

Applicant/Violator System Office System Advisory Memorandum



SAM # 14 DATE: September 21, 2009

Subject: BEGINNING and ENDING DATES

This System Advisory Memorandum provides operational guidance regarding beginning and ending dates in the Applicant/Violator System. This SAM replaces previous SAM # 12, "Beginning and Ending Dates," dated January 23, 1998.

Why is this guidance necessary?

The Applicant/Violator System (AVS) is used by regulatory authorities primarily to assist in their implementation of section 510(c) of the Surface Mining Control and Reclamation Act of 1977, as amended (SMCRA or the Act). We, the Office of Surface Mining Reclamation and Enforcement and the AVS Office, remain committed to the effective and efficient operation of the computer system. To that end, we have promulgated rules, articulated policies, and developed procedures to ensure the information in AVS is accurate, complete, and up-to-date.

This SAM discusses the importance of entering and maintaining accurate and up-to-date beginning and ending dates in AVS. It also describes the data that relies on the accuracy of beginning and ending dates.

Why are beginning and ending dates in AVS important?

In addition to assisting regulatory authorities in implementing section 510(c) of the Act, AVS is also used for other purposes. Certain Federal rules allow applicants, permittees, operators, and AML contractors to certify by reference to AVS as to the accuracy and completeness of their organizational structure information in the database¹ for the purposes of providing this information in permit applications and in disclosures required from successful bidders on AML contracts.

Regulatory authorities also must be able to rely on the accuracy of beginning and ending dates in AVS data when conducting eligibility determinations, research, investigation, and other actions to determine potential liability for environmental obligations and establish time frames for such liability or other statutory responsibility.

¹ Certification of information by reference to AVS in approved State programs is currently at the discretion of the State program. While many States use this methodology, none are obligated to do so until an approved counterpart to the Federal regulation governing certification is adopted.

Where are beginning and ending dates used in AVS?

In AVS, beginning and ending dates are used as follows.

- Relationships within a business entity's organizational structure.
- The end result of a company name change or merger.
- Duration of operator and contractor work on a mining and reclamation site.

If no beginning date is shown for a relationship, then the date may be unknown or the association may extend back to the beginning of any surface coal mining operation conducted by the business entity.

If no ending date is shown for a relationship, then the association may be on-going and has not ended.

When do beginning and ending dates become important?

AVS uses beginning and ending dates to evaluate whether entities responsible for violations and/or debts are linked to applicants for permits. Beginning and ending dates for operators and contractors and ending dates for entity relationship information are especially critical. Ending dates may be the most critical because they establish the date after which no additional liability or responsibility may be attributed to the previous relationship. The exceptions, of course, are if evidence is discovered of fraud or misrepresentation of a relationship or unless there is corroborated disputing evidence.

Why is documentation of beginning and ending dates important?

Documentation is the hard evidence relied upon for entering beginning and ending dates. It is critical to many regulatory processes, including permit eligibility determinations, research, investigations, and enforcement actions. Documentation of beginning and ending dates by a regulatory authority also becomes important when a person challenges an ownership or control listing in AVS or a regulatory finding of ownership or control. Our recommended guidance is that no beginning or ending date should be entered or changed in AVS without credible supporting documentation.

Where can I obtain more information on beginning and ending dates?

If you have questions concerning beginning and ending dates, please contact your AVS User Assistance Liaison at 1.800.643.9748.

Signed: 

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