



# United States Department of the Interior

OFFICE OF SURFACE MINING  
RECLAMATION AND ENFORCEMENT  
WASHINGTON, D.C. 20240

FEB 9 1993

To: Assistant Director, Field Operations  
Field Office Directors  
Area Office Managers  
Reclamation Specialists

From: Acting Director *[Signature]*

Subject: Citation of Violations

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To: **AL KLEIN** # of pages: 1

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INDIANAPOLIS  
FIELD OFFICE

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I wish to eliminate any confusion that may have arisen in past months about the standard for citation of violations and the issuance of Ten-Day Notices.

Section 521 of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) is specific that, in non-imminent harm or danger situations:

...on the basis of any information available to him, including receipt of information from any person, the Secretary has reason to believe that any person is in violation of any requirement of this Act or any permit condition required by this Act, the Secretary shall notify the State regulatory authority....

Section 521 further requires that where the Federal program is applicable:

...the Secretary or his authorized representative determines that any permittee is in violation of any requirement of this Act or any permit condition required by this Act...the Secretary or authorized representative shall issue a notice to the permittee or his agent....

30 CFR Parts 842 and 843 and Office of Surface Mining Reclamation and Enforcement (OSM) directives further illuminate these requirements.

The Act, the regulations, and OSM directives require that notice be given of any violation, including permit defects, and do not distinguish based on the seriousness or potential effect of a violation. Consideration of the "nickel and dime" aspects of a violation is an inherent part of the civil penalty system--not in the determination of the existence of a violation or the treatment of a violation. A more complete description of our enforcement mandate will be incorporated in the revisions to the Inspectors' Handbook, which is being completed.

I am aware that OSM's inspection forces are very experienced and dedicated to the principles embodied in SMCRA. Therefore, please consider this memorandum as our acknowledgement of and continued request for those efforts.