

## Surface Mining Reclamation and Enforcement, Interior

## § 721.13

operations subject to regulation under the Act—

(a) On the basis of not less than two consecutive State inspection reports indicating a violation of the Act, regulations or permit conditions required by the Act;

(b) On the basis of information provided by a State or any person which gives rise to a reasonable belief that the provisions of the Act, regulations or permit conditions required by the Act are being violated, or that a condition or practice exists which creates an imminent danger to the health or safety of the public, or is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources; and

(c) On a random basis of at least one complete inspection each 6 months. A complete inspection is an onsite review of the operator's compliance with all applicable standards in these regulations within the entire area disturbed or affected by mining.

### § 721.12 Right of entry.

(a) Authorized representatives of the Secretary, without advance notice and upon presentation of appropriate credentials and without a search warrant, shall have the right of entry to, upon, or through any surface coal mining and reclamation operations or any premises in which any records required to be maintained are located.

(b) The authorized representatives may at reasonable times, and without delay, have access to and copy any records, and inspect any monitoring equipment or method of operation required under this Act, the regulations or the permit.

### § 721.13 Inspections based on citizen requests.

(a) *Citizens reports.* (1) Any person who believes that there is a violation of the Act, regulations or permit conditions required by the Act or that any imminent danger or harm exists may report this information to the Office of Surface Mining Reclamation and Enforcement. Written reports must be signed and include a phone number where the reporting party can be contacted. Oral reports will be accepted but must be followed by a written and

signed statement including the information reported. The complaint or other information shall be considered as having a reasonable basis if it alleges facts which, if proven to be true, would be sufficient to show a violation of the Act, regulations or permit. Unless the Office has reason to believe that the information is incorrect, or determines that even if true it would not constitute a violation, the Office shall conduct an inspection within 15 days of receipt of the complaint. If the complaint alleges an imminent danger or harm, the inspection shall be conducted promptly.

(2) The identity of any person supplying information to the Office relating to possible violations or imminent dangers or harms shall remain confidential with the Office, if requested by the person supplying the information, unless disclosure is required under the Freedom of Information Act (5 U.S.C. 552) or by other Federal law.

(b) *Right to accompany the authorized representative of the Secretary.* (1) If a Federal inspection is conducted as a result of information provided to the Office, the person who provided the information shall be notified when the inspection is to occur and the person will be allowed to accompany the authorized representative of the Secretary during the inspection.

(2) Any person accompanying an authorized representative of the Secretary has a right of entry to, upon and through the mining and reclamation operations about which he supplied information, only if he is in the presence of and is under the control, direction and supervision of the authorized representative while on the mine property.

(c) *Notification of results of investigation.* Within 10 days of the inspection or, if no inspection, within 15 days of the complaint, the Office shall notify the person in writing of the following—

(1) The results of the investigation, including a description of any inspection which occurred and any enforcement action taken; copies of Federal inspection reports, notices of violation, and cessation orders may be forwarded to the person in satisfaction of this requirement;

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(2) If no inspection was conducted, an explanation of the reason for not inspecting;

(3) A statement as to the person's right to informal review of the actions or inactions of the Office.

(4) The permittee shall receive copies of all such reports which have not already been given to the permittee, except that the name of the complainant shall be removed.

(d) *Review of action of local offices.* A person who does not agree with the action taken by the Office on their report may request the Regional Director to review the complaint and actions taken. The Regional Director shall advise the person in writing, within 30 days of the results of the review. Informal review under this subsection shall not affect any rights to formal review or a citizen's suit.

**§ 721.14 Failure to give notice and lack of reasonable belief.**

No notice of violation or cessation order may be vacated by reason of failure to give notice required by the Act or these regulations prior to the inspection; or by reason of a subsequent determination that prior to the inspection the Office did not have information sufficient to create a reasonable belief that a violation had occurred.

**PART 722—ENFORCEMENT PROCEDURES**

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AUTHORITY: Secs. 201, 501, and 502, Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1201).

SOURCE: 42 FR 62701, Dec. 13, 1977, unless otherwise noted.

**§ 722.1 Scope.**

The regulations of this part set forth general procedures governing issuance of orders of cessation, notices of violation, and orders to show cause under section 521 of the Act.

**30 CFR Ch. VII (7-1-00 Edition)**

**§ 722.11 Imminent dangers and harms.**

(a) If an authorized representative of the Secretary finds conditions or practices, or violations of any requirement of the Act, or any requirement of this chapter applicable during the interim regulatory program, which create an imminent danger to the health or safety of the public, the authorized representative shall immediately order a cessation of surface coal mining and reclamation operations or that portion of the operation relevant to the condition, practice, or violation.

(b) If an authorized representative of the Secretary finds conditions or practices, or violations of any requirement of the Act, or any requirement of this chapter applicable during the interim regulatory program, which are causing, or can reasonably be expected to cause, significant, imminent environmental harm to land, air, or water resources, the authorized representative shall immediately order a cessation of surface coal mining and reclamation operations or that portion of the operation relevant to the condition, practice, or violation.

(c) Surface coal mining and reclamation operations conducted by any person without a valid surface coal mining permit required by this subchapter constitute a condition or practice which causes or can reasonably be expected to cause significant, imminent environmental harm to land, air or water resources, unless such operations are an integral, uninterrupted extension of previously permitted operations, and the person conducting such operations has filed a timely and complete application for a permit to conduct such operations.

(d) An authorized representative of the Secretary shall impose affirmative obligations on an operator which the authorized representative deems necessary to abate the condition, practice, or violation if—

(1) A cessation order is issued under paragraph (a) or (b) of this section; and

(2) The cessation of mining or reclamation activities will not completely abate the imminent danger or harm or eliminate the practices or conditions that contributed to the imminent danger or harm.