



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

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Subject: 510 (c) Permit Review Procedures for Federal Permit Applications

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1. **Purpose.** This Directive sets forth the procedures for conducting compliance reviews in order to determine whether to issue, issue conditionally, or deny applications for new Federal permits in accordance with section 510(c) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) and 30 CFR 773.15(b).

2. **Summary of Changes.** This Directive has been modified and reorganized to clarify changes in policy and procedures for conducting compliance reviews under section 510(c) of SMCRA and to reflect provisions of the Settlement Agreement between Save Our Cumberland Mountains, Inc., et al., and Manuel Lujan, Jr., Secretary of the United States Department of the Interior, et al., dated January 24, 1990 (hereafter, "Settlement Agreement"). (See section 6 below, "Effect on Other Documents.")

3. **Definitions.**

a. **Applicant/Violator System (AVS).** A computerized system maintained by OSM which identifies permanent program permit applicants, operators, permittees, and persons and entities who are responsible for unabated cessation orders or who owe Abandoned Mine Land (AML) Reclamation fees or civil penalties assessed under sections 402(a), 518(a), 518(f), and 518(h) of SMCRA, and persons who own or control, or are owned or controlled by such entities.

b. **Owned or Controlled and Owns or Controls** mean any one or combination of relationships specified in paragraphs (1) and (2) below.

(1) (a) Being a permittee of a surface coal mining operation; (b) based on instruments of ownership or voting securities, owning of record in excess of 50 percent of an entity; or (c) having any other relationship which gives one person authority directly or indirectly to determine the manner in which an applicant, an operator, or other entity conducts surface coal mining operations.

(2) The following relationships are presumed to constitute ownership or control unless the person can demonstrate that the person subject to the presumption does not in fact have the authority directly or indirectly to determine the manner in which the relevant surface coal mining operation is conducted:

- (a) Being an officer or director of an entity;
- (b) Being the operator of a surface coal mining operation;
- (c) Having the ability to commit the financial or real property assets or working resources of an entity;
- (d) Being a general partner in a partnership;
- (e) Based on the instruments of ownership or the voting securities of a corporate entity, owning of record 10 through 50 percent of the entity; or
- (f) Owning or controlling coal to be mined by another person under a lease, sublease, or other contract and having the right to receive such coal after mining or having authority to determine the manner in which that person or another person conducts a surface coal mining operation.

As used in this Directive, the phrase "linked through ownership or control" would signify that the persons are related due to one or more of the ownership and control criteria, and that one person's compliance problems will impact on a related person's permit application approval.

c. Transfer, Assignment, or Sale of Permit Rights (permit transfer) is a change in ownership or other effective control over the right to conduct surface coal mining operations under a permit issued by OSM. This definition is based on the common understanding of the terms to include any effective shift in control over rights, in addition to technical changes in ownership. The term includes, for example, changes such as a new officer, director, or owner of 10 percent or more of any class of voting stock as well as the addition of a new operator (not listed in the original permit) who actually performs surface coal mining operations. See 30 CFR 701.5 and 44 FR 15106, March 13, 1979.

d. Compliance Problems. These are problems which would cause a permit or permit transfer to be approved conditionally or blocked and include the following types of problems:

(1) Unabated Federal or State failure to abate and imminent harm cessation orders.

(2) Past due 518(a), 518(f), or 518(h) Federal civil penalties and equivalent State civil penalties. A 518(a) civil penalty is a penalty assessed on a Notice of Violation (NOV) or Imminent Harm Cessation Order (IHCO). A 518(f) penalty is an

individual civil penalty assessed against a corporate officer, director, or agent. A 518(h) civil penalty is a penalty assessed on a Failure To Abate Cessation Order (FTACO) or equivalent penalty assessed for failure to abate an IHCO. A Federal civil penalty will be considered past due if it remains unpaid after a Final Order has been issued and a payment schedule has not been executed. However, a person will be considered responsible for a civil penalty if the person owned or controlled the violator's entity at the time the notice of proposed assessment became a final order, pursuant to 30 CFR 845.20(a).

(3) Delinquent AML reclamation fee payment and/or "Coal Production and Reclamation Fee Report" (Form OSM-1). Delinquent AML fees are those which are not paid within 30 days after the calendar quarter for which the fee was owed and include those fees identified as a result of a reclamation fee compliance audit. An AML fee report is delinquent if not submitted within 30 days after the end of each calendar quarter on Form OSM-1. A permit may only be blocked on non-responsdency if there is information that there are unpaid AML fees by the applicant or other entities linked to the applicant through ownership or control (i.e., there is a reasonable basis to conclude that coal production occurred during the period for which no OSM-1 was submitted). For purposes of this directive, a permit shall be blocked if an NOV has been issued in accordance with Directive AML 15-1, "Abandoned Mine Land (AML) Fee Citations."

(4) Bond forfeitures where violations upon which the forfeitures were based have not been corrected.

(5) Unabated violations of Federal and State laws, rules, and regulations pertaining to air or water environmental protection incurred in connection with any surface coal mining operation.

(6) A demonstrated pattern of willful violations of SMCRA of such nature and duration and with such resulting irreparable damage to the environment as to indicate an intent not to comply with SMCRA. The applicant or operator must be given an opportunity for a hearing before this finding can be made, as required by section 510(c) of SMCRA.

(7) All other outstanding violations for which an NOV has been issued.

e. Permit Blocking. The decision by the Federal Permitting Entity (FPE) to deny a permit or permit transfer or to withhold a permit or permit transfer until compliance problems are resolved to the point where the permit can be issued or issued conditionally.

f. Permit Conditioning. The action taken by the FPE to attach specific conditions to a permit or permit transfer when an applicant and/or entities linked to the applicant through ownership or control: (1) have filed and are presently pursuing, in good faith, a direct administrative or judicial appeal to contest the validity of a current violation and/or debt (including a good faith defense to an AML fee collection suit); or (2) have an outstanding compliance problem which is in the process of being corrected to the satisfaction of the issuing regulatory authority (for example, when the applicant or related entity is complying with a written abatement or payment plan); or (3) are protected by an automatic stay in bankruptcy from the commencement or continuation of an action to collect a pre-petition debt.

4. Policy/Procedures.

a. Background.

(1) General. Section 510(c) of SMCRA states that the regulatory authority shall not issue a permit if any surface coal mining operation owned or controlled by the applicant is currently in violation of SMCRA or any other environmental law in connection with a surface coal mining operation until the applicant submits proof that such violation has been corrected or is in the process of being corrected to the satisfaction of the issuing regulatory authority. OSM has implemented this provision at 30 CFR 773.5 and 773.15(b). The revised regulations add definitions of the terms "owns or controls" and "owned or controlled," and clarify the scope of review of an applicant's environmental compliance record prior to the issuance of a new permit, as well as that of entities related to the applicant through ownership or control. This Directive provides procedures that are consistent with those rules. This Directive also provides procedures for OSM to implement additional requirements of the Settlement Agreement to develop, maintain, and use a redesigned AVS in the compliance review process.

(2) Applicability of this Directive. This Directive applies to compliance reviews needed on applications for new Federal permits or for a transfer, assignment, or sale of permit rights under a Federal permit. Applications for permit revisions and renewals under SMCRA, and for approval of mining plans and mining plan modifications under the Mineral Leasing Act are not subject to compliance reviews. In addition, where OSM issues a permit on Federal lands in a State with an approved regulatory program, the responsibilities (section 4.b.) and procedures (section 4.c.) of this Directive are applicable, but the FPE must apply the standards of the approved State program in rendering decisions on applications. Therefore, while section 4.d. of this

Directive ("Criteria for Decisions") may serve as general guidance, the FPE should apply the approved State program counterparts to the Federal regulations cited therein to reach decisions on permit applications. To the extent that a State program does not contain a counterpart (e.g., most States are still in the process of amending their programs to add a definition of "owns or controls"), the FPE should determine and abide by the State's current operating policy and practice. This Directive applies to all permits issued in Federal program States and on Indian lands.

**b. Responsibilities.**

(1) The Applicant/Violator System (AVS) Office is responsible for:

(a) Ensuring that the AVS performs effectively to ensure compliance with section 510(c) of SMCRA so that persons responsible for compliance problems either directly or through ownership or control are not issued permits to conduct surface coal mining operations (except where a permit can be issued conditionally).

(b) Responding to inquiries/concerns from AVS users;

(c) Responding to challenges to presumptive ownership and control links made by AVS. Where challenges are made to ownership and control for Federal permit applicants or Federal violators, it coordinates analyses and responses with the FPE, with other appropriate agency units, and with the Office of the Solicitor. When challenges are made to ownership and control for State permit applicants for State violators, the AVS Office refers the matter to the appropriate State regulatory authority for a decision and assists the State(s) when requested.

(d) Producing reports on the AVS System, including the quarterly reports required by the Settlement Agreement.

(2) Federal Permitting Entities (FPE) are responsible for:

(a) Reviewing permit applications and applications for a transfer, assignment, or sale of rights in accordance with section 510(c) of SMCRA, 30 CFR 773.5, 773.15(b), and the Settlement Agreement;

(b) Ensuring that permit and permit transfer applications contain the required ownership and control information;

(c) Obtaining from the Environmental Protection Agency or appropriate State air and water regulatory authorities information concerning air or water environmental protection violations incurred in connection with any surface coal mining operation for use in permit application decisions;

(d) Coordinating with the applicant the resolution of compliance problems. This may include referring the applicant to other appropriate agency units, the Office of the Solicitor, or other regulatory authorities which have issued a violation or assessed a penalty;

(e) Deciding whether to issue, issue conditionally, or block permits and permit transfers, and documenting the basis underlying the decisions;

(f) Approving, blocking, or conditioning new permits and permit transfers; and

(g) Upon approval, blocking, or conditioning of permits and permit transfers, compiling data on permitting decisions for statistical and tracking purposes. If the AVS or other information results in a "deny" or "condition" recommendation based on a violation, the FPE shall report the disposition of the permit application to the AVS Office for inclusion in the quarterly reports required by the Settlement Agreement.

(3) Field Office Directors are responsible for providing and verifying information concerning outstanding Federal violations upon request from the AVS Office or the FPE. In the case of State violations and civil penalties, the Field Office Directors shall be the liaison between OSM and the States for purposes of gathering State violation and State civil penalty data needed for permit decisions until such information becomes available through the AVS.

c. Procedures. The FPE shall schedule and implement the following procedures for each permit or permit transfer compliance review:

(1) Administrative Completeness Review.

(a) The FPE shall review the application, any automated data sources reasonably available (including the entity, Mine Safety and Health Administration (MSHA), and Energy Information Agency (EIA) files on AVS), and any manual data sources reasonably available (including inspection and enforcement files and corporation commission records, if relevant) to determine whether the information contained in the application concerning ownership and control is complete. In

determining whether an application is complete, the FPE shall place special emphasis on the identification of operators and the owners and controllers of operators.

(i) If none of the persons identified in the application has shown past mining experience, the FPE shall determine through appropriate inquiry with the applicant (or applicant's representative(s)) whether a person or entity other than the applicant will extract the coal under the permit, if issued, and whether the listed controllers will in fact control the operation. If the FPE determines that an operator different from the applicant will extract the coal, the FPE will require the applicant to amend its application to include the required ownership and control information for the operator, and the appropriate violation review shall be conducted on the operator and all relevant ownership and control links to the operator.

(ii) The FPE shall review the application to determine the mineral owner for the tract to be mined. If the mineral owner is a person or entity known to engage in contract mining within the meaning of 30 CFR 773.5(b)(6), the FPE shall require the applicant either to identify the mineral owner as an owner or controller or to provide a copy of the contract or lease showing a lack of ownership and control. (See 53 FR 38876-7.)

(b) If the FPE identifies any potential omissions or inaccuracies in the application information as a result of these reviews, it shall contact the applicant and request an explanation. If the FPE determines that the omission or inaccuracy was unintentional, it shall require that the applicant amend the application prior to making a final determination with regard to the permitting action. If the FPE determines that an omission or inaccuracy was intentional, it shall deny the permit pursuant to 30 CFR 773.15(c)(1), and shall consult with the Field Solicitor about whether to refer the matter for possible prosecution of the applicant under SMCRA section 518(g).

(2) Entry of AVS Data and Compliance Reviews.

(a) The ownership and control data from all Federal permit and permit transfer applications, as supplemented as a result of the completeness review described above, shall be entered into the AVS by the FPE no later than 15 days after the information in the application has been determined to be administratively complete and accurate.

(b) If the AVS or other available information reveals that an applicant has compliance problems or is linked to an entity which has compliance problems, then the FPE shall inform the applicant that the permit will be blocked until the compliance problems are resolved. The FPE shall refer the case

to the AVS Office which will determine which links are valid or invalid in accordance with Appendix 2 of this Directive.

(c) The AVS shall be rechecked at the time of the actual decision on the permit or permit transfer application (see section 4.f. of this Directive) to ensure that the data for the application decision are current.

(3) Data on State Compliance Problems.

(a) Until the data on State violations and civil penalties are entered into the AVS, Field Office Directors shall continue to obtain data from the States. FPEs should initiate such requests with the appropriate Field Office(s) no later than the end of the initial compliance review period. Data should be compiled by the Field Office Directors in sufficient time to be useful at the time of the application approval decision. Should there be a substantial delay between the time the State data are obtained and the decision on the application (i.e., more than 60 days), the FPE should request the appropriate Field Office(s) to reverify the data with the State regulatory authorities.

(b) FPEs should request data from those States where the applicant and affiliates as well as the operator listed on the application are known to have operated, and border States (where coal mining occurs) of the Federal program State where the permit application is pending. The Field Office responsible for oversight activities in a given State is responsible for obtaining the State violation data and reporting the information obtained back to the FPE within the schedule prescribed by the FPE.

d. Criteria for Decisions.

(1) Analysis of Data and Identification of Compliance Problems. Upon receipt of the data from the AVS or State agencies, the data shall be reviewed by the FPE to identify any compliance problems for which the applicant is responsible directly, indirectly, or through an ownership or control relationship. If any compliance problems are identified, the FPE shall refer the case to the AVS Office. To the extent that the specific case involves the need to distinguish valid from invalid links or to consider information submitted by a person to rebut a form of presumptive ownership or control, the AVS Office should follow the guidelines contained in Appendices 1 and 2 of this Directive.

(2) Documentation of Basis for Permit Decisions. After all available information is analyzed, a decision on the application will be made as follows:

(a) Based on available information concerning compliance problems, the FPE shall make the determination required by 30 CFR 773.15(b)(1) as to whether any surface coal mining operation owned or controlled by either the applicant or by any person who owns or controls the applicant (including the operator specified in the application) currently has a compliance problem. If a compliance problem exists, the applicant or persons who own or control the applicant shall be required, before the permit is issued, to:

(i) Submit proof that the compliance problem has been or is in the process of being corrected to the satisfaction of the issuing regulatory authority (such as when payment schedules have been established or abatement plans have been executed. Where the applicant is in bankruptcy, any pre-petition debts are deemed to be "in the process of being corrected" as long as the automatic stay remains in effect); or

(ii) Establish that the applicant, or any person owned or controlled by either the applicant or any person who owns or controls the applicant, has filed and is presently pursuing, in good faith, a direct administrative or judicial appeal to contest the validity of the compliance problem. If the initial judicial review authority under 30 CFR 775.13 affirms the compliance problem, then the applicant shall submit the proof required under 30 CFR 773.15(b)(1)(i) within 30 days of the judicial action.

(b) The FPE shall confirm with the issuing regulatory authority any proof submitted by the applicant that the compliance problem has been or is in the process of being corrected to the satisfaction of the issuing regulatory authority, or that any pending appeal has been filed and is being pursued in good faith. (Where the violation under appeal is a federal violation, the FPE shall contact the Field Solicitor for an opinion on whether or not the appeal is in good faith.) In accordance with 30 CFR 773.15(b)(2), any permit or permit transfer that is issued on the basis of proof submitted under 30 CFR 773.15(b)(1) that a compliance problem is in the process of being corrected, or pending the outcome of an appeal shall be conditionally issued.

(c) The FPE shall make a finding under 30 CFR 773.15(b)(3) whether the applicant, anyone who owns or controls the applicant, or the operator specified in the application, controls or has controlled any surface coal mining operations with a demonstrated pattern of willful violations of SMCRA of such nature and duration, and with such resulting irreparable damage to the environment as to indicate an intent not to comply with SMCRA. If such a finding is made, the permit or permit transfer shall not be granted. Before such a finding becomes final, the applicant or operator shall be afforded an opportunity

for an adjudicatory hearing on the determination as provided for in 30 CFR 775.11.

(d) To the extent that a compliance problem is identified based on an ownership or control relationship, the permit or permit transfer shall be blocked (or conditioned, if the conditions specified in 4.d.(2)(a) and (b) above are met) unless the person submits information sufficient to establish by a preponderance of the evidence that the presumption is rebutted or the ownership/control linkage is refuted.

e. Permit Decision Options.

(1) Permit Approval. A permit or permit transfer application may be approved when the applicant and all entities linked to the applicant through ownership and control do not have any compliance problems.

(2) Permit Conditioning.

(a) A permit or permit transfer shall be issued conditionally pending the outcome of an appeal of a compliance problem as provided under 30 CFR 773.15(b)(2). A good faith defense to an AML fee collection suit may also qualify a permit or permit transfer to be issued conditionally.

(b) If an applicant or entity who owns/controls the applicant, or entity owned/controlled by the applicant who is responsible for the violation and/or debt has entered into an abatement plan for outstanding violations or a payment plan for outstanding civil penalties or AML fees, the permit or permit transfer shall be conditioned upon the performance of abatement work or the payment of the civil penalties or AML fees in accordance with the approved plan.

(c) A permit shall be conditionally approved if it is being issued on the basis of proof submitted under 30 CFR 773.15(b)(1)(i) (and confirmed by the FPE) that a compliance problem is in the process of being corrected to the satisfaction of the issuing regulatory authority.

(d) Where the applicant is protected by the automatic stay in bankruptcy from the commencement or continuation of an action to collect a pre-petition debt, the permit or permit transfer should be conditioned on the payment of any amount not discharged in bankruptcy, once the automatic stay has expired.

(3) Permit Blocking. Permits and permit transfers shall be blocked in cases where compliance problems are identified and the applicant or person affected cannot by a preponderance of the evidence rebut the presumption of ownership

or control or refute the facts constituting ownership or control, and where permit conditioning is not possible. In the event that compliance problems cannot be resolved, the permit shall be denied.

f. Permit Issuance: Final Compliance Review. After the applicant is notified by the FPE that his/her application has been approved, but before the permit or permit transfer is issued, the FPE shall implement the requirements of 30 CFR 778.13(i) and 778.14(d) by requiring the applicant to update, correct, or indicate that no change has occurred in the identification of interests (30 CFR 778.13(a)-(d)) or violation information (30 CFR 778.14) the applicant previously submitted as part of the application. The FPE, in conjunction with the AVS Office, shall conduct a final compliance review as required by 30 CFR 773.15(e) using the procedures and criteria of sections 4.c. and 4.d. of this Directive based on any new information submitted by the applicant. Based on the results of the final compliance review, the FPE shall reconsider its permit or permit transfer approval decision, document the results of this reconsideration, and amend the permit approval decision where appropriate under the criteria of section 4.d. of this Directive.

5. Reporting Requirements. The FPE shall report the disposition of every permit application to the AVS Office for inclusion in the quarterly reports required by the Settlement Agreement.

6. Effect on Other Documents. Supersedes Directive INE-33, Transmittal Number 570, entitled "Permit Review Procedures for Federal Permit Applications," dated August 25, 1989.

7. References.

- a. Sections 507(b)(4), 510(c), 518(a) and (h) of SMCRA.
- b. 30 CFR 773.5, 773.15(b).
- c. 30 CFR 775.11, 775.13(c).
- d. 30 CFR 778.13(d), 778.15(a) and (b).
- e. Settlement Agreement Between Save Our Cumberland Mountains, Inc., et al., and Manuel Lujan, Jr., Secretary of the United States Department of the Interior, et al., dated January 24, 1990.

f. Directive AML 15-1, "Abandoned Mine Land (AML) Fee Citations."

8. Effective Date. Upon Issuance.

9. Contact. Chief, Branch of Inspection and Enforcement (202) 208-2550 or FTS 268-2550.

10. Keywords. Permit applications, Violations, Civil penalty, Abandoned mine land reclamation fee (AML fee), Owned or

controlled and owns or controls, Section 510(c) of SMCRA, 30 CFR 773.5, 773.15, Settlement Agreement.

11. List of Appendices.

Appendix 1: Assessment of Data Rebutting the Presumption of Control.

Appendix 2: Analysis and Disavowal of Links.

Assessment of Data Rebutting the Presumption of Control

If an applicant and a violator have or have had an ownership or control relationship, the permit or permit transfer shall be blocked unless the applicant or the person can rebut the presumption of ownership or control. A person need not hold the same position in each entity to establish the presumptions, as long as he or she owns or controls the applicant and also owns or controls or previously owned or controlled the violator. A person presumed to own or control an entity can rebut the presumption by submitting evidence which establishes by a preponderance of the evidence that he or she does not (or did not) in fact have the authority directly or indirectly to determine the manner in which the relevant surface coal mining operation was or is conducted. The amount of proof required will be determined on a case-by-case basis by the AVS Office. While there is a limit to the ability to anticipate what evidence might rebut the presumptions of ownership and control, the following types of documentation should be considered in evaluating a potential rebuttal:

1. Copies of legal documents showing the date of the transfer or sale of a previously related entity, stock transfer records, or reports filed with the State corporation commission.
2. Company or State corporation reports or the equivalent records which show that the person is or was incorrectly identified as being or having been affiliated with the violator or applicant, or sworn affidavits that provide sufficient facts to show that:
  - (a) the individual did not own a 10 percent or greater interest in the violator entity;
  - (b) the individual was not an officer or director of the violator entity;
  - (c) the individual did not exercise any control over the manner in which the surface coal mining operations of the violator entity were conducted;
  - (d) if a general partner in a partnership, the individual's responsibilities precluded control over the surface coal mining operations; or
  - (e) the individual did not own or control the coal to be mined by the violating entity under a lease, sublease, or other contract, or have the right to receive such coal after mining.

The AVS Office is responsible for determining the validity and adequacy of the information submitted to rebut the presumption of ownership or control. The analysis of the information shall include, but is not limited to: contacting the Field Solicitor to verify the authenticity of the information, and where necessary, to obtain a legal opinion (e.g., verify against any available data stemming from pending investigations); contacting AML fee compliance auditors to verify data against any relevant data obtained from fee compliance audits; or contacting the State in which the violation occurred to verify the information submitted against State corporation contacts or similar types of available information.

The AVS Office should retain copies of any documentation which supports the statements made in affidavits, such as cancelled checks made out for the purchase of an individual's interest in the operation or payment of penalties/fees, letters of resignation, and company records or memoranda.

### Analysis and Disavowal of Links

Valid links between different individuals/entities, based on confirmation of information supplied by permit or permit transfer applicants, are relationships based on one or more of the ownership and control criteria (see section 3.b. of this Directive). Methods for determining valid or invalid links are described in the following "Analysis of Links."

#### 1. Analysis of Links.

If situations occur where the AVS or other information identifies possible links between different entities based on synonymous entity names or synonymous names of individuals, the AVS Office should:

a. Analyze the information and if necessary, seek additional data concerning the entities or individuals from other sources, and document the results.

b. Confirm or disavow whether two or more similar or related names are really representing the same individual. While there is no uniform method, the following analytical approach should generally be applied:

(1) Determine whether there are common social security numbers (if available) or dates of birth between the individuals;

(2) Determine whether there are additional links which are also common between the applicant and the other entities in question (i.e., other common officers, shareholders, company addresses and telephone numbers); and

(3) Determine whether the addresses or phone numbers for the individuals are different.

c. Check other information sources in order to obtain additional data or confirmation of existing data. Such other sources may include data from other permit applications on file, from the Abandoned Mine Land (AML) system, and from inspection and enforcement records if not already in the AVS, the Keystone Coal manual, the R-31 database maintained by the Mine Safety and Health Administration (MSHA), the coal information database maintained by the Energy Information Agency (EIA), the mine operator database maintained by the Kentucky Department of Mines and Minerals, the Surface Mining Information Systems (SMIS) maintained by Kentucky, Virginia, and West Virginia, and other information from State corporation commissions or Secretaries of State, net worth determinations, and information from the Office of the Solicitor gained during litigation.

A similar analysis should be conducted if synonymous company names exist. Usually the determining factor will be common officers and owners. A preliminary indicator may be the listing and location of the company's permits (together with the permit identification numbers) held over the prior 5 years listed on the application as required by 30 CFR 778.13(d). The same sources of other information should be used where necessary.

The permit application files should include sufficient documentation to show that where synonymous relationships were identified, the analysis was conducted to substantiate or disavow the link. A description of the specific analysis performed, the extent to which other sources of information were consulted, and the rationale to support the conclusions reached shall also be maintained in the permit files. In cases where the applicant or individual in question was consulted, a memorandum documenting the telephone conversation will normally suffice.

## 2. Breakage of Links.

All breakage of links (including those resulting from the successful rebuttal of the presumption of ownership or control by an individual) must be analyzed on a case-by-case basis. The AVS Office should review the information submitted by the individual or entity and consult with the Office of the Solicitor in order to determine the extent to which the individual or entity should be held responsible for the compliance problem.

To the extent that an individual successfully rebuts or refutes an ownership or control link, or should the AVS Office find that the information concerning ownership or control is incorrect, the AVS will need to be programmed to break the link on a permanent basis.

If the link identifies allegedly outstanding penalties or fees, any documentation reflecting the final payment of Federal penalties or fees provided by the applicant should be forwarded by the AVS Office to the Field Assessment Unit for updating the Collections Management Information System (CMIS) or to the Division of Financial Management for updating the AML fee database.

Similarly, should an applicant submit a copy of a termination or vacation of a violation, the AVS Office should confirm with the issuing field office that the violation has in fact been terminated or vacated. If so, the AVS Office should forward a copy of the termination or vacation to the Field Assessment Unit for updating CMIS or to the Division of Financial Management for updating the AML fee database. The AVS will be updated periodically to incorporate the CMIS and AML fee database updates.