

# Applicant/Violator System Office System Advisory Memorandum



**SAM # 12    DATE: January 23, 1998**

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## **Subject: BEGINNING and ENDING DATES**

Regulatory authorities have the responsibility for the accuracy and completeness of ownership and control information, including beginning and ending dates. Because AVS uses dates to evaluate whether entities are linked to specific violations or debts, beginning and ending dates for permit-specific relationships and ending dates for entity relationships are critical to accurate system performance.

### **Beginning Dates**

For the purposes of evaluating the permit eligibility of applicants and other entities, it is OSM's policy that AVS does not read beginning dates when generating eligibility recommendations for applications or entities. OSM believes that ending dates represent a more significant event with respect to the ownership or control of or by an applicant or another entity. The EXCEPTIONS to this policy are permit-specific relationships.

Such that beginning dates are provided to the regulatory authority for non-permit-specific ownership or control relationships, it is at the discretion of the regulatory authority to enter these dates into AVS.

### **Ending Dates**

No ending date should be assumed for any ownership or control relationship. The burden of documenting the termination of an ownership or control relationship rests upon the person asserting that a relationship has ended. Regulatory authorities should require sufficient documentation to demonstrate that a relationship has ended. Such documentation should be appropriate to the type of termination. For example, the resignation or other termination of an officer or director would be substantiated

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<sup>1</sup> In the case of an officer or director, an example of sufficient documentation would be a letter of resignation and/or certified minutes of meetings of the board of directors.

by a certified copy of corporate records<sup>1</sup> usually in the possession of the corporate secretary. Similarly, when a corporate shareholder sells or otherwise divests ownership in a company, the records of the corporate secretary should reflect that the divesting entity is no longer a shareholder in the corporation. In business transactions not involving corporations, plausible letters of resignation, fully-executed sales agreements, or evidence of the transfer or sale of stock are proofs that such transactions have taken place.

Individual State corporation laws or other State statutes may contain specific requirements for documenting the end of the association of an entity from a corporation or other business entity. In such cases, the regulatory authority should use those requirements for determining an ending date.

Operators or contractors wishing to demonstrate that a relationship to a particular permit or mine site has been terminated should provide fully-executed notices of contract termination or other document establishing that the work on a permit has ended. A contract between a permittee and an operator or contractor may itself contain a termination date, unless an amendment has been negotiated or the permittee has terminated the operator or contractor prior to a previously agreed termination date.

In the event an individual entity seeking to prove the termination of an ownership or control relationship is unable to gain access to acceptable documentation, the individual should be required to present a sworn and properly executed affidavit explaining in detail how and when the relationship terminated and specifically why documentation is not available.

Users are cautioned to remember that ending dates for an individual or business entity cannot post-date AVS data entry. In no case should an ending date be entered until acceptable documentation is provided to indicate that an entity has ended its association with another entity.

Questions regarding beginning and ending dates for entities should be directed to your AVS User Assistance Liaison at 1-800-643-9748.

**Signed;** \_\_\_\_\_

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