



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

Subject Number:
AML-15

Transmittal Number:
501

Date:
12/22/88

Subject: Abandoned Mine Land (AML) Fee Citations

Approval: 

Title: Deputy
Director

1. PURPOSE. This directive provides procedural guidance for the identification, issuance, and assessment of citations, under Title V of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), for failure to file for or pay Abandoned Mine Land (AML) reclamation fees.

2. DEFINITIONS.

a. Abandoned Mine Land (AML) fees: The fee that each operator is required to pay on each ton of coal produced for sale, transfer, or use, including the products of in situ mining.

b. OSM-1 Form: The Coal Production and Reclamation Fee Report Form used to report to the Office of Surface Mining Reclamation and Enforcement (OSMRE) tonnage of coal sold, used, or transferred during the applicable calendar quarter.

c. Calendar Quarter: A three-month period within a calendar year. The first calendar quarter begins on January 1 of the calendar year and ends on the last day of March. The second calendar quarter begins on the first day of April and ends on the last day of June. The third calendar quarter begins on the first day of July and ends on the last day of September. The fourth calendar quarter begins on the first day of October and ends on the last day of December.

d. Non-respondency: All operators with any coal production and all operators who receive an OSM-1 form, including those with zero production, must submit a completed OSM-1 form within 30 days after the end of the applicable calendar quarter. The act of not completing and returning this form is known as "non-respondency," and the operator is termed "non-respondent."

e. Mine ID Number: The identification number carried in the AML system to identify the mine and the associated AML fees paid or due. It is comprised of the first seven digits of the Mine Safety and Health Administration (MSHA) identification number plus a sequence code to determine the number of owner transfers (01, 02, 03, etc.) and an "S" or "U" to indicate "surface" or "underground" mining, respectively. Example: 15-12345-01-S.

f. Notice of Violation (NOV): An NOV is an enforcement action used to cite violations that do not create an imminent danger to the health or safety of the public or cannot be reasonably expected to cause significant imminent environmental harm to land, air, or water resources. NOVs set forth the regulatory requirement or provision violated and specify the remedial measures necessary to correct the problems and the time allowed for such correction (abatement).

g. Failure to Abate Cessation Order (FTACO): The FTACO is the document used to inform an operator or permittee that he/she has not complied with a previously issued citation within the prescribed time given for abatement. FTACOs carry a mandatory \$750/day civil penalty not to exceed 30 days and usually require cessation of mining operations in total or part.

h. Notice of Proposed Assessment (NOPA): NOPA is the notice prepared by the assessor and sent to the mine operator or permittee informing him or her of a proposed penalty assessment.

3. POLICY/RESPONSIBILITIES.

a. Policy. It is the mission of the OSMRE to formulate and execute policies that promote compliance with SMCRA. The following are requirements of SMCRA: (1) Payment of reclamation fees; (2) filing of a Coal Production and Reclamation Fee Report Form (OSM-1); (3) making available for inspection and copying by OSMRE fee compliance officers, when OSMRE is actively conducting an audit, any book or record necessary to substantiate the accuracy of reclamation fee reports and payments. OSMRE will issue citations, in accordance with the following procedures, to any operator who fails to comply with any of the three requirements listed above, subject to the specific criteria in 4. b.

b. Responsibilities.

(1) Division of Debt Management (DDM), AML Collection Branch. The AML Collection Branch is responsible for the identification of all companies/operators for which a citation is to be issued for failure to file reports or pay AML fees. This Branch is responsible for compiling the list of the non-compliant companies and forwarding the list to the appropriate Regional Audit Manager, Division of Compliance Management. Additionally, the Branch must determine whether subsequent filing or AML fee payment has occurred and keep the Regional Audit Managers informed regarding abatement of the citation. The Branch must also prepare affidavits regarding the validity of the citation for use in court hearings and supply any information requested by the Division of Compliance Management (DCM) for use in conducting public hearings resulting from an NOV/FTACO.

(2) Division of Compliance Management (DCM), Regional Audit Managers. DCM is responsible for identifying companies that are to be issued citations for failure to provide fee compliance officers access to books and records during an audit. Additionally, this Division must determine abatement regarding these citations. The Regional Audit Managers are responsible for issuing the citations for failure to file reports or pay AML fees for all companies/operators identified on the list provided by DDM, AML Collections. They must also issue the citations for companies that fail to provide access to books and records. They must provide copies of all issued citations to the AML Collection Branch for file purposes. They also must provide a copy of the NOV and FTACO to the appropriate Field Office for enforcement action and to the appropriate Assessment office for Collection Management Information System (CMIS) coding and assessment action. Additionally, DCM will be responsible for holding any informal public hearings when requested as a result of an NOV/FTACO, per 30 CFR 843.15.

(3) Assessment Personnel (under the jurisdiction of the Knoxville Field Office and the Assistant Director for Western Field Operations in Denver). Assessment personnel are responsible for assessing civil penalties for citations issued by Regional Audit Managers for failure to file reports, pay AML fees or provide access to records and/or books during an audit. The Assessment Offices are responsible for performing all functions associated with assessing, serving, and tracking the AML civil penalty as described in the Civil Penalty Assessment Manual for Title V citations and in these Procedures. The citations will be carried on CMIS with a unique identifier to indicate an AML citation. The Assessment personnel are responsible for all CMIS coding for these citations and instructions are provided in the CMIS Coding Manual.

(4) Field Offices, Inspector Personnel. Field Office inspection personnel are responsible for mine inspections and/or insuring that the identified coal mine(s) has ceased operations as the result of an FTACO issued by the DCM, Regional Audit Managers.

4. PROCEDURES.

a. General. Payment of AML fees to the U.S. Department of the Interior, OSMRE, is a requirement of SMCRA as stated in 30 CFR 870.12(a). In addition, as set forth in 30 CFR 870.15(b), operators are required to file an OSM-1 report in order to reflect accurately their AML fee liability. The 30 CFR 870.16(c) requires any person engaging in or conducting a surface coal mining operation to make available for inspection and copying by OSMRE fee compliance officers any book or record necessary to substantiate the accuracy of reclamation fee reports and payments. Therefore, non-payment of all or any portion of AML fees, non-filing of an OSM-1 form (known as

"non-responsendency"), or not providing access to the appropriate books and/or records to fee compliance officers constitutes a violation of SMCRA and may subject the operator to a Notice of Violation (NOV) and Failure to Abate Cessation Order (FTACO) (30 CFR 843.12(a), 843.11(b)). These procedures establish the process for identifying, issuing, assessing, and tracking NOV's and FTACOs for non-payment or non-responsendency with regard to AML fees.

b. Criteria. There are certain criteria that have been identified for all AML cases that may be referred for enforcement action. They are as follows:

- (1) The company must be actively mining or still be in business with evidence of assets.
- (2) The company must be at least 90 days delinquent in payment of AML fees or non-respondent at least 90 days beyond the end of the applicable calendar quarter.
- (3) The company must owe at least \$5,000 in delinquent AML fees. Companies with smaller total debts may also be cited for just cause if recommended by the Field Offices, DDM, DCM, or the Solicitor's Office and approved by the Deputy Director, OSMRE.

Non-respondent companies, for which a debt amount is not yet established, may be cited if it is reasonable to estimate a debt of approximately \$5,000. However, no enforcement action will be taken in the case of non-responsendency without the prior approval of the Deputy Director, OSMRE on a case-by-case basis.

c. Identification of Companies

(1) The AML Collection Branch within the Division of Debt Management (Washington, D.C.) is responsible for identifying companies that meet the criteria for enforcement action, with the exception of those cited for failure to provide access to books and records. The Division of Compliance Management will identify those companies internally. The sources used by the AML Collection Branch to identify non-compliant companies are as follows:

(a) Outstanding Bills Register by Bill Status Report: The AML Collection Branch receives a monthly listing from the AML Fee Collection Unit (FCU) in Denver entitled "Outstanding Bills Register by Bill Status Report." This listing identifies all operators in the AML system that have received at least two bills for delinquent AML fees. The report includes company name, mine ID, year/quarter, debt amount, and status of referral action for the debt. The AML Collection Branch will analyze the Bills Register to determine which companies meet the criteria described in b. above.

(b) Audit Suspension Report: DCM maintains the Automated Fee Billing and Collection System (AFBACS) which maintains the information regarding the AML debt identified through the audit function. This debt is NOT input to the AML system in Denver, but remains on the AFBACS system. On a monthly basis, the AML Collection Branch receives a listing from DCM that contains information regarding operators that have received at least two bills for outstanding audit debt. The AML Collection Branch will analyze this list to determine cases that meet the criteria described in b. above.

(c) Non-Responsdency Report: The AML Collection Branch receives a quarterly listing from the AML FCU in Denver entitled "Non-Responsdency Report" which lists the operators that have failed to return their OSM-1 forms and are non-respondent with regard to AML fees. The AML Branch will use this listing to determine candidates for enforcement action, subject to the approval of the Deputy Director, OSMRE.

d. Compilation of List. Upon the completion of the analysis of the reports described in c. above, the AML Collection Branch will formulate a list of companies for which enforcement action will be taken.

(1) The list will contain the following information:

- (a) Company Name
- (b) Permit Number
- (c) Mine ID Number(s)
- (d) Applicable Calendar Quarters or Audit Bill Number
- (e) Amount(s) Due
- (f) Operator/Permit Holder/or Otherwise Responsible Party against whom the NOV/FTACO shall be written.
- (g) Address for (f) above.
- (h) The Type of Violation:

1 Non-Responsdency: Operator has failed to file an OSM-1 form.

2 Failure to Pay: Operator has filed an OSM-1 form, or undergone an audit, but failed to pay the full reclamation fees due.

(2) The list will be compiled monthly and forwarded to the appropriate DCM Regional Audit Manager for preparation and issuance of the citations.

e. Issuance of the Citations.

(1) Notice of Violation (NOV): Each company/operator on the list provided by AML Collections shall be issued an NOV. The same procedures must be followed regarding service of documents as for any other violation, as stated in the Civil Penalty Assessment Manual. [See Appendix A for sample NOVs.] Instructions regarding CMIS coding for NOVs are specified in the CMIS Coding Manual.

Included on the NOV issued for failure to file or pay AML fees will be a phone number provided by the AML Collection Branch for the operators' use to discuss the validity of the violation or to make arrangements for abatement. Should the operator contact the Regional Audit Manager with questions regarding these violations, the calls should be directed to the AML Collection Branch. NOVs issued for failure to provide access to books and records will reference the phone number of the Division of Compliance Management.

(2) Failure to Abate Cessation Order (FTACO): If an operator is served an NOV for AML non-payment or non-responsibility, the AML Collection Branch will notify the Regional Audit Manager immediately if one of the following occurs:

- (a) Full and proper abatement of the violation;
- (b) The 30-day abatement period lapses without proper corrective action.

If the operator has failed to abate the violation, within the 30-day abatement period, an FTACO will be issued. [See Appendix A for sample FTACOs.]

(3) The Regional Audit Manager forwards a copy of NOVs and FTACOs to DDM, the AML Collection Branch, the appropriate Assessment Office -- Knoxville or Denver, and the appropriate Field Office for enforcement action.

f. Mechanics of Assessment.

(1) Once the Assessment Offices receive the citations, they are responsible for the subsequent assessment. The documents used in assessing AML program violations are the same as for any other type of administrative violation: NOPA; Final Order; Demand Letters. Assessment Office personnel are responsible for issuing all such documents following the procedures as described in the 30 CFR 843 and the Civil Penalty Assessment Manual, Chapter 5.

(2) Notice of Proposed Assessment (NOPA):

(a) Notice of Violation: The NOV will be assessed as an administrative violation as described in the Civil Penalty Assessment Manual, Chapter 4. Point assignment will be the same as in any other administrative violation.

1 The seriousness criteria of probability of occurrence and extent of potential or actual damage will not be a consideration in assessing NOV's for non-payment, non-responsdency , or failure to provide access to books and records because there is no environmental effect or public or safety hazard. The administrative alternative for this criteria, extent of obstruction, will be substituted.

2 Negligence will be a consideration for citations issued for failure to file for or pay AML fees or failure to provide access to books and records. A permittee is responsible for all that occurs on his site, including the omission to submit required reports or pay AML fees.

3 History points will be assigned in accordance with existing regulations and the Civil Penalty Assessment Manual. (Every effort shall be made to relate all the citations issued for a company within the appropriate time frame, regardless of whether for a Title IV or V violation, in order to assess the proper amount of history points. However, there may be some difficulty in matching the permit numbers and this should be handled by the assessor on a case-by-case basis.)

4 Good Faith Points may be awarded as described in the Civil Penalty Assessment Manual and 30 CFR 845.13.

(b) FTACO: If an operator is served an NOV for AML non-payment, non-responsdency, or failure to provide access to books and records and fails to abate the violation within 30 days, an FTACO will be issued and a penalty of \$750 per day is levied for no more than 30 days, as described in the Civil Penalty Assessment Manual, Chapter 4.

(3) AML non-payment/non-responsdency and failure to provide access to books and records violations and penalty assessments are eligible for administrative review in the same manner as any other citation or assessment. Procedures described in the Assessment Manual, Chapter 5, pages 19-21 should be followed. Since the majority of the

NOPAs for such a violation will not carry a dollar amount, there will generally be no money deposited in Escrow for such hearings. (Obvious exceptions are for violations with enough points to assess a penalty and for FTACOs, which carry the mandatory \$750 per day penalty.) The Assessment personnel in Knoxville and Denver will be responsible for receiving and tracking appeal requests from the Office of Hearings and Appeals (OHA).

g. Mine Inspection. If the NOV remains unabated and the Regional Audit Managers issue an FTACO, a copy of the FTACO will be sent to the appropriate Field Office. Inspection personnel are then responsible for conducting the appropriate mine inspection and insuring that the identified coal mine(s) has ceased operations.

5. REPORTING REQUIREMENTS. No new reporting requirements are established by this directive. All citations issued for AML violations are subject to the same reporting requirements as other citations as described in the Civil Penalty Assessment Manual.

6. REFERENCES.

- a. The Surface Mining Control and Reclamation Act of 1977.
- b. Title 30, CFR, Mineral Resources, Chapter VII, Part 700 to end.
- c. Civil Penalty Assessment Manual, January 6, 1988.
- d. OSMRE Directive INE-18 and change INE-18-1, "Authorized Representatives."
- e. Collection Management Information System (CMIS) Coding Manual.

7. EFFECT ON OTHER DOCUMENTS. Will require amendments to the Civil Penalty Assessment Manual of January 6, 1988, and the CMIS Coding Manual.

8. EFFECTIVE DATE. Upon issuance.

9. CONTACT. Division of Debt Management, AML Collection Branch, (202) 653-2949.

<p align="center">U.S. DEPARTMENT OF THE INTERIOR Office of Surface Mining Reclamation and Enforcement NOTICE OF VIOLATION Permanent Regulatory Procedures</p>			<p>1. Notice of Violation Number</p> <p align="right">TV</p>		
<p>2. Name <input type="checkbox"/> Permittee <input type="checkbox"/> No Permit</p>			<p>Originating Office Address</p>		
<p>3. Mailing Address</p>					
<p>4. Name of Mine <input type="checkbox"/> Surface <input type="checkbox"/> Other (Specify) <input type="checkbox"/> Underground</p>					
<p>5. Telephone Number</p>	<p>6. County</p>	<p>State</p>	<p>Telephone Number</p>		
<p>7. Operator's Name (If other than permittee)</p>			<p>9. Date of Inspection</p>		
<p>8. Mailing Address</p>			<p>10. Time of Inspection From _____ a.m. To _____ a.m. p.m. p.m.</p>		
<p>11. State Permit Number</p>	<p>12. NPDES Number</p>	<p>13. MSHA ID Number</p>	<p>14. OSM Mine Number</p>		

UNDER THE AUTHORITY OF THE SURFACE MINING CONTROL AND RECLAMATION ACT OF 1977 (P.L. 95-87; 30 U.S.C. 1201), THE UNDERSIGNED AUTHORIZED REPRESENTATIVE OF THE SECRETARY OF THE INTERIOR has conducted an inspection of the above mine on the above date and has found violation(s) of the Act, the regulations or required permit condition(s) listed in the attachment(s). This Notice constitutes a separate Notice of Violation for each violation listed.

You must abate each of these violation(s) within the designated abatement time. You are responsible for doing all work in a safe and workmanlike manner.

THE UNDERSIGNED AUTHORIZED REPRESENTATIVE HEREBY FINDS THAT THIS NOTICE DOES NOT DOES REQUIRE CESSATION OF MINING EXPRESSLY OR IN PRACTICAL EFFECT. Therefore, you are are not entitled to an informal public hearing on request, within 30 days after service of this notice (30 CFR 843.15).

This Notice shall remain in effect until it expires as provided on the reverse or is modified, terminated, or vacated by written notice of an authorized representative of the Secretary. The time for correction may be extended by an authorized representative for good cause. If you need additional time to correct the violation(s), please contact the field office named above.

IMPORTANT—Please Read Information on the Back of this Page

<p>15. Print Name of Person Served</p>	<p>18. Date of Service</p>	
<p>16. Print Title of Person Served</p>	<p>19. Print Name of Authorized Representative</p>	
<p>17. Signature of Person Served</p>	<p>20. Signature of Authorized Representative</p>	<p>ID Number</p>

IMPORTANT—PLEASE READ CAREFULLY
Permanent Regulatory Procedures

1. Formal Review and Temporary Relief. You may apply for review of this Notice by submitting an application for review, within 30 days of receipt of this Notice by you or your agent to:

Hearings Division
Office of Hearings and Appeals
U.S. Department of the Interior
4015 Wilson Boulevard
Arlington, Virginia 22203
(703) 557-9200

If you apply for a formal review, you may request temporary relief from complying with this Notice. Your request must be filed with the Hearings Division at the above address prior to a decision in the formal review. The procedures for obtaining a formal review or temporary relief are contained in Title 43 Code of Federal Regulations Section 4.

2. Informal Public Hearing. A Notice of Violation which requires cessation of mining, expressly or by necessary implication, shall expire within 30 days after it is served unless an informal public hearing has been held within that time. On the reverse of this page, the authorized representative has made a finding as to whether or not this Notice of Violation requires cessation of mining. If you are entitled to an informal review please notify the OSM office indicated on the reverse of this page.

No hearing will be held where the violation in question has been abated, or the hearing has been waived. Your right to an informal review will be deemed waived unless you request an informal review within 30 days after service of this Notice.

OSM may conduct the hearing later than the 30 day period with the consent of the person to whom this Notice was issued. You will be deemed to have consented to an extension of the time for holding the hearing if your request is received on or after the 21st day after the service of this Notice.

3. Penalties. You may submit information in writing pertaining to the violation(s) covered by this Notice within 10 days of the date that it is served on you or your agent. This information will be considered in determining the amount of penalty. You may also submit a request that the Director waive the use of the formula contained in 30 CFR Part 845 in determining the civil penalty for the violations cited in this Notice. Your request must be submitted to the Director within 10 days of service of the Notice and must include your reasons for requesting the waiver. A waiver will be granted only if the Director determines that a waiver will further abatement of violations of the Act. If you wish to submit this information, you should send it to U.S. Department of the Interior, Office of Surface Mining, Assessment Office, Washington, D.C. 20240.

For each violation covered by this Notice, a penalty of up to \$5,000 may be assessed for each day during which that violation continues.

Pursuant to 30 CFR 845.13(b) the amount of the penalty may be reduced significantly if you abate the violations in the shortest possible time using extraordinary measures. If you believe you have abated one or more of the violations in the shortest possible time using extraordinary measures, contact the inspector that issued this Notice and ask for an abatement inspection.

If you fail to correct any of the violations within the time set for abatement (unless extended by the inspector) or for meeting any interim step a failure to abate cessation order will be issued by the inspector. This order will require you to cease surface coal mining operations or the portion relevant to the violations and you must be assessed a penalty of at least \$750 per day each day that the violation continues up to a maximum of thirty days.

4. Effect on Permit. In addition, if it is determined that a pattern of violations of any requirement(s) of the Act, the regulations, or permit conditions exists, and that the violations were caused by unwarranted failure of the permittee or were willful violations, the permit may be suspended or revoked.

FOR FURTHER INFORMATION, PLEASE CONSULT Title 43 Code of Federal Regulations Section 4, Title 30 Code of Federal Regulations Chapter VII, and Title V of the Act, or CONTACT the nearest OSM Office for a copy of the "Rights of Operators and Permittees" manual.

NOTICE OF VIOLATION (CONTINUATION)

NATURE OF PERMIT CONDITION VIOLATED, PRACTICE OR VIOLATION

The Office of Surface Mining records indicate that your company is delinquent in the payment of reclamation fees. The records indicate that your company currently owes fees of (insert amount of fees) in addition to interest, penalties, and administrative costs for a Total of (insert total amount due).

PROVISION(S) OF THE REGULATIONS, ACT OR PERMIT VIOLATED

Sections 402(a) and (b) of Public Law 95-87, Surface Mining Control and Reclamation Act of 1977.

PORTION OF THE OPERATION TO WHICH NOTICE APPLIES

Entire coal production operation under MSHA ID: _____

CORRECTIVE ACTION REQUIRED (Including Interim Steps, if Any)

In order to correct this violation, you must make payment, in full, of the total amount due as shown above. Mail your payment to:
Office of Surface Mining, P.O. Box 360095M, Pittsburgh, PA 15251.

ANY QUESTIONS REGARDING THIS VIOLATION SHOULD BE DIRECTED TO THE AML COLLECTION BRANCH AT (202) 653-2946.

TIME FOR ABATEMENT (Including Time for Interim Steps, if Any)

Payment must be made no later than thirty (30) days from the date of service of this notice. Failure to pay your fees will subject your company to appropriate enforcement action by the Office of Surface Mining Reclamation and Enforcement. Such enforcement action could require cessation of your mining operation(s) until all fees are paid in full.

U.S. DEPARTMENT OF THE INTERIOR
 Office of Surface Mining Reclamation and Enforcement
CESSATION ORDER
 Permanent Regulatory Procedures

1. Cessation Order Number

TV

2. Name Permittee
 No Permit

Originating Office Address

3. Mailing Address

4. Name of Mine Surface Other (Specify) 7
 Underground

Telephone Number

5. Telephone Number 6. County State

7. Operator's Name (If other than permittee)

9. Date of Inspection

8. Mailing Address

10. Time of Inspection
 From _____ a.m. To _____ a.m.
 p.m. p.m.

11. State Permit Number

12. NPDES Number

13. MSHA ID Number

14. OSM Mine Number

UNDER THE AUTHORITY OF THE SURFACE MINING CONTROL AND RECLAMATION ACT OF 1977 (P.L. 95-87; 30 U.S.C. 1201), THE UNDERSIGNED AUTHORIZED REPRESENTATIVE OF THE SECRETARY OF THE INTERIOR has conducted an inspection of the above mine on the above date and has found that a Cessation Order must be issued for each violation(s) of the Act, the regulations, or required permit conditions listed in the attachment(s). This Order constitutes a separate Cessation Order for each condition, practice, or violation listed.

In accordance with Section 521(a) of the Surface Mining Control and Reclamation Act of 1977, YOU ARE ORDERED TO CEASE IMMEDIATELY the operations described in the attachment(s) and to perform the corrective actions described in the attachment(s) within the designated abatement time. Reclamation operations not directly the subject of this Order shall continue while this Order is in effect.

You are responsible for doing all work in a safe and workmanlike manner.

THE UNDERSIGNED AUTHORIZED REPRESENTATIVE HEREBY FINDS THAT THIS ORDER DOES NOT DOES REQUIRE CESSATION OF MINING EXPRESSLY OR IN PRACTICAL EFFECT. Therefore, you are are not entitled to an informal public hearing on request, within 30 days after service of this Order (30 CFR 843.15).

This Order shall remain in effect until it expires as provided on the reverse or is modified, terminated, or vacated by written notice of an authorized representative of the Secretary.

IMPORTANT—Please Read Information on the Back of this Page

15. Print Name of Person Served

18. Date of Service

16. Print Title of Person Served

19. Print Name of Authorized Representative

17. Signature of Person Served

20. Signature of Authorized Representative

ID Number

IMPORTANT—PLEASE READ CAREFULLY
Permanent Regulatory Procedures

1. Formal Review and Temporary Relief. You may apply for review of this Order by submitting an application for review, within 30 days of receipt of this Order by you or your agent to:

Hearings Division
Office of Hearings and Appeals
U.S. Department of the Interior
4015 Wilson Boulevard
Arlington, Virginia 22203
(703) 557-9200

If you apply for a formal review, you may request temporary relief from complying with this Order. Your request must be filed with the Hearings Division at the above address prior to a decision in the hearing. The procedures for obtaining a formal review or temporary relief are contained in Title 43 Code of Federal Regulations Section 4.

2. Informal Public Hearing. A Cessation Order which requires cessation of mining, expressly or by necessary implication, shall expire within 30 days after it is served unless an informal public hearing has been held within that time. On the reverse of this page, the authorized representative has made a finding as to whether or not this Cessation Order requires cessation of mining. If you desire an informal public hearing, please notify the OSM office indicated on the reverse of this page.

No hearing will be held where the condition, practice, or violation in question has been abated, or the hearing has been waived. Your right to an informal public hearing will be deemed waived unless you request an informal public hearing within 30 days after service of this Order.

OSM may conduct the hearing later than the 30 day requirement with the consent of the person to whom this Order was issued. You will be deemed to have consented to an extension of the time for holding the hearing if your request is received on or after the 21st day after the service of this Order.

3. Penalties. You may submit information in writing pertaining to the condition(s), practice(s) or violation(s) covered by this Order within 10 days of the date that the Order is served on you or your agent. This information will be considered in determining the facts surrounding the violation and the amount of penalty. You may also submit a request that the Director waive the use of the formula contained in 30 CFR Part 845 in determining the civil penalty for the violations cited in this Order. Your request must include your reasons for requesting the waiver. A waiver will be granted only if the Director determines that a waiver will further abatement of violations of the Act. If you wish to submit this information, you should send it to U.S. Department of the Interior, Office of Surface Mining, Assessment Office, Washington, D.C. 20240.

For each violation covered by this Order, a penalty of up to \$5,000 may be assessed for each day during which that violation continues.

If this Order is being issued for failure to abate a violation(s) which was the subject of a prior Notice of Violation a minimum penalty of \$750 or more must be assessed for each day, during which the violation(s) continues beyond the abatement period set forth in that Notice.

If you willfully and knowingly fail or refuse to comply with this Order, you will be subject to criminal prosecution and will, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than one year or both.

4. Effect on Permit. In addition, if it is determined that a pattern of violations of any requirement(s) of the Act, the regulations, or required permit conditions exists, and that the violations were caused by unwarranted failure to comply or were willful, the permit may be suspended or revoked.

FOR FURTHER INFORMATION, PLEASE CONSULT Title 43 Code of Federal Regulations Section 4, Title 30 Code of Federal Regulations Chapter VII, and Title V of the Act, or CONTACT the nearest OSM Office for a copy of the "Rights of Operators and Permittees" manual.

CESSATION ORDER (CONTINUATION)

NATURE OF PERMIT CONDITION VIOLATED, PRACTICE OR VIOLATION

The Office of Surface Mining records indicate that your company remains delinquent in the payment of reclamation fees. The records indicate that your company currently owes fees of (Insert amount of fees) in addition to interest, penalties, and administrative costs for a Total of (insert total amount due).

PROVISION(S) OF THE REGULATIONS, ACT OR PERMIT VIOLATED

Sections 402(a) and (b) of Public Law 95-87, Surface Mining Control and Reclamation Act of 1977.

Mark "X" in the appropriate box

- The condition, practice, or violation is creating an imminent danger to the health or safety of the public.
- The condition, practice, or violation is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air or water resources.
- The permittee or operator has failed to abate Violation No. _____ of _____ included in Notice of Violation No. _____ within the time for abatement originally fixed or subsequently extended pursuant to Section 521(a)(3) of the Act.

OPERATIONS TO BE CEASED IMMEDIATELY

Entire coal production operation under MSHA ID: _____

CORRECTIVE ACTION AND TIME FOR ABATEMENT (If Applicable — Not Required if F.T.A)

In order to correct this situation and to rectify the cessation order, you must make payment, in full, of the total amount due shown above. Mail your payment to: Office of Surface Mining, P.O. Box 360095M, Pittsburgh, PA 15251.

U.S. DEPARTMENT OF THE INTERIOR
Office of Surface Mining Reclamation and Enforcement
MODIFICATION OF NOTICE OF VIOLATION OR CESSATION ORDER

1. Name <input type="checkbox"/> Permittee <input type="checkbox"/> No Permit		Originating Office Address	
2. Mailing Address			
3. Name of Mine <input type="checkbox"/> Surface <input type="checkbox"/> Other (Specify) _____ <input type="checkbox"/> Underground			
4. Telephone Number	5. County	State	Telephone Number
6. Operator's Name			8. Date of Inspection
7. Mailing Address			9. Time of Inspection From _____ ^{a.m.} _____ ^{p.m.} To _____ ^{a.m.} _____ ^{p.m.}
10. State Permit Number	11. NPDES Number	12. MSHA ID Number	13. OSM Mine Number

ACTIONS TAKEN

Authority: Under the authority of the Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87; 30 U.S.C. 1201) the following action is taken:

14. Notice of Violation Number — — —	Dated	15. Cessation Order Number — — —	Dated
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16. VIOLATION _____ OF _____ IS MODIFIED: *(Describe Action and Justify)* **To extend the abatement time to (Insert date when debt will be paid-in-full according to installment agreement or date of default of installment agreement.)**

17. VIOLATION _____ OF _____ IS MODIFIED: *(Describe Action and Justify)*

18. VIOLATION _____ OF _____ IS MODIFIED: *(Describe Action and Justify)*

19. Print Name of Authorized Representative	Identification Number
20. Signature of Authorized Representative	Effective Date

U.S. DEPARTMENT OF THE INTERIOR
Office of Surface Mining Reclamation and Enforcement
VACATION OR TERMINATION OF NOTICE OF VIOLATION OR CESSATION ORDER

1. Name <input type="checkbox"/> Permittee <input type="checkbox"/> No Permit			Originating Office Address
2. Mailing Address			
3. Name of Mine <input type="checkbox"/> Surface <input type="checkbox"/> Other (Specify) _____ <input type="checkbox"/> Underground _____			
4. Telephone Number	5. County	State	Telephone Number
6. Operator's Name			8. Date of Inspection
7. Mailing Address			9. Time of Inspection From _____ a.m. To _____ a.m. p.m. p.m.
10. State Permit Number	11. NPDES Number	12. MSHA ID Number	13. OSM Mine Number

ACTIONS TAKEN

Authority: Under the authority of the Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87; 30 U.S.C. 1201) the following action is taken:

14. Notice of Violation Number	Dated	15. Cessation Order Number	Dated
_ _ _		_ _ _	

16. VIOLATION _____ OF _____ IS Terminated Vacated for the Following Reasons: **AML Reclamation Fees have been paid-in-full. An installment agreement for the payment of delinquent reclamation fees has been arranged.**

17. VIOLATION _____ OF _____ IS Terminated Vacated for the Following Reasons:

18. VIOLATION _____ OF _____ IS Terminated Vacated for the Following Reasons: **The above-named company was inadvertently issued an NOV for delinquent reclamation fees, that were not owed, or were owed by someone else.**

19. Print Name of Authorized Representative		Identification Number
20. Signature of Authorized Representative		Effective Date

**EXHIBIT 2:
FAILURE TO FILE OSM-1 FORM(S)**

<p align="center">U.S. DEPARTMENT OF THE INTERIOR Office of Surface Mining Reclamation and Enforcement NOTICE OF VIOLATION Permanent Regulatory Procedures</p>			<p>1. Notice of Violation Number _____</p>	
<p>2. Name <input type="checkbox"/> Permittee <input type="checkbox"/> No Permit</p>			<p>Originating Office Address</p>	
<p>3. Mailing Address</p>				
<p>4. Name of Mine <input type="checkbox"/> Surface <input type="checkbox"/> Other (Specify) _____ <input type="checkbox"/> Underground _____</p>				
5. Telephone Number	6. County	State	Telephone Number	
7. Operator's Name (If other than permittee)			9. Date of Inspection	
8. Mailing Address			10. Time of Inspection From _____ a.m. To _____ a.m. p.m. p.m.	
11. State Permit Number	12. NPDES Number	13. MSHA ID Number	14. OSM Mine Number	

UNDER THE AUTHORITY OF THE SURFACE MINING CONTROL AND RECLAMATION ACT OF 1977 (P.L. 95-87; 30 U.S.C. 1201), THE UNDERSIGNED AUTHORIZED REPRESENTATIVE OF THE SECRETARY OF THE INTERIOR has conducted an inspection of the above mine on the above date and has found violation(s) of the Act, the regulations or required permit condition(s) listed in the attachment(s). This Notice constitutes a separate Notice of Violation for each violation listed.

You must abate each of these violation(s) within the designated abatement time. You are responsible for doing all work in a safe and workmanlike manner.

THE UNDERSIGNED AUTHORIZED REPRESENTATIVE HEREBY FINDS THAT THIS NOTICE DOES NOT DOES REQUIRE CESSATION OF MINING EXPRESSLY OR IN PRACTICAL EFFECT. Therefore, you are are not entitled to an informal public hearing on request, within 30 days after service of this notice (30 CFR 843.15).

This Notice shall remain in effect until it expires as provided on the reverse or is modified, terminated, or vacated by written notice of an authorized representative of the Secretary. The time for correction may be extended by an authorized representative for good cause. If you need additional time to correct the violation(s), please contact the field office named above.

IMPORTANT—Please Read Information on the Back of this Page

15. Print Name of Person Served		18. Date of Service	
16. Print Title of Person Served		19. Print Name of Authorized Representative	
17. Signature of Person Served		20. Signature of Authorized Representative	ID Number

NOTICE OF VIOLATION (CONTINUATION)

NATURE OF PERMIT CONDITION VIOLATED, PRACTICE OR VIOLATION

The Office of Surface Mining records indicate that your company has failed to file a Coal Production and Reclamation Fee Report Form(s) (OSM-1) for Quarter(s) ending _____.

PROVISION(S) OF THE REGULATIONS, ACT OR PERMIT VIOLATED

Section 870.15(b), 30 Code of Federal Regulations (CFR)

PORTION OF THE OPERATION TO WHICH NOTICE APPLIES

Entire coal production operation under MSHA ID: _____

CORRECTIVE ACTION REQUIRED (Including Interim Steps, if Any)

In order to correct this violation, you must complete the OSM-1 form(s) and mail to: Office of Surface Mining, P.O. Box 360095M, Pittsburgh, PA 15251.

ANY QUESTIONS REGARDING THIS VIOLATION SHOULD BE DIRECTED TO THE AML COLLECTION BRANCH AT (202) 653-2946.

TIME FOR ABATEMENT (Including Time for Interim Steps, if Any)

Filing of the OSM-1 form(s) must be made no later than thirty (30) days from the date of service of this notice. Failure to file the OSM-1 will subject your company to appropriate enforcement action by the Office of Surface Mining. Such enforcement action could require cessation of your mining operation(s) until the OSM-1 is filed.

U.S. DEPARTMENT OF THE INTERIOR
Office of Surface Mining Reclamation and Enforcement
CESSATION ORDER
Permanent Regulatory Procedures

1. Cessation Order Number

TV

2. Name Permittee
 No Permit

Originating Office Address

3. Mailing Address

4. Name of Mine Surface Other (Specify)
 Underground

5. Telephone Number 6. County State

Telephone Number

7. Operator's Name (If other than permittee)

9. Date of Inspection

8. Mailing Address

10. Time of Inspection
From _____ a.m. To _____ a.m.
p.m. p.m.

11. State Permit Number 12. NPDES Number 13. MSHA ID Number 14. OSM Mine Number

UNDER THE AUTHORITY OF THE SURFACE MINING CONTROL AND RECLAMATION ACT OF 1977 (P.L. 95-87; 30 U.S.C. 1201), THE UNDERSIGNED AUTHORIZED REPRESENTATIVE OF THE SECRETARY OF THE INTERIOR has conducted an inspection of the above mine on the above date and has found that a Cessation Order must be issued for each violation(s) of the Act, the regulations, or required permit conditions listed in the attachment(s). This Order constitutes a separate Cessation Order for each condition, practice, or violation listed.

In accordance with Section 521(a) of the Surface Mining Control and Reclamation Act of 1977, **YOU ARE ORDERED TO CEASE IMMEDIATELY** the operations described in the attachment(s) and to perform the corrective actions described in the attachment(s) within the designated abatement time. Reclamation operations not directly the subject of this Order shall continue while this Order is in effect.

You are responsible for doing all work in a safe and workmanlike manner.

THE UNDERSIGNED AUTHORIZED REPRESENTATIVE HEREBY FINDS THAT THIS ORDER
 DOES NOT DOES REQUIRE CESSATION OF MINING EXPRESSLY OR IN PRACTICAL EFFECT. Therefore, you are are not entitled to an informal public hearing on request, within 30 days after service of this Order (30 CFR 843.15).

This Order shall remain in effect until it expires as provided on the reverse or is modified, terminated, or vacated by written notice of an authorized representative of the Secretary.

IMPORTANT—Please Read Information on the Back of this Page

15. Print Name of Person Served

18. Date of Service

16. Print Title of Person Served

19. Print Name of Authorized Representative

17. Signature of Person Served

20. Signature of Authorized Representative ID Number

U.S. DEPARTMENT OF THE INTERIOR
Office of Surface Mining Reclamation and Enforcement

Cessation Order Number _____

Violation Number _____

of _____

CESSATION ORDER (CONTINUATION)

NATURE OF PERMIT CONDITION VIOLATED, PRACTICE OR VIOLATION

The Office of Surface Mining records indicate that your company has not filed the necessary Coal Production and Reclamation Fee Report Form(s) (OSM-1) for Quarter(s) ending _____

PROVISION(S) OF THE REGULATIONS, ACT OR PERMIT VIOLATED

Section 870.15(b), 30 Code of Federal Regulations (CFR)

Mark "X" in the appropriate box

- The condition, practice, or violation is creating an imminent danger to the health or safety of the public.
- The condition, practice, or violation is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air or water resources.
- The permittee or operator has failed to abate Violation No. _____ of _____ included in Notice of Violation No. _____ within the time for abatement originally fixed or subsequently extended pursuant to Section 521(a)(3) of the Act.

OPERATIONS TO BE CEASED IMMEDIATELY

Entire coal production operation under MSHA ID: _____

CORRECTIVE ACTION AND TIME FOR ABATEMENT (If Applicable — Not Required if F.T.A)

In order to correct this situation and to rectify the cessation order, you must file the appropriate OSM-1 form(s) and mail to: Office of Surface Mining, P.O. Box 360095M, Pittsburgh, PA 15251.

NOTICE OF VIOLATION (CONTINUATION)

NATURE OF PERMIT CONDITION VIOLATED, PRACTICE OR VIOLATION

The Office of Surface Mining records indicate that your company has failed to provide OSMRE Fee Compliance Officers with access to books and/or records necessary to substantiate the accuracy of reclamation fee reports and payments.

PROVISION(S) OF THE REGULATIONS, ACT OR PERMIT VIOLATED

Sections 870.16(b) and (c) of Code of Federal Regulations (CFR) 30

PORTION OF THE OPERATION TO WHICH NOTICE APPLIES

Entire coal production operation under MSHA ID:

CORRECTIVE ACTION REQUIRED (Including Interim Steps, if Any)

In order to correct this violation, you must provide the authorized OSMRE representative access to necessary books and/or records to substantiate the accuracy of your company's reclamation reports and payments.

ANY QUESTIONS REGARDING THIS VIOLATION SHOULD BE DIRECTED TO (Auditor Name/Local Office) AT (phone number).

TIME FOR ABATEMENT (Including Time for Interim Steps, if Any)

Access to records and/or books must be provided no later than (insert reasonable time period) from the date of service of this notice. Failure to provide access to the records and/or books will subject your company to appropriate enforcement action by the Office of Surface Mining Reclamation and Enforcement. Such enforcement action could require cessation of your mining operation(s) until access is provided.

U.S. DEPARTMENT OF THE INTERIOR Office of Surface Mining Reclamation and Enforcement CESSATION ORDER Permanent Regulatory Procedures			1. Cessation Order Number _____	
2. Name <input type="checkbox"/> Permittee <input type="checkbox"/> No Permit			Originating Office Address 	
3. Mailing Address				
4. Name of Mine <input type="checkbox"/> Surface <input type="checkbox"/> Other (Specify) <u>7</u> <input type="checkbox"/> Underground _____			Telephone Number	
5. Telephone Number	6. County	State		
7. Operator's Name (If other than permittee)			9. Date of Inspection	
8. Mailing Address			10. Time of Inspection From _____ a.m. To _____ a.m. p.m. p.m.	
11. State Permit Number	12. NPDES Number	13. MSHA ID Number	14. OSM Mine Number	

UNDER THE AUTHORITY OF THE SURFACE MINING CONTROL AND RECLAMATION ACT OF 1977 (P.L. 95-87; 30 U.S.C. 1201), THE UNDERSIGNED AUTHORIZED REPRESENTATIVE OF THE SECRETARY OF THE INTERIOR has conducted an inspection of the above mine on the above date and has found that a Cessation Order must be issued for each violation(s) of the Act, the regulations, or required permit conditions listed in the attachment(s). This Order constitutes a separate Cessation Order for each condition, practice, or violation listed.

In accordance with Section 521(a) of the Surface Mining Control and Reclamation Act of 1977, YOU ARE ORDERED TO CEASE IMMEDIATELY the operations described in the attachment(s) and to perform the corrective actions described in the attachment(s) within the designated abatement time. Reclamation operations not directly the subject of this Order shall continue while this Order is in effect.

You are responsible for doing all work in a safe and workmanlike manner.

THE UNDERSIGNED AUTHORIZED REPRESENTATIVE HEREBY FINDS THAT THIS ORDER DOES NOT DOES REQUIRE CESSATION OF MINING EXPRESSLY OR IN PRACTICAL EFFECT. Therefore, you are are not entitled to an informal public hearing on request, within 30 days after service of this Order (30 CFR 843.15).

This Order shall remain in effect until it expires as provided on the reverse or is modified, terminated, or vacated by written notice of an authorized representative of the Secretary.

IMPORTANT—Please Read Information on the Back of this Page

15. Print Name of Person Served	18. Date of Service	
16. Print Title of Person Served	19. Print Name of Authorized Representative	
17. Signature of Person Served	20. Signature of Authorized Representative	ID Number

U.S. DEPARTMENT OF THE INTERIOR
Office of Surface Mining Reclamation and Enforcement

Cessation Order Number
— — —

Violation Number
_____ of _____

CESSATION ORDER (CONTINUATION)

NATURE OF PERMIT CONDITION VIOLATED, PRACTICE OR VIOLATION

The Office of Surface Mining records indicate that your company has not provided access to the records and/or books as requested by the Fee Compliance Officer to substantiate your company's reclamation fee reports and payments.

PROVISION(S) OF THE REGULATIONS, ACT OR PERMIT VIOLATED

Code Of Federal Regulations (CFR) 30, Section 870.16(b) and (c)

Mark "X" in the appropriate box

- The condition, practice, or violation is creating an imminent danger to the health or safety of the public.
- The condition, practice, or violation is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air or water resources.
- The permittee or operator has failed to abate Violation No. _____ of _____ included in Notice of Violation No. _____ within the time for abatement originally fixed or subsequently extended pursuant to Section 521(a)(3) of the Act.

OPERATIONS TO BE CEASED IMMEDIATELY

Entire coal production operation under MSHA ID:

CORRECTIVE ACTION AND TIME FOR ABATEMENT (If Applicable — Not Required if F.T.A)

In order to correct this situation and to rectify the cessation order,
you must provide access to the records and/or books.