



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

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Subject:

Oversight Procedures for States' Use of the Applicant Violator System

Approval:

Title: Director

Section 3.c.(2)(g)(1) of Directive INE-32, "Oversight Procedures for States' Use of the Applicant Violator System," is being modified to clarify special actions that Field Office Directors must take when matches occur between permit applicants and entities with violations covered by the Revised Parker Order.

(g) Case-specific Problems, Trends, or Program Changes.

(1) Responding to a variety of case-specific problems found during normal oversight activities and in conducting follow up actions with States as a result of the requirements of the Revised Parker Order.

a. Parker cases. Field Office Directors must access the AVS not less than weekly in order to retrieve a System Queries Report for their respective State(s) which will indicate what applications are pending and what permits have been issued by a particular State. The System Queries Report will also identify those applicants linked to a violation subject to the Parker Order, i.e., an unabated Federal failure to abate cessation order or unpaid 518(h) civil penalty assessed at or greater than \$22,500 for which a final order has been issued. For those cases where a permit applicant has or is linked through common ownership and control to a violator responsible for a violation subject to the Parker Order, Field Office Directors shall for all such cases contact the State within 30 days from the date of the initial AVS recommendation, and every 30 days thereafter while the application remains pending, to confirm that no permit will be issued until the violations are abated, the penalties paid, or that written abatement/payment plans have been approved by OSMRE. In the latter case, the permit may be issued conditioned on compliance with such plans if the approved State program so allows. In situations where a State issues a permit without appropriate conditions to an applicant linked to a violation covered by the Parker Order, and adequate documentation is not in the State's permit file to justify disavowal of the match, the Field Office Director will confirm the AVS recommendation with the AVS Clearinghouse and, if confirmed, implement the procedures outlined in Directive INE-34, "Guidelines for Responding to Improvidently Issued Permits" to fulfill the requirements of the Revised Parker Order.

CHANGE NOTICE

b. Other cases. In cases where Field Office Directors have found that a State has issued a permit to an applicant responsible for, or linked through common ownership and control to a violator responsible for non-Parker violations, the Field Office Director will confirm the match with the AVS Clearinghouse, informally notify the State of the discrepancy, request an explanation of the State's action, and ask the State to correct the discrepancy by requiring a permit revision, condition, or where necessary to take action under its approved program to suspend or revoke the permit. If informal negotiations fail to adequately address the problem, the Field Office Director should issue a ten-day notice and proceed with normal follow-up actions as provided in Directive INE-35, Ten-Day Notices.

The above change will also necessitate an addition to section 4, Reporting Requirements, as follows.

4. d. In situations where an application is pending and a violation exists as described in 3.c.(2)(g)(1)a., the Field Office Director will provide the AVS Clearinghouse with the 30-day required, updated status within 3 working days of contacting the State, specifying any action taken by the State or the Field Office.