

Applicant/Violator System Office System Advisory Memorandum



SAM # 13 DATE: September 17, 2009

Subject: ABANDONED MINE LAND PROGRAM VIOLATIONS

This System Advisory Memorandum provides operational guidance regarding violations under the Abandoned Mine Land (AML) program and shown in the Applicant/Violator System (AVS). This SAM replaces previous SAM # 14, "Delinquent AML Reclamation Fees, AML Non-Responsdency, and AML Audit Debt," dated January 23, 1998.

Why is this guidance necessary?

The Applicant/Violator System is used by regulatory authorities to assist in their determinations of permit eligibility under Title V and contractor eligibility under Title IV of the Surface Mining Control and Reclamation Act of 1977, as amended (SMCRA or the Act). As with Title V, OSM keeps non-compliance data under Title IV updated and fed into AVS to assist in these determinations. The three types of AML violations are non-responsdency, delinquent reclamation fees, and audit debt. All AML violations in AVS are Federal violations.

This SAM describes the three types of AML violations and provides information important to regulatory authorities, applicants for and permittees of surface coal mining and reclamation operations, and bidders on AML emergency and construction contracts concerning these violations.

What are the three types of AML violations?

1. Non-Responsdency

AML non-respondents are permittees and/or their operators who have failed to submit a report of their coal production on a Coal Reclamation Fee Report (OSM-1 form) and/or failed to pay the requisite reclamation fees within 30 days following the end of a calendar quarter. In other words, full responsdency requires both submission of an OSM-1 form and payment of the reclamation fees based on that report. Even if coal production for an active mining operation during a calendar quarter is zero, submission of an OSM-1 form to document zero production is still required.

In AVS, an AML non-responsdency violation is identified as violation type "NRSP."

2. Delinquent Reclamation Fees

AML reclamation fees represent the amount of Federal fee levied on coal tonnage produced during a calendar quarter. Payment of the reclamation fees to OSM is required under section 402 of SMCRA. Payment is required to accompany the OSM-1 form on which the quarterly coal tonnage production is reported. Reclamation fees are delinquent if they remain unpaid more than 30 days after the end of the calendar quarter.

In AVS, a delinquent reclamation fees violation is identified as violation type "AML." It is important to note that for delinquent reclamation fees that became violations on or before September 30, 1991, the permit field in AVS will show the Mine Safety and Health Administration (MSHA)¹ identification number. For delinquent reclamation fees that became violations on or after October 1, 1991, the permit field in AVS will show the permit number for the mining operation. The violation number field in AVS will always be blank for delinquent reclamation fees.

3. Audit Debt

AML audit debt represents the amount of reclamation fees owed on the difference between coal tonnage reported on an OSM-1 form and a company's records of the amount of coal produced. An auditor from OSM's Division of Compliance Management compares coal tonnage production reported by a company on its OSM-1 forms to the company's in-house coal tonnage production records. If there is evidence the company underreported its coal production on its OSM-1 forms, OSM will bill the company for the unpaid reclamation fees on the unreported coal tonnage.

In AVS, an audit debt violation is identified as violation type "AUD." The violation number field in AVS will show the audit number assigned by OSM's Division of Compliance Management. The violation date is the first day of the calendar quarter in the underreported coal tonnage occurred. Like delinquent reclamation fees, it is important to note that for audit debt incurred on or before September 30, 1991, the permit field in AVS will show the MSHA identification number. For audit debt incurred on or after October 1, 1991, the permit field in AVS will show the permit number for the mining operation.

Do these violations have the same impact on permit eligibility as Title V violations?

Yes, AML violations under Title IV of SMCRA have the same impact on eligibility as Title V violations. OSM makes no distinction among violations issued under Title IV or Title V of the Act.

¹ The Mine Safety and Health Administration is an office of the U.S. Department of Labor.

How can AML violations be resolved?

The amount of delinquent or audit debt shown in AVS should never be interpreted as the amount that will settle the debt. The amount shown in AVS is only the principal and does not include any penalty, interest, or administrative costs which are not shown in AVS. Nonetheless, these costs in addition to the principal are recoverable debt.

To resolve a non-respondency, the responsible party must submit the required OSM-1 forms and/or pay the required fees. To resolve fees due as a result of a non-respondency, or any debt as a result of a delinquency or audit, the responsible party can (1) pay the debt, (2) appeal the debt, or (3) arrange to execute an agreement to pay the debt in installments with OSM's Division of Financial Management in Denver, Colorado.

Where can I obtain more information on AML violations and their impact on SMCRA eligibility?

If you have questions regarding AML violations and how a responsible party may resolve them, please contact your AVS User Assistance Liaison at 1.800.643.9748.

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