

# Applicant/Violator System Office System Advisory Memorandum



*SAM # 12 DATE: October 3, 2016*

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***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 # 12, "Abandoned Mine Land Program Violations," dated November 30, 2012.

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, OSMRE keeps non-compliance data under Title IV in the AVS to assist in these determinations.

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

## **Types of AML Violations**

### **Non-Respondent**

Permittees and their operators who have failed to submit a report of their coal production on a Coal Reclamation Fee Report (OSM-1 form) within 30 days following the end of a calendar quarter are considered non-respondent violators. 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 the AVS an AML non-respondent violation is identified as violation type "NRSP." It is important to note that if an AML NRSP became a violation on or before September 30, 1991, the violation number field in the AVS will show the Mine Safety and Health Administration (MSHA) identification number. If an AML NRSP became a violation on or after October 1, 1991, the violation number field in the AVS will show the SMCRA permit number for the mining operation. The violation date is the last date of a calendar quarter and year for an AML NRSP violation.

### **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 OSMRE 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 the AVS, a delinquent reclamation fees violation is identified as violation type "AML." Like AML NRSP violation, it is important to note that for delinquent reclamation fees that became violations on or before September 30, 1991, the violation number field in the AVS will show the MSHA identification number. For delinquent reclamation fees that became violations on or after October 1, 1991, the violation number field in the AVS will show the SMCRA permit number for the mining operation. The violation date is the last date of a calendar quarter and year for an AML violation.

### **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 OSMRE'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, OSMRE will bill the company for the unpaid reclamation fees on the unreported coal tonnage.

In the AVS, an audit debt violation is identified as violation type "AUD." The violation number field in the AVS is the audit bill number assigned by OSMRE's Division of Compliance Management. An audit bill number may cover several permits for a period of time of underreported AML debt. The underreported tonnage is recorded in the AVS by each permit with same audit bill number; therefore, an audit violation could consist of multiple records depending on the number of permits audited with underreported tonnages. The violation date is the first day of the calendar quarter and year in which the underreported coal tonnage occurred in each permit. It is important to note that for audit debt incurred on or before September 30, 1991, the permit field in the AVS will always be blank. For audit debt incurred on or after October 1, 1991, the permit field in the AVS will show the SMCRA permit number for the mining operation.

### **Resolving AML violations**

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

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

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.

**Signed:** Stephanie L. Varvell

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