OHIO DEPARTMENT OF NATURAL RESOURCES
DIVISION OF RECLAMATION

POLICY/PROCEDURE DIRECTIVE
INSPECTION AND ENFORCEMENT
93-1

Subject: Procedures for handling and tracking of citizen complaints

Effective: March 8, 1993

Purpose: To Set procedures and time frames for handling citizen complaints

This policy directive replaces Inspection and Enforcement 91-1

Regulatory requirements for citizen complaints:

ORC 1513.09 (G) and OAC 1501: 13-14-01 (G) pertain to the rights of citizens to request an inspection.

The law and regulations invest a citizen with the right to request an inspection by providing the Chief a signed written statement or an oral report followed by a written statement which provides a reason to believe that a violation exists.

The Division must notify the citizen as far in advance as possible of any inspection that the Division will conduct as a result of the request and that the citizen has the right to accompany the inspector on that inspection.

The Division must provide the citizen with a written statement in response to the complaint within ten days of the inspection, or if no inspection is conducted, within fifteen days after receipt of the citizen's written statement. The Division must also provide the information it gave to the complainant to the person alleged to be in violation. However, the Division shall remove the name of the citizen from the information if the person requested to remain confidential.

The identity of the person requesting an inspection shall remain confidential, if requested, unless the person requests to accompany the inspector on an inspection.

Receiving complaints and inquiries from the public:

All Division employees shall treat all complaints that are received from the public, either verbally or in writing, in a professional, courteous, and unbiased manner.

The right to file a citizen complaint shall be explained in detail to any person who alleges that a violation exists or may exist. This explanation must include: the Division's strong preference that the citizen file a written statement before or at the initiation of the investigation of the complaint; the citizen's right to remain confidential; and the citizen's right to accompany the inspector during any inspection resulting from his complaint.

The person responding to the complaint shall record a summary of the discussion on the Division's General Complaint Form and request the citizen to provide a signed written statement of the complaint. The statement must provide the citizen's reason to believe that a violation exists and the address and phone number of the complainant. Written complaints need to be obtained if at all possible for clarity and an understanding of exactly what the citizen is complaining of. An investigation should be undertaken when information is found to warrant an investigation even when a written statement is not filed.

Complaints referred to the Division by OSM with a Ten-Day Notice (TDN) are to be treated as if the complaint was filed directly with the Division. All complaints (written, verbal, and by TDN) will be recorded on the District Office Complaint Log. Complaints received in Columbus will be referred to the appropriate district. The district will then proceed with the complaint as if it had been received initially in the district.

All blasting and water supply complaints will be tracked by the Technical Section; all other complaints will be tracked by the district. For blasting and hydrology complaints, a complaint number should be assigned by the district and the Blasting Complaint Form or Water Supply Complaint Form should be sent to the Technical Section within three working days of receipt of the complaint.

When a written complaint is received without prior contact with the citizen, the person assigned to the complaint shall call the citizen to: notify him of receipt of the complaint, obtain any additional information or clarification of the allegations contained in the statement, and explain the information listed above concerning the citizen's rights. This conversation should be documented in the complaint file. Documentation must include whether the citizen requested or waived the right to remain confidential.

Conducting inspections in response to complaints:

An inspection shall be conducted immediately, if the allegations from citizen, if true, indicate that an imminent danger or significant harm situation exists or may exist. An inspection shall be conducted as soon as possible, if the allegations of the citizen, if true, would constitute a violation. In all cases, the person assigned to investigate the complaint must notify the citizen as far in advance as possible of the date and time any inspection conducted in response to their complaint unless the citizen has indicated that they do not wish to participate in the inspection. This notification applies to review of company records concerning the complaint. This notification also applies to complaints referred to the Division by OSM.

Each District Office shall be equipped to supply citizens with necessary safety equipment including: hard hat, toe protectors, and safety glasses as necessary. Citizens shall not be denied the right to accompany inspectors on inspections due to the lack of proper safety equipment. It is the responsibility of the inspectors to ensure that citizens are provided with and make use of the required safety equipment and are advised of necessary safety precautions.

Citizens have the right to accompany an inspector on the mine site, with the exception of entering buildings without consent or permission being granted by the permittee or operator. OAC 1501: 13-9-06 (G) provides citizens with the right to review blasting records and requires operators to make these records available to the public upon request. Any person who refuses to allow a citizen to accompany the inspector or hinders an inspector from performing an inspection is in violation of ORC 1513.17 (G) and immediate enforcement action must be taken against that person so that the inspection can continue.

Inspections conducted with a citizen should only address the allegations of the citizen. If new allegations arise during the inspection, these too must be addressed during the inspection. The inspector shall conduct any necessary collection of evidence during the inspection. Any evidence collected as a result of the inspection (water and soil sample results, photographs, etc.) will be made available to the citizen upon request. The citizen should not be permitted to collect evidence on his own but may request the inspector to do so.

The inspector shall maintain control over the citizen at all times during the inspection. Discussions between the inspector and mine personnel should be in the presence of the citizen. The inspector shall terminate the inspection and escort the citizen from mine site if the citizen does not remain under the control and supervision of the inspector. The inspector would then complete the inspection without the citizen.

Responses to citizen complaints:

Following completion of the inspection, the inspector shall inform the citizen that the Division will provide a written response within ten days. If the inspector needs to conduct further investigation, the citizen must be informed of the date and time of future inspections, including review of company records, or technical investigations necessary to address his complaint.

Citizens shall be provided with interim reports from the person conducting the investigation in cases, such as blasting and water supply complaints, where the investigation is expected to take longer than the ten or fifteen days allowed by rule. The status of the investigation should be reported to the citizen at least monthly or more often if the type of investigation warrants. Common courtesy and Division policy dictate that citizens be kept informed of the status of their complaint.

A final written response is to be prepared once the person conducting the investigation has determined what action, if any, will be taken. The response must contain a description of the action taken during the inspection or if no inspection was conducted, an explanation of the reason why no inspection was conducted. The response must contain an explanation of the citizen's rights to request an informal review by the Chief of the actions taken in response to his complaint.

The response must be reviewed by the appropriate supervisor for adherence to Division policy before being sent to the citizen. The response shall be mailed to the citizen and a copy provided to the permittee. The name of the citizen and any reference that would identify the citizen shall be removed from the permittee's copy of the response in any case where the citizen requested confidentiality.

Availability of Records:

OAC 1501: 13-1-10 requires that records concerning permits, inspection, and enforcement activities, among other records, shall be made available to the public for inspection and copying in each District Office. All information resulting from an investigation of a citizen complaint shall be made available to the citizen and the public except where the citizen has requested confidentiality. In that case any reference to the complainant shall be removed.

Glen G. Kizer, Chief

jt/GLH