

Applicant/Violator System Office System Advisory Memorandum



SAM # 16 DATE: September 29, 2009

Subject: ENVIRONMENTAL PROTECTION AGENCY CLEAN WATER ACT VIOLATIONS

This System Advisory Memorandum provides operational guidance regarding entry of Environmental Protection Agency (EPA) Clean Water Act coal-related unabated violations that are maintained in the Applicant/Violator System. This SAM replaces previous SAM # 18, "Environmental Protection Agency Clean Water Act Violations," dated January 23, 1998.

Why is this guidance necessary?

The Applicant/Violator System (AVS) contains in its database referrals from EPA's Region III office of coal-related unabated violations of the Clean Water Act. Region III represents the following coal States: Pennsylvania, Virginia, West Virginia, and Maryland. These Clean Water Act violations interact with the application information in AVS when applications are evaluated for eligibility for a surface coal mining permit. For many years, the Office of Surface Mining Reclamation and Enforcement (OSM) and EPA have continued their agreement to show unabated violations of the Clean Water Act in AVS and to have the violations incorporated into the permit eligibility process. This interagency effort is intended strengthen the assistance OSM provides to States as well as the Federal and State implementation of section 510(c) of the Surface Mining Control and Reclamation Act of 1977, as amended (SMCRA or the Act).

This SAM discusses Clean Water Act violations in AVS and the effect of these violations on the eligibility of applicants for surface coal mining permits.

Why are Clean Water Act violations in AVS?

Section 510(c) of SMCRA requires, among other things, that an applicant for a permit must provide to the regulatory authority with its application a listing of "any and all violations of this Act and any law, rule, or regulation of the United States, or of any department or agency in the United States pertaining to air or water environmental protection incurred by the applicant in connection with any surface coal mining operation during the three-year prior to the date of application."

Because section 510(c) specifically identifies water violations as a cause for permit denial, OSM and EPA agreed that AVS would be a practical vehicle to which to add

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Clean Water Act violations. This practical aspect eliminates the need for State regulatory authorities to separately contact each of EPA's regions to comply with section 510(c) when collecting all available information to evaluate an application for a permit.

Who is responsible for the entry and maintenance of Clean Water Act violations in AVS?

We, the AVS Office, are responsible for the entry and maintenance of all Clean Water Act violations in AVS. All Clean Water Act violations in AVS can be identified by the prefix "EPA" plus the numerical designation of the originating EPA region. For example, a Clean Water Act violation prefixed by "EPA3" mean the violation originated from EPA's Region III.

How may an applicant resolve Clean Water Act violations?

If you, a State regulatory authority, an applicant for a permit, or other entity subject to an eligibility determination under section 510(c) of the Act, wish to obtain information to resolve an unabated Clean Water Act violation in AVS, you may contact the AVS Office to obtain the appropriate regional contact information.

Where can I obtain more information on Clean Water Act violations in AVS?

If you have questions concerning Clean Water Act violations in AVS, please contact your AVS User Assistance Liaison at 1.800.643.9748.

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