

Applicant/Violator System Office System Advisory Memorandum



SAM # 12 DATE: September 23, 2009

Subject: APPLICANT, PERMITEE, and OPERATOR INFORMATION

This System Advisory Memorandum addresses organizational structure information required to be entered and maintained in the Applicant/Violator System (AVS) for applicants, permittees, and operators connected to a surface coal mining and reclamation operation. This SAM replaces previous SAM # 21, "Upstream' Ownership and Control Information in AVS," dated November 1, 2000.

Why is this guidance necessary?

This SAM is revised to simplify the guidance for regulatory authorities with respect to requirements to enter and maintain organizational structure information for applicants, permittees, and operators in AVS. This guidance reflects requirements adopted in our program rules in 2000 and 2007. The rulemakings also promulgated revised policies such that we, the Office of Surface Mining and Reclamation and the AVS Office, no longer initially characterizes certain business information as "ownership and control" information, nor identifies any relationship disclosed in an application nor afterward from permittees and operators as "ownership and control" information. The effective and efficient operation of AVS to assist regulatory authorities requires the entry and maintenance in the computer system of this fundamental information.

What organizational structure information is required to be entered and maintained in AVS?

Regulatory authorities are required to enter and maintain organizational structure information in AVS for applicants, permittees, and operators. Organizational structure is the name we have given to the associations and affiliations between entities and a business and between or among businesses. In addition to its AVS operational purpose, "organizational structure" is distinct from the now-defunct description "ownership and control information" and does not artificially limit the associations or affiliations that may be characterized as organizational structure.

I. INITIAL DATA ENTRY

Applicants and Operators

Under 30 CFR 778.11(c), the following organizational structure information is required for entry into AVS for applicants and operators:

- Officers
- Partners
- Members
- Directors
- Persons performing a function similar to a director
- Persons who own, of record, 10 percent or more of an applicant or operator

Applicants and Operators who are Subsidiaries

Under 30 CFR 778.11(b)(4), the following organizational structure information is required from and for entry into AVS for applicants and operators who are subsidiaries of another company.

- President
- Chief executive officer
- Director (or persons in similar positions)
- Every person who owns, of record, 10 percent or more of an entity

This information must be entered for each entity that owns 10 percent or more of the applicant or operator and each entity that owns 10 percent or more of any owner entity and so on upward to and including the ultimate parent entity.

Regulatory authorities are reminded to perform the initial data entry of application, applicant, and operator information into AVS within 30 days after you have determined an application to be administratively complete. You should also update the initial application, applicant, and operator information entered into AVS with any additional information, once it is verified, that is submitted or discovered during the pendency of the application review process.

II. MAINTENANCE

Permittees and Operators

Maintenance of all of the foregoing information in AVS is required in Federal rules under 30 CFR 774.11(a)(3). This provision requires, following the issuance of a permit, a regulatory authority to enter into AVS all changes to permittee and operator information which was initially disclosed in an application under 30 CFR 778.11 within 30 days after receiving notice of a change.

Following the initial entry of applicant and operator information in AVS, it is the routine maintenance of permit, permittee, and operator information that allows all users to rely upon the accuracy of information in AVS for the system's continued efficient and effective operation.

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Where can I obtain more information on applicant, permittee, and operator information requirements in AVS?

If you have questions regarding organizational structure information for applicants, permittees, and operators in AVS or how to enter and maintain these data, please contact your AVS User Assistance Liaison at 1.800.643.9748.

Signed: 

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Applicant/Violator System Office**