

## **Questions and Answers for the announcement of AML Grant Amounts Available to the States and Tribes in FY 2008**

**Question:** What are the definitions of Certified, Uncertified and Minimum Program States?

**Answer:** Certified States - Those that have certified to the Secretary of the Interior that they have no coal reclamation problems remaining.

Uncertified States – States that have remaining coal problems to be addressed, and that have not been certified by the Secretary of the Interior. Their distribution is based on coal production prior to 1977, current coal production and the return of their unappropriated share balance.

Minimum Program States – Those states that must rely on the provisions of the 2006 Amendments that guarantee that each uncertified state will receive at least \$3 million annually. These states mined a smaller amount prior to 1977 and their current coal production is still small.

**Question:** How will the Prior Balance Treasury funds be used?

**Answer:** The Treasury funds will be used to pay to the States and Tribes in 7 equal payments, beginning with Fiscal Year 2008, their unappropriated State and Tribal share balances. Before the 2006 Amendments, each State or Tribe was allocated 50% of the AML fees collected within their state boundaries or on tribal lands. However, not all of those fees have been appropriated. The unappropriated balances are those State and Tribal share fees collected on coal produced before October 1, 2007 but which have not been appropriated. The Treasury funds will also be used, beginning in Fiscal Year 2009, to pay certified States and Tribes an amount equal to their State or Tribal share of collections. They are not eligible under the amendments to receive State or Tribal share AML funds after September 30, 2007. The actual AML fees collected in certified States and Tribes will go to states with coal problems remaining (uncertified States). Finally, Treasury funds will be used for transfers to three UMWA health benefit plans to the extent that AML interest is insufficient.

**Question:** How much is in the State and Tribal share unappropriated balance?

**Answer:** Approximately \$1.3 billion.

**Question:** Will Treasury funds for repayment of the unappropriated balance be awarded as grants or as direct disbursements?

**Answer:** Grants must be used to distribute Treasury funds to States and Tribes as well as AML funds.

**Question:** Will grants put undue burden on the certified States when the law says that they will be able to spend the funds according to their legislature's mandates?

**Answer:** OSM is developing a simplified grants process that will be used to distribute the Treasury funds to the certified States and Tribes. Time frames for OSM's review of grants have been shortened, and the paperwork has been streamlined to eliminate documents not needed. Further, OSM will not need to approve specific expenditures of the funds beyond assuring that any coal problems that might be identified are addressed. Therefore, use of the funds will not trigger reviews under the National Environmental Policy Act, the National Historic Preservation Act, the National Endangered Species Act, etc.

**Question:** Will the uncertified States see any changes to the grants process?

**Answer:** No, they will continue to use the same procedures for grants as they have been using.

**Question:** What is the "phase in period"?

**Answer:** The Amendments require a phase in of mandatory AML funds over the first four years (beginning in FY 2008) such that the amounts that would have otherwise been received are reduced by 50%, 50%, 25% and 25%. Full funding under the amendments does not begin until FY 2012.

**Question:** Will certified States and Indian tribes receive State and Tribal share funds, Treasury payments or neither in the FY 2008 distribution?

**Answer:** Certified States and Tribes will receive only Treasury payments as replacement for their prior unappropriated balance for 1/7 of their unappropriated balance in FY 2008. The Amendments state that certified States and Tribes will not be eligible for State or Tribal share after October 1, 2007, so they would not receive those funds in FY 2008. Since, Treasury funds will first be paid in lieu of AML State and Tribal share funds collected on coal produced during FY 2008, those funds will not be available until the following fiscal year, FY 2009.

**Question:** Is there any information available that would help explain why OSM has made the decisions it has relative to the FY 2008 distribution?

**Answer:** Yes, we have documented the decisions we made in a Decision Document, which is available on our Web site at <http://www.osmre.gov/aml/DecisionDocument.pdf>. The supporting opinion from the Department of the Interior's Office of the Solicitor is also available at <http://www.osmre.gov/aml/Guidance.pdf>.

**Question:** There are a number of proposed legislative amendments affecting minimum program states distributions and the distribution method for certified states. What will OSM do if these become law?

**Answer:** If new legislation becomes law OSM will follow the law.

**News Release** - <http://www.osmre.gov/news/121707.pdf>

**Fact Sheet** - <http://www.osmre.gov/news/121707FactSheet.pdf>