

CHAPTER 2-260 RECORDS RETENTION AND ACCESS

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2-260-00 What does this chapter do?

This chapter requires you, the recipient of any assistance agreement from the Office of Surface Mining Reclamation and Enforcement (OSM), to retain records related to the assistance agreement. It also requires you to allow us to access your records.

2-260-05 Where do these requirements come from?

These requirements are established by the *Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments*, known as the *Grants Common Rule*, at 43 CFR 12, Subpart C.

2-260-10 What records are subject to these requirements?

- A. These requirements apply to all financial and programmatic records, supporting documents, statistical records and other records, in hard copy or electronic formats, pertaining to your assistance agreement.
- B. You may substitute electronic, microfilmed, photocopied, scanned or other copied records for the original records.

2-260-20 How long must you keep these records?

- A. You must keep these records for three years starting on the day you send us your final expenditure report to close the assistance agreement, except as noted below.
- B. If any litigation, claim, negotiation, audit or other action involving the records is started before the end of the three-year period, you must retain the records until this action is completed and all issues arising from it are resolved, or until the end of the regular three-year period, whichever is later.
- C. The three-year retention period for records relating to real property and equipment acquired through an assistance agreement starts from the date of the disposition, replacement or transfer of the property.
- D. You must require contractors, subcontractors, and subrecipients to retain pertinent records for three years after you make your final payment to them, and all other pending matters are closed.

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- E. For an Abandoned Mine Land (AML) grant, the three year retention period starts on the date of the final expenditure report for the whole grant regardless of the closeout date for individual subaccounts. Normally, we close a one-year subaccount such as administrative costs after the first year of the three-year grant. However, you cannot dispose of the records of such subaccounts earlier than the rest of the records for that grant. You must keep records of all of the subaccounts in your grant for the full three year record retention period of the grant.

2-260-30 Can the Federal government access your records?

Yes. OSM and the Comptroller General of the United States, or any of its authorized representatives, have the right to access any books, documents, papers or other records kept by you and your subrecipients which are pertinent to our assistance agreement. We may audit or examine records, or make excerpts or transcripts. Our right of access is not limited to the three-year retention period, but will last as long as you keep the records.

2-260-40 Does the Freedom of Information Act apply to your records?

The Freedom of Information Act (5 U.S.C. 552) does not apply to your assistance agreement records. It also does not apply to records maintained by your subrecipients. You are not required to permit public access to your records by the Freedom of Information Act. However, other Federal, state or local laws may require you to provide some type of public access to your records.