



UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

Release:  
3-329  
Date:  
~~7-17-06~~

MANUAL TRANSMITTAL SHEET

Subject

3720 - Abandoned Mine Land Program Policy (Public)

1. Explanation of Materials Transmitted: This release contains BLM's manual for the Abandoned Mine Land program. The manual establishes program objectives, parameters, priorities and organizational roles and responsibilities.
2. Reports Required: None.
3. Material Superseded:
4. Filing Instructions: File as directed

REMOVE

None

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All of 3720

(Total: 8 Sheets)

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## 3720 – Directives: Abandoned Mine Lands Program Policy

TC-1

### 3720 – Abandoned Mine Land Program Policy (Public)

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## **3720 – Abandoned Mine Land Program Policy (Public)**

### **.01 Purpose**

The purpose of this Manual Section is to provide policy and strategic program direction to manage the Department of the Interior (Department) Bureau of Land Management (BLM) Abandoned Mine Lands (AML) program. This Manual Section provides the framework for BLM to manage reclamation of hard rock abandoned mine land sites on or affecting lands administered by BLM.

### **.02 Objectives**

The AML program supports the BLM mission of public land conservation through communication, consultation, and cooperation with federal, state, and local partners in abandoned mine land reclamation. The AML program's objective is to support core BLM programs by addressing degraded water quality, hazardous materials and other environmental impacts on or affecting lands administered by BLM, and to mitigate physical safety hazards of abandoned mine land sites on public lands.

The AML program strategic objectives include:

1. Protect and restore the Nation's watersheds impacted by abandoned mines through a risk-based, watershed approach that uses partnerships to effectively leverage funding and facilitate projects.
2. Protect public safety and reduce liabilities by eliminating or reducing hazards posed by abandoned mines.
3. Reduce environmental degradation caused by abandoned mines to ensure compliance with all applicable soil, water, and air quality standards, and applicable federal, state, tribal, and local laws.
4. Identify and prioritize for reclamation abandoned mines that most affect at-risk resources and functioning ecosystems.
5. Reduce Environmental and Disposal Liability of the Department and BLM by reducing the inventory of unreclaimed abandoned mines.
6. Apply the "polluter pays" principle to achieve cost avoidance/cost recovery for funding AML projects wherever possible.
7. Reclaim abandoned mine lands to productive uses including, but not limited to: recreation, fish and wildlife habitat, and preservation of historical/cultural resources.

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8. Integrate abandoned mine land support in land-use planning efforts.
9. Assure that actions are effective and that lessons learned through post-project monitoring and study benefit risk- and pollution-reducing efforts.
10. Educate employees and the public about the potential dangers posed by abandoned mines and the actions BLM takes to address those dangers.
11. Develop partnerships, where possible, with States, local governments, Tribes, and voluntary environmental and citizen groups to pool resources and expertise to address abandoned mines.

#### **.03 Authority**

The following primary laws authorize BLM to reduce environmental degradation, mitigate physical safety hazards, and reclaim abandoned mine lands.

1. Federal Land Policy and Management Act of 1976 (FLPMA) (43 U.S.C. 1701 *et seq.*).
2. Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42 U.S.C. 9601 *et seq.*) and National Contingency Plan (NCP) (40 CFR Part 300).
3. Federal Watershed Restoration and Enhancement Agreements (“Wyden Amendment”) 16 U.S.C. 1011.

BLM also relies on the following authorities applicable to the evaluation and cleanup of abandoned mine lands. These authorities present procedural and substantive standards and requirements which must be observed in the course of abandoned mine land cleanup and reclamation.

1. National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*).
2. Resource Conservation and Recovery Act of 1976 (RCRA) (42 U.S.C. 6962 *et seq.*).
3. Clean Water Act (CWA) of 1972 (33 U.S.C. 1251 *et seq.*).
4. Endangered Species Act (ESA) of 1973 (16 U.S.C. 1531).
5. National Historic Preservation Act of 1966 (NHPA), as amended (16 U.S.C. 470).
6. Surface Mining Control and Reclamation Act of 1977 (SMCRA) (30 U.S.C. 1201 *et seq.*).

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The following authorities are relevant to the existence and creation of abandoned mines on public lands:

1. General Mining Law of 1872, as amended (30 U.S.C. 21. *et seq.*)
2. Surface Resource Act of 1955 (30 U.S.C. 611-615).

#### **.04 Responsibilities**

A. The Director is responsible for:

1. Formulating BLM policy as delegated by the Secretary of the Interior and directing all BLM activities.
2. Advising and assisting the Assistant Secretary for Land and Minerals Management in overseeing national public land and resources management issues and all programs within the purview of BLM.
3. Advising and assisting the Assistant Secretary for Policy, Management and Budget to reduce contingent environmental cleanup liabilities posed by unreclaimed abandoned mine lands.
4. Maintaining relationships with other federal agencies, the Congress, Native American tribes, state and local agencies, and private stakeholder organizations.

B. The Assistant Director, Minerals, Realty and Resource Protection is responsible for:

1. Supporting the Director by providing leadership in management, program direction, and analysis for the programmatic, functional, and support components of BLM.
2. Establishing and coordinating policy and guidance for the AML program.
3. Providing national leadership and developing national partnerships with organizations interested in abandoned mine land reclamation.
4. Coordinating AML program implementation with other BLM programs such as Hazard Management and Resource Protection, Solid Minerals, and Lands and Realty.

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- C. The Assistant Director, Renewable Resources and Planning is responsible for:
1. Supporting the AML program by facilitating coordination with Land Use Planning, Water Quality, Fisheries and Wildlife, Recreation, and Cultural Resources programs.
  2. Through the Director of the National Science and Technology Center (NSTC), providing technical expertise and support, national environmental service contractors, and assistance with searches for potentially responsible parties under CERCLA.
- D. The Assistant Director, Human Resources Management through the Director of the National Training Center (NTC), assesses training needs, conducts training courses and integrates abandoned mine land issues in hazardous materials and related courses.
- E. Chief, Division of Engineering and Environmental Services (WO-360) is responsible for:
1. Working with State Directors to ensure that AML program objectives support Department and BLM missions and goals.
  2. Developing strategic plans to identify AML program priorities and planning processes.
  3. Participating in a project peer review process with State Directors to set funding priorities for AML projects.
  4. Requesting budget funding for AML projects and approving project funding once priorities are determined within the AML program.
  5. Reviewing AML project work at a national level to ensure work being conducted is in compliance with Department, BLM, and AML program goals and objectives.
  6. Reviewing and verifying AML program site inventory and accomplishment databases to ensure information is current and accurate.
  7. Reporting performance measures to Congress as required by the Government Performance and Results Act (GPRA) (P.L. 103-62, 1993).
  8. Reporting contingent environmental cleanup liabilities, including qualifying AML program sites, to the Department.
  9. Initiating intra- and inter-agency coordination to create cooperative and collaborative partnerships and attain common conservation goals.
  10. Facilitating outreach to BLM employees and the public about the potential dangers abandoned mines pose and the steps BLM takes to address them.

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11. Coordinating funding requests for eligible AML projects with the Department's Central Hazardous Materials Fund.
12. Coordinating AML program implementation with other related programs.

F. State Directors are responsible for:

1. Providing guidance and direction to assist in the implementation of national policy related to the goals and strategic objectives of the AML program.
2. Ensuring employees are adequately trained for their position's functions.
3. Enforcing the BLM safety policy on entering underground mines.
4. Developing and coordinating partnerships with state and federal agencies to efficiently address the impacts of abandoned mines.
5. Developing statewide AML program work plans that contribute to national strategic AML program objectives by identifying priorities for abandoned mines and watershed cleanups within the context of budgetary resources and other office responsibilities and priorities.
6. Tracking projects and reviewing accomplishments that Field Offices submit.
7. Assisting in the prioritization of AML projects within the state including, but not limited to, participation in a prioritization peer review process with the Washington Office.
8. Directing and supporting Field Offices to ensure work conducted is in compliance with national AML policy and all federal, state, and local laws.
9. Providing oversight of project work managed by Field Offices including budgets, review and approval of action memorandums and other major CERCLA actions, implementing NSTC technical assistance, and conducting potentially responsible party searches and cost recovery efforts.
10. Facilitating outreach about potential dangers of abandoned mines and the steps being taken to address them.
11. Delegating authority and responsibilities to the District or Field Office Managers, wherever appropriate.

G. District and Field Office Managers are responsible for:

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1. Providing direct customer services and executing on-the-ground management of the public lands and resources within BLM's jurisdiction, under the guidance of the BLM State Office.
2. Performing responsibilities as they are delegated by their State Director.
3. Developing and managing Preliminary Target Allocations and Annual Work Plans that outline specific planning targets and priorities in consultation with the State Office.
4. Working with the State Office to identify AML project priorities and funding needs. This includes contributing AML site and project priorities to the State AML Program Work Plan within the context of budgetary resources and other office responsibilities and priorities.
5. Assuring that proposed and completed work is documented through appropriate reports and applicable BLM databases (Note: In some states, the State Office handles database maintenance).
6. Proposing projects and funding levels, and managing AML project work including site characterization, construction, and monitoring using CERCLA or NEPA processes as appropriate.
7. Assuring that AML staff is properly trained and equipped for conducting AML investigations and cleanups.
8. Conducting outreach and public education about AML projects and the potential dangers of abandoned mines.
9. Initiating and conducting potentially responsible party searches and cost recovery efforts.

### **.05 References**

The following is a list of references applicable to issues related to the AML program:

- A. Mining Claims under the General Mining Laws (Manual Section 3800);
- B. NEPA Manual (Departmental Manual 516 Chapters 1-7 & 11) and Handbook (BLM Handbook H-1790-1);
- C. BLM Response Actions Handbook (NCP/CERCLA) (Handbook H-1703-1);
- D. Solid Minerals Reclamation Handbook (Handbook H -3042-1);



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- E. Surface Management Manual (Manual Section 3809);
- F. Other Applicable Manuals and Handbooks: Safety (Manual Section 1112), Wildlife (Manual Section 1745), Cultural (Manual Sections 8100 – 8140), Water Quality (Manual Section 7240), Lands (Handbooks H-1601-1 and 2200-1), and Land Reclamation (Manual Section 3042); and
- G. Other regulations promulgated from major authorities listed in Manual Section .03.

#### **.06 Policy**

BLM will implement the AML program in accordance with the policies outlined in the following subsections.

##### **A. Planning, Performance and Accomplishments**

1. The AML program will be guided by an annual strategic plan in order to support the Department's strategic plan and the BLM's annual operational plans.
2. The AML program will coordinate with core BLM programs, in particular: Water Quality; Hazard Management and Resource Restoration; Solid Minerals; Fisheries and Wildlife; Planning; Recreation; and Cultural Resources to ensure that AML watershed and project-level goals are consistent across all affected resources.
3. BLM will collaborate with federal, state and other partners, and the public in developing strategic and operational plans, and in establishing priority areas for funding of AML projects.
4. BLM will use risk-based criteria and the watershed approach to establish project priorities.
5. BLM will monitor the performance and progress of AML projects and report progress and accomplishments as required by GPRA.

##### **B. Inventory**

1. BLM maintains a comprehensive national AML inventory that stores abandoned mine and program management information in an automated database. Each abandoned mine placed in the inventory is to have an initial field assessment of what site features may require reclamation or safety mitigation.

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2. The AML program strives to reduce the inventory of high-risk abandoned mines and reclaim these sites to productive use.
3. Future inventory work is to be focused on high priority areas as guided by environmental and physical safety risks. Particular emphasis is to be given to areas of high public use and proximity to population centers.

#### **C. Prioritization Strategy**

1. AML projects will be funded throughout the Bureau (subject to appropriations and other priorities that the Bureau has) partnership funding sources, and identification of eligible sites.
2. Sites eligible for funding under the AML program are those defined as an Abandoned Mine in the Glossary of Terms section of this Manual Section. Other mine sites in need of reclamation should be referred to the Solid Minerals or Surface Management Program for appropriate action. AML projects and sites to be funded must be included and tracked in the AML inventory database.
3. In general, priority will be given to completing ongoing projects before undertaking new projects. However, where appropriate, mitigation measures (e.g., institutional controls such as posting of signs and markers and use of fencing) are to be taken in the interim until permanent or long-term remediation actions can be completed. In some cases, circumstances (e.g., a fatality) may necessitate immediate action on a new high-risk site.
4. AML water quality projects will be prioritized for funding in accordance with the Watershed Approach (refer to the Glossary of Terms section of this Manual Section) where possible and based on the following criteria:
  - a. Threat to public health or safety;
  - b. Threat to the environment;
  - c. State government watershed priorities;
  - d. Whether the AMLs are causing, contributing to, or could contribute to an impairment of one or more water quality standards or to a violation of water quality law or regulation;
  - e. Potential for partnerships and fund leveraging;
  - f. Potential for cost-avoidance/cost recovery; and
  - g. Cost-effectiveness of proposed remedies.

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5. AML physical safety remediation projects are prioritized based on the following criteria:
  - a. Occurrence of a death or injury;
  - b. High potential of a death or injury;
  - c. The potential for visitation or high use, e.g., the AML site is situated on or in immediate proximity to urban areas, developed recreation sites, and areas with other high visitor use;
  - d. Accessibility; and
  - e. Cost-effectiveness of proposed remedies.

#### **D. Project Management**

1. Projects are managed and tracked in a phased, cost-efficient manner, taking advantage of partnerships and leveraging of funds with state, private, and other federal AML programs. Cleanup status is reported and maintained in the AML database.
2. AML projects are managed in a manner that reduces long-term environmental liabilities.
3. Low-cost, low-maintenance remediation measures are preferable over active treatment technologies.
4. BLM pursues significant leveraging of funds through collaborative partnerships with federal, state, tribal, and local partners.
5. CERCLA actions will be reviewed and approved in accordance with the BLM Response Actions Handbook.
6. BLM will seek cost avoidance and/or cost recovery by pursuing potentially responsible parties liable for mitigation or remediation costs or damage to natural resources whenever possible.
7. When a mining claimant exists in the AML project area, BLM will coordinate actions with the claimant to maximum extent possible to reduce environmental and safety liabilities and respect the rights of the claimant as specified by the General Mining Law.
8. BLM will actively participate in watershed restoration efforts wherever BLM administered public lands are present, including those locations where surrounding lands are owned by other government entities or private parties. BLM's first priority is to expend its limited funds on reclamation projects on public lands before expending

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funding on coordination actions and on-the-ground projects involving nearby non-BLM lands under Wyden Amendment authorities (16 U.S.C. 1011).

9. While AML environmental and safety cleanups focus on public health and safety, and solutions to water-quality contamination problems, BLM will seek practical opportunities to:
  - a) Restore or enhance habitats of threatened, endangered, and sensitive species in accordance with the Endangered Species Act.
  - b) Protect significant historic mining-era features in accordance with the National Historic Preservation Act and Bureau Manual guidance and direction.
10. Reclamation standards for AML projects should comply with state standards applicable to the specific watershed, water body, or site. Applicable and Relevant and appropriate Requirements (ARARs) are to be identified on a site-by-site basis for all on-site response actions where CERCLA authority is the basis for the remediation. The same requirements will generally guide reclamation projects following a NEPA process.
11. Monitoring and maintenance plans will be developed to ensure that corrective actions remain effective and reduce any threats to public health, safety, and property. Monitoring efforts are to be coordinated and integrated with BLM resource and safety programs. Monitoring and studying site conditions assures that corrective actions remain compliant with water quality and safety standards and that lessons learned benefit subsequent risk- and pollution- reducing efforts. For closed/remediated sites where hazardous substances will remain at the site, BLM will review the performance of the remedy no less than every 5 years to ensure that the remedy remains protective of human health and welfare and the environment.

#### **E. Education and Training**

1. The AML program staff receives and maintains proper and appropriate training to promote employee and public safety and use of technically sound corrective actions.
2. BLM supports public education and awareness programs geared toward public safety around abandoned mines (e.g., *Stay Out – Stay Alive!*).

#### **.07 Files and Records Maintenance**

These records are unscheduled and must be maintained indefinitely. When the records are scheduled a schedule will be published.

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**Glossary of Terms**

-A-

**Abandoned Mine:** An abandoned hard rock mine on or affecting public lands administered by BLM, at which exploration, development, mining, reclamation, maintenance, and inspection of facilities and equipment, and other operations ceased as of January 1, 1981 (the effective date of BLM's Surface Management regulations codified at 43 CFR 3809) with no evidence demonstrating that the miner intends to resume mining. For many abandoned mines, no current claimant of record or viable potentially responsible party exists. Abandoned mines generally include a range of mining impacts, or features that may pose a threat to water quality, public safety, and/or the environment.

**Abandoned Mine Lands (AML) Program:** BLM program which focuses on reclaiming hard rock abandoned mine lands on or affecting public lands administered by BLM. The primary goal of the program is to remediate and reduce actual or potential threats that pose physical safety hazards and environmental degradation. BLM applies risk-based criteria and uses the watershed approach to establish project priorities. The program also works to return mine-impacted lands to productive use(s).

**Applicable and Relevant and Appropriate Requirements (ARARs):** ARARs are state, local, and federal standards that are directly applicable or may be considered relevant and appropriate to the circumstances on the site. ARARs include cleanup standards, standards of control, and other environmental protection requirements, criteria, or limitations. These standards are an inherent part of the scoping process, but will affect the long-term remediation, especially in the setting of cleanup standards as well as meeting other land use regulations.

-E-

**Environmental and Disposal Liability (EDL):** An anticipated future outflow or other sacrifice of resources (e.g., costs) associated with cleanup due to past or current operations that have environmental closure requirements or a release of hazardous substances, pollutants, and contaminants on Department lands or facilities.

-G-

**Government Performance and Results Act (GPRA):** The GPRA (Pub. L. 103-62, Aug. 3, 1993, 107 Stat. 285) holds federal agencies accountable for using resources wisely and achieving program results. GPRA requires agencies to develop plans for what they intend to accomplish, measure how well they are doing, make appropriate decisions based on the information they

have gathered, and communicate information about their performance to Congress and to the public.

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**Hard rock:** This term is used here strictly in the context of the AML program and has traditionally been used by BLM and other agencies to apply to non-coal mining environments where environmental hazards such as acid-mine drainage, heavy metal contamination, and threats to water quality and the environment are of concern. Hard rock minerals in this context, generally includes, but are not limited to gold, silver, copper, lead, zinc, magnesium, nickel, molybdenum, tungsten, uranium, and selected other minerals where priority AML problems may occur. Non-hard rock minerals include coal (which is addressed by the Office of Surface Mining and state coal reclamation programs); many common-variety mineral materials such as sand and gravel, stone, and cinders.

-M-

**Mine:** An underground opening or open pit used for the purpose of extracting minerals. Mines commonly include features such as shafts, adits, pits, trenches, tunnels, waste rock dumps, tailings, and structures including, but not limited to, mills, buildings, head frames, hoists, and loading chutes.

-P-

**Potentially Responsible Party (PRP):** Any individual or entity including owners, operators, transporters, arrangers, or generators who may be liable for cleanup costs for hazardous substances under CERCLA Section 107(a) or for injuries to natural resources on public lands from hazardous substance releases under section 311(f) of the Clean Water Act and CERCLA section 107(f).

**Project:** The investigation, cleanup of safety hazards, stabilization, or reclamation of an abandoned mine land site or sites. A project may include one or more individual abandoned mines. The project area may be based on geologic, geographic, hydrologic, watershed, ownership, or other legal boundaries, or based on practical or logistical convenience, and is often contiguous. The site may include one or more discrete features.

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**Site:** The area identified as being impacted by physical safety and/or environmental hazards. This can include any area where hazardous substances have been released or have migrated. The area size is influenced by the extent of the investigation, migration, evaluation, and past, current, and future cleanup activities.

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**Watershed:** This term when used generically, is the land area that drains water to a particular stream, river, or lake. It is a land feature that can be identified by tracing a line along the highest elevations between two areas on a map, often a ridge.

**Watershed Approach:** Refers to the methodology of working within the geographic boundaries of a watershed with partners (federal, state, private, and tribes) to jointly resolve problems that affect the physical, chemical, and biological quality of that watershed. A scientific approach is used to prioritize sites, develop cleanup action plans, and evaluate effectiveness of actions in the watershed. Partnering agencies and organizations share and exchange information, collaborate on project management, and reduce costs through fund leveraging and avoiding duplication of efforts and conflicting actions.