

Applicant/Violator System Office System Advisory Memorandum



SAM # 11 DATE: January 23, 1998

Subject: OPERATOR, MINERAL OWNER, and other PERMIT-SPECIFIC OWNERSHIP or CONTROL INFORMATION

Permit-specific ownership or control relationships are indicated only in application/permit records. Ownership or control relationships defined at 30 CFR §§ 773.5(a)(3), (b)(2), (b)(3), and (b)(6) are added to AVS in the form of permit-specific relationships. OSM also considers agents and contractors (and subcontractors) to be permit-specific relationships. An applicant's resident agent is required to be disclosed in an application for a permit. However, an agent is not subject to evaluation for permit eligibility (30 CFR § 773.15) unless the person otherwise meets a definition of ownership or control in accordance with 30 CFR § 773.5. OSM generally interprets contractors to be analogous to operators.

Contractors and subcontractors should be designated in application/permit records using the description code CTR. Resident agents should be designated using the description code AGT. Mineral owners that also retain the right to receive the coal after mining should be designated using the description code B6. Mineral owners that do not retain the right to receive the coal after mining should be designated NB6.

Updating Permit-Specific Information

To add or update these relationships, use APPLICATION/PERMIT MAINTENANCE to retrieve a business entity's applications/permits. To add a relationship to the current permit and corresponding application, simply retrieve the highest application sequence number. The user may use either the application record or the permit record to add or update permit-specific information. For permits that have been transferred, please be sure to select the correct applicant; that is, the correct application sequence number to which to add the information.

Links to Violations

Entities linked to violations that are then added as a permit-specific relationship to an application or existing permit will have an immediate effect on the permit eligibility of the applicant or permittee.

Changes made to violations affecting entity as well as permit-specific ownership or

control relationships and Federal violation and status codes will cause the VOFT for a Federal violation to be re-built overnight. Changes made to State violation status codes will cause the VOFT for a State violation to be immediately re-built. Entities who are linked by way of a permit-specific relationship to an applicant/permittee with outstanding violations will not be affected by violations that pre-date¹ their association with the applicant/permittee.

Operators and Permit Approval

OSM has established a standard for data entry pertaining to operator data in AVS. This data standard clarifies how operator data in the AVS application record must be maintained and interpreted. See section J, Data Entry Standards, in the AVS Users Guide.

With respect to AVS operation and, in accordance with section IV.C. of the Memorandum of Understanding between OSM and States regarding States' use of the AVS, it is OSM's policy that prior to permit approval, regulatory authorities should update the application record by entering the correct identity of the operator proposed for the permit, whether it is the applicant or an entity different from the applicant. This entity should be the applicant if no other operator is retained by the applicant during the pendency of the application. The second AVS and OSM recommendation on pending applications should then be obtained with complete operator information².

Additional operators retained by the permittee during the life of a permit should be entered in AVS. RA's are encouraged to ensure that operator information in AVS is kept accurate and current. Such current information should include beginning dates for operators and ending dates where applicable. Beginning and ending dates for operators enable the user to identify the current operator(s). OSM regards the beginning and ending dates of permit-specific control relationships, like operators, as the time frame during which the control relationship exists.

For information regarding how to add permit-specific relationships to application/permit records, see Section H in the AVS Users Guide. Questions may be directed to your AVS User Assistance Liaison at 1-800-643-9748.

¹ See SAM #12, Beginning and Ending Dates.

² OSM has recommended, and RA's have agreed, to query AVS twice to obtain an evaluation of a pending application. The first query is performed in accordance with the MOU section IV.C.(5). OSM recommends a second query immediately prior to the permitting decision. See MOU at section IV.C. and System Advisory Memorandum #2.

Signed; _____

**Earl D. Bandy, Jr., Chief,
AVS Office, Lexington**