

APPENDIX A

AUDIT PROTOCOL

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Arch Coal, Inc. (ACI) has retained the services of a compliance management system (CMS) Consultant to assist with development and implementation of the CMS. A CMS Auditor will also be contracted to perform a CMS Audit in accordance with the provisions of the Consent Decree. ACI will bear the costs associated with the CMS Consultant and CMS Auditor, cooperate fully with the CMS Consultant and CMS Auditor, and provide both with access to relevant records, employees, contractors, and facilities that each deems reasonably necessary to effectively perform their duties as set forth in the Consent Decree and this Appendix.

Capitalized terms within this Appendix shall have the same meaning ascribed to them in the Consent Decree, unless otherwise indicated.

1. CMS Consultant

ACI has retained the services of EnviroGroup Limited as a CMS Consultant. If at any time ACI seeks to replace the CMS Consultant, the procedures contained in Paragraph 32 of the Consent Decree will be followed.

The CMS Consultant will continue to provide assistance with the development, implementation, training, auditing, and refinement of the CMS Manual and Environmental Operating Procedures (EOPs) for the ACI operations.

2. CMS Auditor

ACI will retain the services of a CMS Auditor as described in Paragraphs 36 and 37 of the CD. The CMS Auditor will be responsible for conducting the duties outlined in Paragraph 38 of the CD.

The contract between ACI and the CMS Auditor will specify the following duties:

- a.) The CMS Audit will evaluate the adequacy of CMS implementation relative to the CMS Manual and identify areas of concern, from top management down, throughout each major organization unit with responsibilities under the CMS Manual. The CMS Audit shall determine the following:
 - i. To what extent the system, subsystem, program, or task has been implemented, and is being maintained;
 - ii. The adequacy of each Facility's internal self-assessment procedures for programs and tasks composing the CMS;
 - iii. Whether ACI is effectively communicating Applicable Law requirements to affected parts of the organization, or those working on behalf of the organization; and
 - iv. Whether there are deviations from ACI's written requirements or procedures.
- b.) Within 30 Days following completion of the CMS Audit, the CMS Auditor shall develop and submit a draft CMS Audit Report to the ACI Corporate Director, Environmental Affairs. The final CMS Audit Report shall be submitted by the CMS Auditor to EPA, the State where the operation audited is located and the ACI Corporate Director, Environmental Affairs within 45 Days following the completion of the CMS Audit.

3. Audit Protocol

The following sections define the CMS Audit schedule and duration, audit process, information that will be available to the CMS Auditor(s), guidelines for conducting site staff interviews, and CMS Auditor qualifications.

3.1 CMS Audit Schedule and Duration

A proposed schedule will be distributed at least two weeks before the anticipated CMS Audit dates to assure essential staff and information will be available. It may be necessary to adjust the audit schedule to accommodate previous commitments or the unavailability of site staff. The anticipated duration of the audit at each Facility will be specified in the schedule.

3.2 CMS Audit Process

The CMS Audit involves four main steps, as described below.

- a.) Planning – Prior to the CMS Audit, an outline or questionnaire will be drafted and forwarded to the operation approximately four (4) weeks in advance of the site visit. The outline/questionnaire will identify those areas of the operation to be examined and the records to be reviewed. The purpose of this is to ensure that pertinent information and key personnel are available at the time of the Audit.
- b.) Site Visit – A site visit to the operations will be conducted as part of the CMS Audit to evaluate how well CMS practices are being implemented in the field. The site visit will involve a combination of a site tour, personnel interviews of site staff and contractors involved with the CMS or environmental programs, and a records review.
- c.) Reporting – Non-conformances with the CMS identified during the site visit will be disclosed at the time the non-conformance is discovered and will also be reported at a close-out meeting and summarized in a draft report. The CMS Audit Report will contain:
 - i. A summary of the Audit process, including any obstacles encountered;
 - ii. Detailed Audit Findings, including the basis for each finding and each area of concern identified;
 - iii. Identification of any Audit Findings corrected or areas of concern addressed during the audit; and
 - iv. A certification that the CMS Audit was conducted in accordance with the provisions of the Consent Decree.
- d.) Audit Follow-Up – Within 60 Days of receiving the final CMS Audit Report, ACI will submit to EPA and the State for review and approval a report responding to the Audit Findings and areas of concern identified in the CMS Audit Report and providing an action plan for expeditiously coming into full conformance with the provisions in the CMS Manual (the “Audit Response and Action Plan”). The Audit Response and Action Plan shall be developed in consultation with the CMS Consultant, and shall include the CMS Consultant’s recommendations as to (i) whether further improvements should be made to the CMS, CMS Manual, and/or EOPs; and (ii) how to resolve any area of concern or otherwise achieve full implementation of the CMS Manual. The Audit Response and Action Plan shall include the result of any investigations, specific deliverables, responsibility assignments, and an implementation schedule for the identified actions and measures, including those that may have already been completed.

3.3 Documentation Eligible for CMS Audit

The following information will be available to the CMS Auditor to the extent it is available at the ACI operations for the period January 1, 2008 to the present time.

- National Pollutant Discharge Elimination System (NPDES) information
 - NPDES Permits, Modifications, Revisions, & Renewals
 - Discharge Monitoring Reports (DMRs)
 - Correspondence with agencies regarding NPDES permitting and compliance
 - Certified laboratory sheets for NPDES samples
 - Field data for NPDES samples
 - Water sampling calibration records
 - NPDES violations, orders to comply, cessation orders, and other compliance notices
 - Existing spreadsheet summaries of NPDES data and exceedances
- CMS Information
 - Environmental Policy
 - CMS Manual
 - Management System Procedures (MSP)
 - Minimum Requirements
 - Best Practice Guidance (BPG)
 - Environmental Operating Procedures (EOP)
 - Work Practices (WP)
 - Management Review reports
 - Training Materials
 - Training Records
- Consent Decree Information
 - Initial Treatment System Audit reports prepared pursuant to Paragraph 42 of the Consent Decree
 - Outlet Inspection Checklists reports prepared pursuant to Paragraph 43 of the Consent Decree
 - Internal Audit Reports prepared pursuant to Paragraph 44 of the Consent Decree
 - Third-Party Environmental Audit Reports pursuant to Paragraph 45 of the Consent Decree
 - Audit Database created pursuant to Paragraph 46 of the Consent Decree
 - NPDES Violations Database created pursuant to Paragraph 50 of the Consent Decree; and
 - Third-Party Consultant reports for Category 4 violations.

3.4 Staff Interviews

Interviews may include, but not be limited to, representatives of the operations staff, contractors, site management, and ACI Corporate Environmental professionals involved with implementation of the CMS. At least one representative from each of these groups will typically be interviewed at each operation.

4. CMS Auditor Qualifications

Auditors performing the CMS Audit will have appropriate qualifications in accordance with the provisions of Paragraph 36 of the Consent Decree.

- Team Leader --Responsible for scheduling and planning the Audit, compiling the appropriate team, and for submitting the Facility questionnaire or list to the site prior to the visit. The Team Leader is also responsible for leading the site visit, preparing the CMS Audit Report and findings, submitting the draft CMS Audit Report to the ACI Corporate Director, Environmental Affairs within 30 Days following the completion of the CMS Audit as well as transmitting the final CMS Audit Report to EPA, State where the audited operation is located and the ACI Corporate Director, Environmental Affairs within 45 Days following completion of the CMS Audit.
- Team Members --Responsible for participating in the assessments and for reviewing those areas assigned by the Team Leader. Also responsible for identifying, summarizing, documenting and communicating findings/observations to the Team Leader.