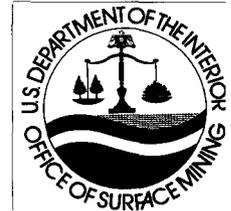


Applicant/Violator System Office System Advisory Memorandum



SAM # 15 DATE: September 29, 2009

Subject: SMALL OPERATOR ASSISTANCE PROGRAM (SOAP) ELIGIBILITY EVALUATIONS

This System Advisory Memorandum provides operational guidance concerning the use of the Applicant/Violator System (AVS) to assist regulatory authorities in determining the eligibility of applicants for assistance under the Small Operator Assistance Program (SOAP). This SAM replaces previous SAM # 6, "Using AVS to Evaluate SOAP Eligibility," dated January 23, 1998.

Why is this guidance necessary?

Section 507(c) of the Surface Mining Control and Reclamation Act of 1977, as amended (SMCRA or the Act), provides that an applicant for a surface coal mining permit for whom the regulatory authority anticipates the annual coal production of the applicant to be less than 300,000 tons, may also apply, separately, for a technical subsidy under the Small Operator Assistance Program. The Federal regulations at 30 CFR 795.6(a)(3) stipulate that applicants are eligible for assistance under SOAP if the applicant "is not restricted in any manner from receiving a permit under the permanent regulatory program."

The eligibility requirement means that regulatory authorities must determine if an applicant for assistance under SOAP is eligible to receive it. The SOAP eligibility criterion at 30 CFR 795.6(a)(3) is equivalent to the eligibility established for applicants for permits under section 510(c) of the Act. Therefore, regulatory authorities may use AVS to assist them in making the SOAP eligibility determination.

This SAM revises the previously-issued AVS operational guidance concerning the use of AVS to assist regulatory authorities in making SOAP eligibility determinations. Since the previous SAM on this subject, we, the Office of Surface Mining Reclamation and Enforcement and the AVS Office, have revised our rules regarding permit eligibility, and revised policies that affect how we support the States' use of AVS.

Do I enter data in AVS for SOAP applicants differently from other applicant data?

No, the data in AVS for SOAP applicants should not be discernible from other applicants. Specifically, the application record in AVS does not provide for identification of an entity as a small operator or a SOAP applicant.

Which comes first, SOAP eligibility or permit eligibility determination?

Applicants for surface coal mining permits who apply for assistance under SOAP first must be determined to be eligible for SOAP assistance before proceeding with the review of the surface coal mining and reclamation application. The Federal regulations at 30 CFR 795.6 and 795.7 provide for the filing and eligibility requirements for applicants for SOAP eligibility. The Federal regulations at 30 CFR 795.8 provide for the eligibility determination and the notice of eligibility or ineligibility.

What are the AVS operational procedures to evaluate SOAP applicants?

For the AVS operational procedures for SOAP eligibility evaluations, refer to SAM # 2, Permit Eligibility Evaluations, dated May 19, 2009. The guidance in SAM # 2 applies to both evaluating applicants for surface coal mining permits and applicants for eligibility under SOAP.

Where can I obtain more information on evaluating applicants for permits under SOAP using AVS?

If you have questions concerning using AVS to evaluate SOAP eligibility, please contact your AVS User Assistance Liaison at 1.800.643.9748.

Signed: 
**Debra J. Feheley, Chief
Applicant/Violator System Office**