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MANUAL TRANSMITTAL SHEET

Subject

MS-3486 Coal Inspection, Enforcement, and Production Verification (P)

- 1. Explanation of Materials Transmitted:** This release transmits a completely updated and reorganized Manual.
- 2. Reports Required:** None.
- 3. Materials Superseded:** Manual pages superseded by this release are listed under "REMOVE" below. BLM Manual MS-3486, Rel. 3-256.
- 4. Filing Instructions:** File as directed below.

REMOVE

All of MS-3486, Rel. 3-256

INSERT

All of MS-3486, Rel. 3-348

(Total: 27 Sheets)

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Acronyms

BIA	Bureau of Indian Affairs, Department of the Interior
BLM	Bureau of Land Management, Department of the Interior
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
DOD	Department of Defense
DSD	BLM Deputy State Director
FWS	Fish and Wildlife Service, Department of the Interior
GIS	Geospatial Information System
GPS	Geographic Positioning System
I&E	Inspection and Enforcement
IB	Information Bulletin
IM	Instruction Memorandum
IP	Inspection Plan
IR	Inspection Report
LMU	Logical Mining Unit
LR2000	Legacy Rehost 2000
MER	Maximum Economic Recovery
MIS	Management Information System
MMI	Mineral Mine Inspector
MMS	Minerals Management Service, Department of the Interior (now known as the ONRR)
MOU	Memorandum of Understanding
MSDS	Material Safety Data Sheet
MSHA	Mine Safety and Health Administration, Department of Labor
NEPA	National Environmental Policy Act
NIOSH	National Institute of Occupational Safety and Health
NPS	National Park Service, Department of the Interior
NTC	National Training Center
ONRR	Office of Natural Resources Revenue, Department of the Interior (formerly a unit of the bureau known as the MMS)
OSHA	Occupational Safety and Health Administration, Department of Labor
OSM	Office of Surface Mining Reclamation and Enforcement, Department of the Interior
PV	Production Verification
SD	BLM State Director
R2P2	Resource Recovery and Protection Plan
SMA	Surface Management Agency
SMCRA	Surface Mining Control and Reclamation Act
SRA	State Regulatory Agency
UMR	Ultimate Maximum Recovery
USFS	U.S. Forest Service, Department of Agriculture
USGS	U.S. Geologic Survey, Department of the Interior

1.1 Purpose

Communicate national policy for the implementation of the laws and regulations related to inspection, enforcement, and production verification for coal resources on Federal and Indian lands.

Nothing in this Manual is intended to be a regulation or to modify or amend any Federal laws or regulations or create any right or cause of action or trust obligation enforceable by any person or party through litigation or otherwise against the United States Government or any of its employees. This Manual is solely intended to aid in the management of the Bureau of Land Management (BLM) responsibilities.

To the extent that there is any inconsistency between provisions of this Manual and any Federal regulations or laws, the regulations or laws will control.

1.2 Objectives

The BLM, through the Inspection, Enforcement and Production Verification (I&E/PV) program, monitors Federal and Indian mineral license, lease, logical mining unit (LMU), and permit operations. The I&E/PV program supports, as applicable, compliance with legal requirements and implementation of the program objectives.

Compliance with legal objectives includes:

- Mineral leasing laws;
- Applicable regulations;
- Notices and orders;
- Lease, license, LMU, or permit terms, conditions, and special stipulations;
- Approved Resource Recovery and Protection Plans (R2P2) on Federal lands;
- Approved resource recovery operations on Indian lands, and
- Approved exploration plan requirements.

Implementation of program objectives includes:

1. Coordination and cooperation with State agencies, Indian tribes, and other Federal agencies;
2. Protection of the environment and associated natural resources, including surface and subsurface water resources;
3. Monitoring and measurement of mineral production, storage, transportation, and sales to verify production and sales reporting, thereby ensuring proper royalty collections;
4. Prevention of waste and practice conservation of coal and other resources;
5. Protection of public health, safety, and property during mining on Federal or Indian leases;
6. Inspection to ensure operations are properly abandoned after completion; and
7. Utilization and maintenance of professional and technically qualified personnel.

1.3 Authority

- A. Coal on public or Indian lands.
 - 1. The Surface Mining Control and Reclamation Act of 1977, August 3, 1977 (30 U.S.C. 1201 *et seq.*).
 - 2. The Department of Energy Organization Act of August 4, 1977 (42 U.S.C. 7101 *et seq.*).
 - 3. The National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

- B. Coal on public lands.
 - 1. The Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 181 *et seq.*).
 - 2. The Mineral Leasing Act for Acquired Lands of August 7, 1947, as amended (30 U.S.C. 351-359 *et seq.*).
 - 3. The Federal Land Policy and Management Act of 1976, October 21, 1976 (43 U.S.C. 1701 *et seq.*).
 - 4. The Multiple Mineral Development Act of August 13, 1954 (30 U.S.C. 521-531 *et seq.*).
 - 5. The Federal Coal Leasing Amendments Act of 1976, as amended (90 Stat. 1083-1092).
 - 6. The Act of October 30, 1978 (92 Stat. 2073-2075).
 - 7. The Energy Policy Act of 1992 (Pub. L. 102-486).
 - 8. The Energy Policy Act of 2005 (Pub. L. 109-58).

- C. Coal on Indian lands.
 - 1. The Act of March 3, 1909 (35 Stat. 783), 25 U.S.C. 396.
 - 2. The Act of May 11, 1938 (52 Stat. 347), 25 U.S.C. 396a-g.
 - 3. The Indian Mineral Development Act of 1982 (Pub. L. 97-382, 25 U.S.C. 2101- 2108).
 - 4. Applicable Delegation(s) in the Departmental manual.

1.4 Responsibility

- A. **Washington Office**
 - 1. Provide national program oversight.
 - 2. Develop regulations, policies, guidance, and procedures for consistent nationwide implementation on Federal and Indian lands.
 - 3. Provide budget resources for tools and training, and management of coal resources.
 - 4. Provide program management for all training for the certification and annual recertification of Mineral Mine Inspectors (MMI).
 - 5. Provide minimum performance standards for inspections, production verification, and recordation.
 - 6. Facilitate and encourage communication among all MMIs.
 - 7. Facilitate coordination between other agencies that have jurisdiction of any aspect of operations on a Federal lease or license or Indian lease or permit (for example, USFS, OSM, EPA, SMA, ONRR, MSHA, etc.).

B. State Director or Deputy State Director

1. Certify that MMIs within state office jurisdiction have completed all applicable requirements to be certified as mine inspectors or to maintain their certification as an MMI.
2. Ensure that the state, district, or area office implement all BLM policies and regulations relative to inspection, enforcement, or production verification of underground and surface coal operations that involve a Federal or Indian coal lease, license, or permit.
3. Facilitate interaction and communication between the BLM and other applicable regulatory agencies that have jurisdiction of any aspect of operations on a Federal or Indian coal lease, license, or permit.
4. Review enforcement decisions as required.
5. Provide performance standards for inspections, production verification, and recordation that meet or exceed national standards.
6. Assign and ensure completion of inspection, production verification, and recordation workloads.
7. Allocate resources to assure inspection, production verification, and recordation workloads can be timely completed.

C. District Manager or Field Office Manager (if delegated)

1. Ensure that the district or area office implement all BLM policies regulations relative to inspection, enforcement, or production verification of underground and surface coal operations that involve a Federal or Indian coal lease, license, or permit.
2. Facilitate interaction and communication between the BLM and other applicable regulatory agencies that have jurisdiction of any aspect of operations on a Federal or Indian lease, license, or permit.
3. Review and implement enforcement decisions as required.
4. Provide on-the-job experience, mentoring by a certified MMI, and formal training for mine inspectors to achieve certification.
5. Provide continued professional development and formal training for certified MMIs to maintain certification.
6. Ensure that inspections, enforcement actions, and production verification are timely completed and fully documented in the official case file and any applicable electronic database, and are in conformance with all applicable policies and regulations.
7. Provide required tools and safety equipment to complete the mine I&E/PV duties that are within the jurisdiction of the field office.
8. Ensure the MMI has regular communication with other agencies that have jurisdiction over any aspect of operations on a Federal or Indian lease, license or permit.
9. Review enforcement actions or recommendations for enforcement by the MMI. The Field Office Manager has the authority to amend or change an enforcement action in accordance with applicable laws and regulations. However, the rationale for the amendment or change must be documented in writing in the case record. The District Manager has the authority to review and amend enforcement decisions as needed.

D. Mineral Mine Inspector (MMI)

1. Maintain knowledge of all statutes, regulations, and policies that are applicable to their duties and responsibilities.
2. Maintain knowledge of applicable mining practices and methods.
3. Timely complete all inspections of leases, licenses, LMUs, permits, or mines including documentation of results in the official case file and all applicable electronic databases.
4. Timely verify production from each lease including documentation of results in the official case file and all applicable electronic databases.
5. Complete all training required for certification as an MMI as provided in Section 2.0 of this manual and H-3486-1, *Coal Inspection and Enforcement Handbook*.
6. Complete all required annual refresher training to maintain MMI certification.
7. Complete all required continuing education requirements to maintain MMI certification.
8. Prepare documentation or office plans for the inspection and production verification of each mine, lease, license, LMU, or permit.
9. Communicate regularly with the Mine Safety and Health Administration (MSHA) inspectors on any mine safety issues identified by the MMI and with other Federal and State agencies that have jurisdiction over aspects of operations on a Federal or Indian lease, license, or permit within the inspector's scope of responsibility.
10. Promptly notify the MSHA of any practice or presence at the mine that may impact the health and safety of miners.
11. Recommend enforcement actions consistent with applicable law, regulations and policies. Develop enforcement documents, and document the case record with applicable written records, field notes, photographs, analysis, or other supporting evidence.
12. Complete all work and reports consistent with performance standards.

1.5 References

- A. References applicable only to coal leases, licenses, or permits on Federal or Indian lands:
 1. 43 CFR Parts 3400 through 3480.
 2. 30 CFR Part 843.
 3. BLM Handbook H-3486-1, *Coal Inspection and Enforcement Handbook*.
 4. BLM Handbook H-3486-2, *Coal Production Verification Handbook*.
- B. References applicable to all leasable mineral authorizations on Federal lands:
 1. 43 CFR Part 2.
 2. 43 CFR Part 4.
 3. 30 CFR Parts 740 and 746. BLM Handbook H-1112-1, *Safety and Health Management*.
 4. BLM Handbook H-1112-1-ch 27, *Safety and Health Management Chapter 27*.
 5. BLM Handbook H-1112-2, *Safety and Health for Field Operations*.
 6. BLM Manual MS-1240, *Evaluation Program*.
 7. BLM Manual MS-1278, *External Access to BLM Information*.
 8. BLM Handbook H-1790-1, *BLM National Environmental Policy Act Handbook*.
 9. BLM Manual MS-3010, *Underground Entry Policies for Solid Mineral*.

10. BLM Handbook H-8120-1, General Procedural Guidelines for Native American Consultation.
 11. The BLM Mineral Resource Policy (Aug 26, 2008) (WO-IB-2008-107).
 12. The findings and recommendations of the Secretarial Report to the Congress on the Adequacy of Royalty Management for Solid Minerals. The Report was prepared pursuant to Section 303 of the Federal Oil and Gas Royalty Management Act (30 U.S.C. 1753).
- C. References applicable to all leasable minerals authorizations on Indian lands:
1. 25 CFR Parts 211, 212, 213 216, and 225.
 2. 30 CFR Part 750.
- D. National Memoranda of Understanding (MOU):
1. Memorandum of Understanding between the Department of Labor, Mine Safety and Health Administration, and the Department of the Interior, Bureau of Land Management, BLM-MOU-WO-320-2012-03 (BLM-WO-IB-2012-048), (12/27/2011).
 2. Memorandum of Understanding among the BIA-BLM-OSM for the Management of Coal Mining on Indian Lands, BLM MOU WO-320-2003-02, (10/29/02).
 3. Tripartite Memorandum of Understanding between MMS - Bureau of Indian Affairs - Bureau of Land Management (8/15/1991 and updated June 1997).
 4. Interagency Agreement between the Bureau of Land Management and the Forest Service (USFS) for Mineral Leasing (6/19/1984).
 5. Interagency Agreement between the Bureau of Land Management and the Forest Service (USFS) for Leasable Mineral Operations on the National Forest System (10/21//1987).
 6. Memorandum of Understanding between the Department of Agriculture and the Department of the Interior Providing for Coordination of Activities Pursuant to the Federal Coal Management Program (5/20/1980).
 7. Memorandum of Understanding between the Bureau of Land Management, the Geological Survey, and the Office of Surface Mining and Reclamation and Enforcement (10/24/1979).

1.6 Policy

Timely and consistent monitoring of all activities on a Federal or Indian coal lease, license, LMU, and permit are required for early detection of actions that may not comply with the:

- Applicable laws and regulations;
- Terms and conditions of the lease, license, LMU, or permit;
- Requirements of approved exploration plan, R2P2, or operating plan; and
- Actions required by applicable notices or orders.

Monitoring provides the best opportunity to correct the action or to mitigate potential environmental damage and degradation of the mineral resources. The BLM mine inspection and enforcement duties are the primary mechanism to achieve this goal.

The production verification function provides independent on-the-ground observation and verification of the processes a lessee uses to track coal production and to measure the quantity of coal actually severed from a Federal or Indian coal lease to the point of sale. This is the critical

first step to verify that Federal or Indian coal royalties have been properly paid.

All documents concerning an enforcement action are a permanent part of the case record and must be maintained in accordance with all applicable records retention policies.

1.7 File and Records Maintenance

- A. All inspection, enforcement, and production verification actions or activities will be completely and timely documented in the appropriate case file(s) and within any applicable electronic database that includes, but is not limited to, the Legacy Rehost 2000 (LR2000) automated case recordation system and the Management Information System.
- B. Some files and records containing I&E/PV data may contain confidential, proprietary business information. Files or records containing proprietary information must be handled in accordance with the provisions of 43 CFR Part 2, 43 CFR 3481.3, Section 6 of Part II of the standard coal lease form (BLM Form 3400-12), and BLM Manual 1273. While the data or information used or analyzed by an MMI may be proprietary or confidential information, all the conclusions an MMI draws from the analysis are public and must be documented in an Inspection or Production Verification Report, Notice of Non-Compliance, or Order.
- C. All data, documents, and analyses must be retained in a file until the relinquishment, termination, cancellation, or expiration of a lease, license, LMU, or permit and all related appeals are resolved. These data, documents, maps, and analyses will be handled in accordance with the standard BLM record security and retention policies.

There are special record considerations for mine progress maps. Upon termination, cancellation, or expiration of a lease, license, LMU, or permit, or before an area of a lease, license, LMU, or permit is permanently abandoned, a final mine progress map showing the extent and location of the mine workings and mine production areas must be retained with the case file consistent with standard BLM record security and retention policies. In addition, a copy of the final mine progress map noted above, including sufficient information to orient the area represented by the map geographically, must be provided to the Office of Surface Mining Reclamation and Enforcement (OSM) National Mine Map Repository, or the State regulatory authority (which has primary authority to implement its State surface mining program as approved by OSM) for archival of mine maps, for permanent archiving.

1.8 Electronic Data Systems

The data entry to all applicable electronic data systems must be completed as soon as possible after inspections, enforcement, and production verification actions are completed. Data entry must be consistent with the data standards of each electronic data system and any supplemental guidance.

2.1 Inspector Certification

- A. Only certified MMIs can inspect coal leases, licenses, LMUs or permits and verify production of minerals from coal leases on Federal or Indian lands, or from LMUs that contain Federal or Indian lands. Persons who have not been certified as an MMI may only perform I&E/PV duties under the direct supervision of a certified MMI.
- B. Certification of an MMI confirms that an MMI possesses the necessary knowledge, skills, and abilities to perform effectively and safely MMI duties.
- C. The BLM Assistant Director, Energy, Minerals, and Realty Management, is responsible for the overall administration of the MMI certification program. The BLM State Directors (SD) are responsible for certifying MMIs in their respective states, and the BLM Deputy State Directors (DSD), are responsible for ensuring that candidate MMIs who require certification are scheduled to receive the required training and field experience, and that certified MMIs have opportunities for the required continuing education. Local responsibility for training provides that each MMI can be certified within a reasonable time and maintain certification thereafter.
- D. A BLM MMI must have knowledge of the operations and practice of mining and experience in the mineral industry as demonstrated by a combination of education and experience. Such experience can include prior, relevant employment within the mining industry or relevant employment with a State, Federal, or local government agency having jurisdiction over mining activities. A new MMI must complete training in mine safety and BLM procedures. All MMIs must complete annual mine safety refresher training and continued professional development training.
- E. Within 60 days after the end of each fiscal year, the SD or DSD will report to the Assistant Director, Energy, Minerals, and Realty Management, the certification status of the MMIs that are under their supervision.
- F. All documentation related to certification or compliance with continued certification requirements must be retained consistent with the records retention requirements for personnel actions.
- G. An MMI candidate that cannot complete all the requirements to be an MMI, or a certified MMI that has not completed the required training for maintaining certification, will be reassigned to duties that do not include mine inspection or production verification activities

3.1 Safety Policy

Each mine and exploration program has specific safety hazards. During mine and exploration inspections, all BLM personnel must be aware at all times of site-specific hazards as well as their personal safety. This applies even though they may be accompanied by a company representative. All BLM personnel must avoid places, situations, or acts that pose a significant risk of injury to them, others, or mine assets.

All BLM personnel must conform to all site-specific safety requirements.

All MMIs must be knowledgeable of and comply with all applicable MSHA safety requirements. When inspecting exploration operations, an MMI must be knowledgeable of and comply with the Occupational Safety and Health Administration safety requirements.

Each MMI will ensure that they have all the appropriate safety equipment. They must be familiar with the use and maintenance requirements of the appropriate safety equipment. In some cases required safety equipment may be provided by the operator of the mine being inspected. Examples of safety equipment that may be provided by the mine operator include disposable hearing protection, a self-rescuer, and a cap lamp. However, before entering a mine, the MMI is responsible to ensure they have all required safety equipment, and that all such equipment is functioning and has been properly maintained. If the MMI does not have such equipment in their possession at the time of inspection, they may not enter the mine.

3.2 Underground Mine Entry

All underground mine entry policies provided in BLM Manual Section 3010, Underground Entry Policy for Solid Minerals, are expressly incorporated into this manual and are applicable to activities covered by this manual.

4.1 Introduction

To conduct inspections or other investigations of the mining operation or other activity subject to inspection, the MMI must coordinate with the lessee, licensee, operator, or permittee to access the lease, license, LMU or permit. An MMI will determine whether lease, license, LMU, or permit operations are in compliance with the terms and conditions of the lease, license, LMU, or permit and the approved plan of development.

An MMI will provide notice to the lessee, licensee, permittee, or operator of scheduled inspections. Unannounced inspections may be conducted when circumstances warrant such action. For example, an unannounced inspection should be considered if the BLM has a reasonable cause to suspect mineral theft or trespass, or in response to emergency situations.

All MMIs will use safe working practices including compliance with the safety standards and requirements of the mine being inspected.

4.2 Exploration Activity

All exploration licenses (on Federal lands that are not currently leased for coal development), exploration plans (on Federal lands that are currently leased for coal development), or exploration permits (on Indian lands) must be inspected as frequently as necessary, but at least quarterly when exploration activities are being performed. More frequent inspections of exploration activity may be required if:

- A. There is potential for undue or unnecessary degradation of the mineral resources;
- B. There is potential for undue or unnecessary degradation of the hydrologic and environmental resources;
- C. The exploration operation is seeking the release of the reclamation performance bond;
- D. The rate of exploration merits more frequent inspection; or
- E. The witness and monitor of drill core recovery or other sampling of the coal resource is not accomplished within other scheduled inspections.

In addition BLM will inspect exploration sites to assure that reclamation of land disturbed by exploration is being completed in accordance with the approved plan.

4.3 Lease and License to Mine

- A. An MMI must determine whether the mining operations are in compliance with the terms and conditions of the lease or license, and requirements of the approved R2P2 for Federal coal or the resource development plan for Indian coal, which can include, but is not limited to:
 1. The production or mining sequence;
 2. Compliance with development plans;
 3. Achievement of diligent development;
 4. Achievement of maximum economic recovery for Federal lands;
 5. Achievement of ultimate maximum economic recovery for Indian lands;
 6. Compliance with the continued operation requirements;
 7. Changes in the maximum economic recovery or ultimate maximum recovery;
 8. Monitor for avoidable resource losses or waste;

9. Changes or revisions to the coal reserves; or
10. Unanticipated abandonment.

- B. Mining operations on a Federal or Indian coal lease must be inspected as frequently as necessary, but at a minimum as shown in Table 4-1.

The definition of an active mining operation, for the purposes of BLM personnel entering a mine for I&E/PV, is not governed by the definition of “producing” status of a Federal coal lease contained at 43 CFR 3400.0-5(rr)(6). The latter regulatory definition is intended to address a lessee’s qualifications to obtain additional Federal coal leases under Section 2(a)(2)(A) of the Mineral Leasing Act, 30 U.S.C. 201(a)(2)(A). The definition of an active mining operation contained in this manual is designed to be consistent with BLM Manual 3010, Underground Entry Policy for Solid Minerals.

- C. More frequent inspections may be required if:

1. There is potential for undue or unnecessary degradation of the mineral resources;
2. There is potential for undue or unnecessary degradation of the hydrologic and environmental resources;
3. There is potential of public health and safety hazards;
4. The rate of mining advance or amount of production accelerates such that areas cannot be inspected for abandonment before becoming inaccessible;
5. There is an occurrence of, or potential for, a reportable condition(s) (as defined by Manual Section 7.3);
6. The mining operations are in close proximity to the mine or lease boundary;
7. The reclamation activities are at a critical stage;
8. There is a reasonable suspicion of mineral trespass and it is necessary to investigate to determine, gather, and document all facts and circumstances that are pertinent to the potential mineral trespass; or
9. Other factors are identified that may have an adverse impact on the maximum economic recovery of the coal or conservation of the natural resources.

4.4 Logical Mining Unit (LMU)

Any coal produced from non-Federal lands that are within the LMU must be verified before the non-Federal coal production can be attributed to the diligent development and continued operation requirements of the LMU and the Federal coal leases within the LMU. As a term and condition of the LMU agreement, the MMI must have access to all producing areas of the LMU, regardless of mineral ownership. Coal mining operations on non-Federal lands that are included in an LMU must be inspected and production verified in coordination with the inspection and production verification of the Federal or Indian coal lease(s) within the LMU.

4.5 Collaborative Inspections of Indian lands.

If the exploration activity or mine is located on Indian lands, a representative from the tribe with jurisdiction over the lands and the BIA must be notified of the inspection and invited to accompany the MMI during the inspection.

Table 4-1: Mining Operations Inspection Frequency

	Active Mining Operations	Inactive Mining Operations	Abandoned Mines	Exploration
Definition	<p>An active mining operation:</p> <ul style="list-style-type: none"> • Is undergoing development or has mineral production activity; • Has an identified mine operator; and • Has a current authorization to perform mining operations from the MSHA. 	<p>An inactive mining operation:</p> <ul style="list-style-type: none"> • Has an identified mine operator; • Has an operable ventilation system; • Has works that are free of fallen rock; • Has ground control systems in place and maintained; and • Has established escape procedures and maintained escape routes. 	<p>An abandoned mine:</p> <ul style="list-style-type: none"> • Does not have an identified mine operator that actively and regularly maintains the mine works; • Has no records of maintenance of the mine works; • Has no records of inspection by authorized agencies; and • Cannot meet the requirements of an inactive mine. 	<p>Exploration activities are characterized by:</p> <ul style="list-style-type: none"> • Acquisition of samples from areas that have not been mined for purposes of testing the physical or chemical characteristics of the coal and its environment including the strata above and below the coal, overburden and hydrologic conditions associated with the coal; • Samples can be acquired by drilling, test pits, electronic logs, geophysical survey, channel sample, or other methods; and • Samples can be acquired from the surface or from underground openings.

	Active Mining Operations	Inactive Mining Operations	Abandoned Mines	Exploration
Inspection intervals	Leases that are severing or selling coal must be inspected at least once during every 3-month period.	The lease must be inspected at least annually.	An MMI may inspect surface facilities as needed. An MMI will never enter an abandoned mine.	The exploration area must be inspected at least quarterly. To the extent possible, exploration activities should be inspected in conjunction with coincident or adjoining lease inspections. An inspection must be completed prior to bond release.
Inspection Companion	An MMI must be accompanied by the lessee or designated mine operator, or designee, during any inspection.	An MMI will invite the lessee or designated mine operator, or designee, to accompany the inspection.	Because there is no identified mine operator or lessee, there is not a designated representative to invite for inspection of surface facilities.	An MMI will invite the licensee or designated representative, lessee or designated mine operator or designee, and the surface management agency (SMA) or designated representative, to accompany the exploration inspection.
An MMI will never perform an inspection alone. If an MMI cannot complete arrangements to be accompanied by the licensee, lessee, SMA, or designated operator, during a required inspection, the inspection must be completed consistent with BLM MS-3010 for either underground or surface mining entries. (See Handbook 3486-1, Section 2.4.1.6) If the designated representatives are not present on site when the inspection is scheduled to begin, the inspection must be rescheduled.				

4.6 Trespass

An MMI must determine if an activity is a mineral trespass and initiate appropriate corrective actions, including notification of the appropriate BLM management and law enforcement personnel. The MMI will also notify applicable SMAs of the mineral trespass so an investigation of potential surface damages can be initiated, 43 CFR 3400.0-6(d)(10).

5.1 Introduction

A thorough analysis of the lease conditions relative to all requirements (including mineral leasing laws; applicable regulations; notices and orders; lease, license, or LMU terms, conditions, and special stipulations; approved R2P2 requirements; and exploration plan requirements) must be completed prior to issuance of an enforcement order. If a violation occurred, a formal enforcement order must be issued. Enforcement procedures are found at:

- A. 43 CFR Subpart 3486 for Federal coal; and
- B. 25 CFR Parts 211, 212, 213, 216, and 225 for Indian lands.

Uniform and consistent follow-up monitoring will be conducted with the goal of motivating the lessee or mine operator to correct all violations. If a lessee or mine operator fails to take corrective action, or fails to comply with an enforcement order, an additional enforcement action must be taken.

5.2 Reportable Conditions

A reportable condition is any condition or accident listed in 43 CFR 3481.1 that can:

- Cause severe injury or loss of life; or
- Adversely affect the recovery of coal as approved in the R2P2.

The mine operator must immediately provide written notification to the BLM of a reportable condition (43 CFR 3481.1(d)). The occurrence of a reportable condition does not necessarily imply, however, that the event warrants BLM's issuance of a Notice of Noncompliance.

Examples of reportable conditions include, but are not limited to:

1. Fire (mine, facilities, stockpiles, and exploration);
2. Any event which will destabilize pillars, damage ventilation stoppings, cause roof falls or pillar failure such as a bump, squeeze, or bounce;
3. Inundation or flooding of the mine with water;
4. Gas outburst (in the mine and or during exploration);
5. Roof fall, pillar failure, slope failure, spoil failure, highwall failure;
6. Drilling fluid pit failure or overflow;
7. Coal seam splits where one of the splits cannot be mined;
8. Drill steel lost in bore hole (exploration);
9. Primary production and haulage equipment breakdowns;
10. Strikes (an extended work stoppage can adversely affect coal recovery by oxidation, flooding, or weathering of mine entries);
11. Track, rail, or belt scale breakdowns (unless coal produced can be properly measured); or
12. Game, domestic, and threatened or endangered animals killed in area of operations as a result of operations (mine and exploration).

5.3 Failures of Compliance

A. Public Lands

1. Surface Management

The MMI, acting as an authorized representative of the Secretary of the Interior, has inspection authority for surface activities and operations for Federal leases, license to mine, or permits authorized pursuant to 30 CFR Part 740. When a MMI discovers activities or conditions on the surface of the land that are not in compliance with the approved mining permit (30 CFR Part 740), and when such activity does not pose a serious and imminent danger to the public or to resources and environmental quality, they will immediately report the activity or condition to the OSM, or to the State regulatory authority with authority to implement the State program approved by OSM under the Surface Mining Control and Reclamation Act (SMCRA), for remedial action. The MMI is primarily responsible for enforcing compliance with the terms of the lease and the license. In accordance with BLM's regulations at 43 CFR 3486.3(e), the MMI must enforce the requirements of SMCRA only if they find an emergency situation for which an authorized representative of the Secretary is required to act pursuant to 30 CFR 843.11 and 30 CFR 843.12. For surface activities or conditions on an exploration license that are not within the provisions of a permit authorized pursuant to 30 CFR Part 740, the MMI will take immediate remedial action to correct the identified surface activities or conditions.

2. Mineral Management

A Notice of Noncompliance is required when a lessee or licensee has not complied with the terms and conditions of the lease or license, the requirements of an approved exploration or R2P2, or orders issued by BLM, and such noncompliance does not threaten immediate and serious damage to the mine, the coal deposit being mined, valuable ore-bearing mineral deposits or other resources, or does not affect the royalty provisions of the regulations. Notices of Noncompliance must be issued timely to ensure expeditious correction of the violation. Failure of an operator to correct a violation within the timeframe provided in a Notice of Noncompliance may result in an order for the cessation of operations, or application of other enforcement actions including, in consultation with the Solicitor's Office, initiation of lease cancellation proceedings or forfeiture of Federal lease bonds. A Notice of Noncompliance must be authorized and signed by the designated local BLM management official. Each Notice of Noncompliance must be written and then delivered by certified mail, return receipt requested. A Notice of Noncompliance must specify what requirements were not complied with, make proper citations of authorities (e.g., CFR section, operating plan requirements, lease or license terms and conditions, and orders), specify the corrective action that must be taken, and provide a time when corrective action must be completed. Each Notice of Noncompliance must provide appeal rights pursuant to 43 CFR 3486.4.

B. Indian Lands

The protocols for failures of compliance on Indian lands differ from those for Federal lands. Consult the MOU between BIA, BLM, and OSM, Management of Coal Mining on Indian Lands (WO-320-2003-02) for specific protocols.

5.4 Cessation of Operations

A. Public Lands

1. Surface Management

The MMI, acting as an authorized representative of the Secretary of the Interior, has inspection authority for surface activities and operations for Federal leases, license to mine, or permits authorized pursuant to 30 CFR Part 740.

When an MMI discovers activities or conditions on the surface of the land that are not in compliance with the terms of the lease or license to mine, or the approved mining permit (30 CFR Part 740), and when such activities or conditions are a serious and imminent danger to the public or to resources and environmental quality, they will order an immediate cessation of those activities or conditions. The MMI must immediately report the order and activity or condition to OSM, or to the State regulatory authority with authority to implement the State program approved by OSM under the SMCRA.

2. Mineral Management

a. A cessation of operations order is required when a lessee, licensee, or operator:

1. Fails to comply with:

- i. The rules of 43 CFR Part 3480;
- ii. Orders issued by the BLM;
- iii. The terms and conditions of a lease or license;
- iv. The requirements of an approved R2P2; or
- v. The requirements of an exploration plan; and,

2. The violation must threaten immediate or serious damage to:

- i. The mine;
- ii. The deposit being mined;
- iii. Valuable ore-bearing mineral deposit; or
- iv. Regarding exploration on an exploration license, the environment.

b. A cessation order may also be issued as an enforcement action when a Notice of Noncompliance has not been corrected and which Notice remains uncorrected.

c. A cessation order must be issued in writing with an independent verification of delivery to the lessee, licensee, or operator.

d. If the violation is an immediate danger to the public or will cause irreparable harm to the environment, coal resource, or other resource, a cessation order may be issued verbally by an MMI and timely followed with a written confirmation of the order.

e. Each cessation order must provide appeal rights pursuant to 43 CFR 3486.4.

B. Indian Lands

The protocols for cessation orders on Indian lands differ from those for Federal lands. Consult the MOU between BIA, BLM, and OSM, Management of Coal Mining on Indian Lands (WO-320-2003-02) for specific protocols.

5.5 Bond Forfeiture**A. Public Lands**

1. For a lease, LMU, or license to mine, the lessee, licensee, or operator may forfeit all or part of the bond if they fail to timely remit to the Office of Natural Resources Revenue (ONRR) a financial obligation of the lease, LMU, license, or regulations. (43 CFR 3474, BLM MS-3474)
2. For an exploration license, the licensee or operator may forfeit all or part of the bond if they fail to comply with the terms and conditions of the license, exploration plan, or regulations. (43 CFR 3474, BLM MS-3474)
3. The lessee, licensee, or operator must be provided written notice, mailed by the BLM through the U.S. Postal Service, certified mail, return receipt requested, that there is a deficient obligation under their lease or license for which the BLM will demand payment through the bond within 30 days unless the lessee, licensee, or operator makes payment before the BLM demands payment through bond forfeiture. The written notice to the lessee, licensee, or operator must provide detailed information identifying the deficiency and the monetary value of that deficiency. (43 CFR 3474, BLM MS-3474)
4. A decision to forfeit a lease or license bond must be authorized by the SD and the lessee or licensee notified in writing by certified mail, return receipt requested.

B. Indian Lands

The protocols for bond forfeiture on Indian lands differ from those for Federal lands. Consult the MOU between BIA, BLM, and OSM, Management of Coal Mining on Indian Lands (WO-320-2003-02) for specific protocols.

5.6 Cancellation**A. Public Lands**

If a lessee, licensee, or operator fails to take corrective action for certain violations of lease terms and conditions, it may be necessary to initiate cancellation proceedings in accordance with regulations at 43 CFR Subpart 3452. A Federal coal lease may only be canceled by action of a court of competent jurisdiction. A decision to initiate cancellation of a Federal lease or license must be authorized and signed by the SD after consultation with the Regional Solicitor. The lessee or licensee must be notified in writing of the proposed cancellation by certified mail, return receipt requested.

B. Indian Lands

Only the BIA can cancel an Indian lease in accordance with regulations at 25 CFR Parts 211, 212, 213, 216, and 225. Consult the MOU between BIA, BLM, and OSM, Management of Coal Mining on Indian Lands (WO-320-2003-02) for specific protocols.

5.7 Termination**A. Public Lands**

In accordance with 43 CFR 3452.3, 3480.0-5(a)(6) and (a)(13), and Title IV, Subtitle D of the Energy Policy Act of 2005, Public Law 109-58, 119 Stat. 760 – 763, a lease will terminate by action of law if the lessee either:

1. Fails to produce commercial quantities of coal within 10 years after the lease issuance; or
2. Fails to make a deferred bonus payment 10 days after the BLM has provided written notification that a deferred bonus payment is past due.

Inspections and production verification actions by the MMI are necessary to determine if such a termination is required. A decision to terminate a lease must be authorized and signed by the SD and the lessee notified in writing by certified mail, return receipt requested.

B. Indian Lands

The BIA has sole authority to terminate an Indian lease or permit. Consult the MOU between BIA, BLM, and OSM, Management of Coal Mining on Indian Lands (WO-320-2003-02) for specific protocols.

5.8 Monetary Sanctions for Indian Leases

Violations of lease terms and regulations and failure to comply with orders for Indian leases may result in a penalty pursuant to 25 CFR 211.55, 212.55, 213.37, and 225.37. The BIA will issue notices of penalties and will provide a copy to BLM. Coordination with the BIA, the respective Indian mineral owner(s), and the Solicitor's Office, is required when taking actions that include monetary sanctions.

The MOU between BLM, BIA, and OSM (WO-320-2003-02) provides specific protocols for Indian leases.

6.1 Production Verification

- A. Close coordination must be maintained with the ONRR (formerly part of the Minerals Management Service) to provide timely and accurate information to both the BLM and ONRR. The BLM and ONRR must coordinate and share information in accordance with the BLM/ONRR MOU.
- B. An irregularity is any evidence of conflicting records with respect to the amount of royalty due, including the quantity of mineral severed. An irregularity in the quantity of mineral reported for royalty payment must be promptly resolved. (See Section III. Audit and Inspection Interface, BLM/ONRR MOU). The resolution of irregularities may require special site inspection by the BLM.
- C. The BLM must review the production reports, sales records, and royalty reporting records, as well as determine the quantity and quality of products used on the lease or license in order to reconcile all available reports and records of mineral production to the BLM's physical observations of the quantity of material severed from a lease or license to the point of sale. Any production irregularities must be reported to ONRR for billing notices or audits for resolution.
- D. Production verification is an integral step for royalty management. Independent verification of mineral production, inventory, and sales help to assure that the receipt and distribution of the royalty due for the severance of Federal and Indian leasable mineral resources is correct. Production verification provides the first step in the audit of receipts from mineral production from Federal or Indian lands.

7.1 Quality Control

A systematic review should be completed periodically by the applicable BLM state office or the BLM Washington Office that emphasizes continued program quality control. A periodic review will monitor I&E/PV activities to ensure:

- Effective implementation of applicable directives;
- Compliance with all requirements (including mineral leasing laws; applicable regulations; notices and orders; lease or license terms, conditions and special stipulations; approved R2P2 requirements; and exploration plan requirements);
- Enforcement actions are being taken consistently; and
- Appropriate allocation of personnel, training, and equipment to meet the program goals and objectives.

7.2 Review Methods

A program review by the applicable BLM state office or the BLM Washington Office must be completed using BLM-approved management review methods and tools. BLM Manual Section 1240, Evaluation Program, provides information concerning BLM's evaluation policy and procedures.

8.1 Appeals

- A. Decisions or orders issued by the BLM under 43 CFR Subpart 3480 or 25 CFR Subpart 216 may be appealed in accordance with 43 CFR Part 4.

- B. Decisions of BIA officers are appealed pursuant to 25 CFR Part 2.

- E -

- Enforcement includes any action taken by BLM (such as written Notices of Noncompliance; monetary sanctions [Indian lands only]; cessation or suspension of operations and other orders; bond forfeiture; and lease or license cancellation or termination) that is necessary to attain compliance with all requirements (including mineral leasing laws; applicable regulations; notices and orders; lease or license terms, conditions and special stipulations; approved R2P2 requirements; and exploration plan requirements) to encourage compliance and to deter noncompliance.

- I -

- Inspection includes onsite and office actions to monitor, assess, evaluate, verify, or otherwise check aspects of an exploration or mining operation for compliance with all requirements (including mineral leasing laws; applicable regulations; notices and orders; lease or license terms, conditions and special stipulations; approved R2P2 requirements; and exploration plan requirements). Inspections are also conducted on inactive leases or licenses to identify unreported or unauthorized activity. Inspections are not performed for abandoned underground coal mines.
- Irregularity is a difference between the quantity of material reported to ONRR as having been sold (and royalty bearing) and the quantity of material that the BLM can independently determine as being sold. Determinations of irregularity are based on independent measurement and verification of the amount of coal mined and the amount of coal contained in inventory after the coal is severed and before it is sold.

- P -

- Production Verification includes onsite and office tasks to identify, track, and evaluate the reported quantity and quality of mineral production from each lease or LMU from severance to the point of royalty determination.

- U -

- Underground or Surface Coal Operations include all program activities that occur after the issuance of a lease or license pursuant to all requirements (including mineral leasing laws; applicable regulations; notices and orders; lease or license terms, conditions and special stipulations; approved R2P2 requirements; and exploration plan requirements). The BLM's responsibilities include, but are not limited to, inspection; enforcement; product verification; diligence monitoring; resource conservation; maximum economic recovery; exploration plan approval and oversight; R2P2 and LMU approval; approval of assignments, subleases, readjustments, renewals, modifications, suspensions, royalty reductions, commercial quantities determinations, and trespass; mine waste control; determining bond value; and other related determinations as required. For Indian lands, approval of assignments, subleases, readjustments, renewals, modifications, suspensions, and royalty reductions are completed by the BIA after receiving recommendations from the BLM.