

CHAPTER 5-100 REGULATORY PROGRAMS OVERVIEW

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5-100-00 What is the purpose of this chapter?

This chapter provides a general overview of financial assistance programs in our coal regulatory program. The instructions in this chapter apply to all regulatory assistance programs and agreements awarded to you, a State or Tribe with active coal mining, by us, the Office of Surface Mining Reclamation and Enforcement (OSM).

5-100-10 Where does this information come from?

Title V of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), P.L. 95-87, authorizes us to fund State, Tribal and Federal programs to control the environmental impacts of surface coal mining. It authorizes States and Tribes to develop and assume regulatory primacy, act as the regulatory authority and operate their coal regulatory program. Our regulations at 30 CFR Chapter VII implement SMCRA.

5-100-20 What are OSM's regulatory financial assistance programs?

We provide financial assistance under the following programs to States and Tribes to implement the coal regulatory provisions of Title V.

- A. Interim grants to fund the initial regulatory program.
- B. Program development grants to assist States and Tribes to develop a permanent program.
- C. Administration and Enforcement (A&E) grants to States and Tribes to operate an approved permanent regulatory program. See chapter [5-110](#) for more information.
- D. Federal lands cooperative agreements to States which elect to administer their approved regulatory program on Federal lands. See chapter [5-120](#) for more information.
- E. Small Operator Assistance Program (SOAP) operational grants to States to assist small coal mine operators to meet their permit requirements. See chapter [5-130](#) for more information.

5-100-30 What budget estimates of your regulatory funding needs must you send us?

- A. Eighteen months before the beginning of each Federal Fiscal Year (FY), you must send us your estimated program budget with the regulatory funding you will request for that FY. You must

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break out the program budget by the categories listed below. We will review your estimates and use this information in preparing our Federal budget request.

1. Show functional categories: permitting, inspection and enforcement, SOAP administration, lands unsuitable and other administrative costs.
 2. Show object class categories: personnel and fringe benefits, travel, equipment, supplies, contractual, other and indirect costs.
 3. If applicable, show the estimated costs of Federal lands and SOAP operations.
- B. Three months before the beginning of the FY, you must send us an updated estimate of your regulatory funding needs, using the same format as the 18-month estimates.

5-100-40 How will we distribute annual regulatory grant funding?

- A. If we have enough regulatory funds available, we will distribute to each State and Tribe the amount you requested or the amount our awarding office recommended. The distribution process designates funds for a particular State or Tribe, but does not actually award or provide any funds.
- B. If we do not have enough funds available to fund the total regulatory needs of all States and Tribes, we will distribute the available funds between the States and Tribes as equitably as possible.
- C. When we distribute a specific amount of funds to you, it does not commit us to award you a grant for that amount. You must still apply for your grant, and we will approve or disapprove it based on your application and program. See Chapter [5-200](#) for more information on your application and Chapter [5-210](#) on our review and award processing.
- D. When Congress appropriates regulatory grant funds, they specify whether we may obligate the funds during a period of one fiscal year or two fiscal years. In either event, we normally award regulatory grants for a twelve month period using the current fiscal year's annual appropriation.

5-100-50 Can you use regulatory funds to cover certain bond forfeiture costs?

This section explains which reclamation activities associated with bond forfeiture sites are allowable costs under the regulatory program grant. You must fund activities which are not allowable under the grant with the proceeds of the forfeited bond or other State resources.

- A. Sites forfeited under the Permanent Program.
 1. You may fund administrative costs not directly associated with site-specific reclamation from your regulatory grant if the costs are part of the forfeiture process or if the activities would have been performed had there been no forfeiture. Allowable costs may include site inventories, site priority ranking activities, forfeiture processing, site inspections, and

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contract monitoring to the extent that it does not exceed the level of effort that would have been expended had there been no forfeiture.

2. You cannot use grant funds for costs associated with site-specific activities directly related to completion of the reclamation plan. Unallowable costs include redesign of a reclamation plan after forfeiture and the reclamation work itself. You must fund these costs from the proceeds of forfeited bonds or with other State resources.

B. Sites forfeited under the Initial Program

1. SMCRA's Initial Regulatory Program did not require reclamation bonds. However, section 505(b) of SMCRA did not prevent a State from imposing bonding requirements for initial program sites as a more stringent environmental control. Therefore, administrative costs related to bond forfeiture on initial program sites may be an allowable program cost if an approved regulatory program contains bonding provisions.
2. Administrative costs associated with "bid preparation" are considered to be allowable program costs, to the extent that they do not include the costs of designing or redesigning the approved reclamation plan.
 - a. Eligible costs include those related to bid specification preparation, such as planimeter work and office calculations needed to determine areas and volumes. Reclamation costs are allowable to the extent that they would normally be incurred regardless of the quality of the original reclamation plan. Such costs include site visits and limited surveys to obtain data necessary for the preparation of bid specifications, including those conducted to determine drainage control needs, backfilling and grading volumes or the size of areas in need of seeding or soil amendments.
 - b. Ineligible costs include those related to the preparation of new maps, plans or drawings and those related to site surveys conducted for the purpose of horizontal or vertical control, acquisition of photogrammetric data or preparation of a new reclamation plan or design. The costs of the reclamation work itself are also ineligible.