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

Subject Number:

INE-25

Transmittal Number:

337

Date: 5/26/87

Subject: Terminating Revised Parker Order Failure-to-Abate Cessation Orders

Approval:

Title: Director

1. Purpose. This directive establishes policy and procedures for terminating failure-to-abate cessation orders (FTA-CO), which were in effect for more than 30 days, and issued prior to February 1, 1985.

2. Definitions. None.

3. Policy/Procedure.

(a) Background. On February 1, 1985, U.S. District Court Judge Barrington Parker issued a Revised Order (Revised Parker Order) in Save Our Cumberland Mountains, Inc., et al. v. Clark and Council of Southern Mountains Inc., et al. v. Clark. Pursuant to this order, the Office of Surface Mining Reclamation and Enforcement (OSMRE) must notify the plaintiffs prior to terminating any FTA-CO which was in effect for more than 30 days and issued prior to February 1, 1985.

(b) Policy/Procedure.

(1) To ensure systematic compliance with the Revised Parker Order, Field Offices shall forward the findings of all FTA-CO termination investigations described above to:

Chief, Field Investigations Branch
Office of Surface Mining Reclamation and Enforcement
Department of the Interior
530 Gay Street, S.W.
Knoxville, Tennessee 37902

(2) Supporting documentation shall include all inspection reports and evidence collected, including photographs documenting that the violation(s) has been corrected as required in the underlying enforcement actions.

(3) The Field Investigations Branch shall review the Field Office inspection findings and present the proposed termination package to the Office of the Solicitor and the plaintiffs for review.

(4) The Field Investigations Branch shall coordinate with the appropriate Field Office to obtain any additional information or evidence which may be requested by the plaintiffs or Solicitor.

(5) With respect to any previously uncited or new violations observed at a Revised Parker Order FTA-CO site, the following procedures apply:

(a) In situations where inspectors of the Field Investigations Branch observe any additional violations during a site inspection, they will promptly notify the appropriate Field Office.

(b) The Field Office will be responsible for issuing any ten-day notices, notices of violation or cessation orders required to address previously uncited or new violations observed.

(6) Field Offices are authorized to terminate FTA-CO's without approval from the plaintiffs when:

(a) The FTA-CO did not go beyond 30 days;

(b) The FTA-CO is issued after February 1, 1985; or

(c) The FTA-CO was issued on a permanent program permit and terminated prior to February 1, 1985.

4. Reporting Requirements. None.

5. References. February 1, 1985 Revised Order, Save Our Cumberland Mountains, Inc., et al. v. Clark and Council of Southern Mountains Inc., et al. v. Clark.

6. Effects on Other Documents.

(a) Supersedes the April 21, 1986 memorandum "Defining Responsibility for Interim and Permanent Program Failure-to-Abate Cessation Orders" by the Deputy Director, Operations and Technical Services, OSMRE.

(b) Supersedes the June 6, 1985 memorandum "Termination of Failure-to-Abate Cessation Orders" by the Acting Assistant Director, Program Operations and Inspection, OSMRE.

7. Effective Date. Upon Issuance.

8. Contact. Chief, Branch of Inspection, (202) 343-5384.