.15

6. Effects On Other Documents. Replaces Directive, "Informal Public Hearing under 30 CFR 722.15," INE-6.

7. Effective Date. Upon issuance

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

Attachment

NOTICE OF RIGHT TO INFORMAL PUBLIC HEARING

Pursuant to Federal regulation 30 CFR 843.15, you are entitled to an Informal Public Hearing to be held within 30 days of service of notice of violation/cessation order # _____ served on _____. This informal public hearing is in addition to your right to a formal public hearing before an administrative law judge under 30 CFR 843.16.

You will be deemed to have waived your right to this hearing unless a request is received within 30 days after service of the notice or order, at

{Field /Area Offices}

You may use the attached sheet to request a hearing. Waiver of this hearing does not constitute a waiver of your right to review of the notice, order, or any proposed assessment pursuant to 30 CFR 845.19 or your right to an Informal Assessment Conference pursuant to 30 CFR 845.18.

Pursuant to 30 CFR 843.15(d), notice of the time and place of the informal hearing must be posted at the Field/Area Office closest to the minesite and must be published, where practicable, in a newspaper of general circulation. Any person has the right to participate in the hearing.

If your request is received within 30 days of your being served with the above notice of violation or cessation order as provided in 30 CFR 843.15, you will be contacted by this office to arrange for an informal hearing. If your request is received on or after the 21st day after you were served with the above notice of violation or cessation order, you will be deemed to have consented to an extension of time for holding the informal hearing. The extension of time shall be equal to the number of days elapsed after the 21st day.

Authorized Representative

Person served with Notice

Date of Service

[Field Office Address]

Dear Sirs:

Pursuant to 30 CFR 843.15, I request an informal public hearing in regard to notice of violation(s) # _____ and/or cessation order(s) # _____. My telephone number is () _____.

Signature

Name of and Title

Name of Permittee or Operator

Address of Permittee or Operator