

## CHAPTER 4-110 ANNUAL DISTRIBUTION OF TITLE IV GRANT FUNDS

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### **4-110-00 What does this chapter do?**

This chapter explains our process for distributing Title IV grant funds. The annual distribution process identifies the total Abandoned Mine Land (AML) funding available for this fiscal year, which types of AML funds are included, and how much is available to each eligible State and Tribe. After this process is completed, the funds identified for your State or Tribe are available for us, the Office of Surface Mining Reclamation and Enforcement (OSM), to award to you in a grant.

### **4-110-10 Where do these requirements come from?**

Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Public Law 95-87, authorizes multiple types of AML funds. It establishes how they are distributed or appropriated, and how we must make them available to you, the States and Tribes with approved reclamation programs.

### **4-110-20 What is a mandatory distribution?**

The mandatory annual distribution authorized by SMCRA is the source of most of your AML funding. These funds do not have to be appropriated each year by Congress. The funds are “off budget”, not included in our annual funding request or the appropriations laws which provide most Federal funds.

### **4-110-30 What types of Title IV funding are included in the annual AML mandatory distribution?**

SMCRA authorizes a mandatory annual distribution for the following types of Title IV funds. You must have an approved reclamation program to receive any of these funds.

- A. State or Tribal share.
1. It is authorized in section 402(g)(1) of SMCRA. It comes from the AML Fund. We abbreviate it in our accounting system as SS.
  2. We distribute it to uncertified States and Tribes only.

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3. Each year we will distribute 50% of the reclamation fee collections for coal produced in the previous fiscal year (FY) in your State, or on Indian lands within your Tribe's jurisdiction.
  4. We will phase in State share at 50% of the total otherwise required for FY 2008 and 2009, 75% for FY 2010 and 2011, and fully fund it in FY 2012 through 2022.
- B. Historic coal funds.
1. They are authorized in section 402(g)(5) of SMCRA. They come from the AML Fund, and we abbreviate them as HC.
  2. We distribute them to uncertified States and Tribes. You are eligible for historic coal if you have an inventory of unfunded Priority 1 and 2 coal problems greater than your State or Tribal share funding.
  3. Total annual historic coal funding is 30% of total national reclamation fee collections for coal produced in the previous FY. It also includes 60% of any other revenues to the AML fund except interest from investment activities. It also includes money we transfer from State or Tribal share after we distribute to certified States and Tribes the equivalent amounts for Treasury prior balance replacement funds or certified in lieu funds.
  4. We divide total historic coal between the eligible States by formula based on historic coal mining production in each State before the passage of SMCRA.
  5. We will phase in historic coal at 50% of the total otherwise required for FY 2008 and 2009, 75% for FY 2010 and 2011, and fully fund it for FY 2012 through 2022.
- C. Minimum program make-up funds.
1. They are authorized in section 402(g)(8). They come from the AML Fund. Minimum program make-up funding is the only mandatory distribution from the Secretary's 20% share of total reclamation fee collections. We abbreviate it as FE.
  2. SMCRA sets a minimum funding level of \$3,000,000 for each uncertified State or Tribal program. You are eligible for minimum program funds if you have an inventory of unfunded Priority 1 and 2 coal problems greater than the total funding your State or Tribe would otherwise receive.
  3. If an eligible State or Tribe would otherwise receive less than \$3,000,000, we distribute enough minimum program make up funds to increase your total funding from all shares to \$3,000,000.

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4. We will phase in minimum program make-up funds at 50% of the total otherwise required for FY 2008 and 2009, 75% for FY 2010 and 2011, and fully fund it for FY 2012 through 2022.
- D. Prior balance replacement funds.
1. They are authorized in section 411(h)(1) of SMCRA. They come from Treasury funds. Our accounting system abbreviates prior balance replacement funds for uncertified States as HU, and for certified States and Tribes as HS.
  2. We distribute them to all States and Tribes which had an unappropriated balance of State or Tribal share funds in the AML Fund as of October 1, 2007. Both uncertified and certified States and Tribes may receive them.
  3. Each State or Tribe will receive total payments of prior balance replacement funds equal to its unappropriated prior balance. We divide the total into seven equal annual payments We distributed the first payment in FY 2008.
  4. When we distribute prior balance replacement funds, we transfer the equivalent amounts in the AML Fund from State or Tribal share to historic coal funds. We will distribute these funds to eligible States and Tribes in FY 2023, and subsequent years.
  5. We will not phase in these payments.
- E. Certified in lieu funds.
1. They are authorized in section 411(h)(2) of SMCRA. They come from Treasury funds. We abbreviate them as H2.
  2. We distribute them to certified States and Tribes only.
  3. We distribute an amount equal to 50% of reclamation fee collections on coal produced in the previous FY in your State, or on lands under your Tribe's jurisdiction. We distribute these funds in lieu of the AML Fund moneys for State, and Tribal share that certified States and Tribes are no longer eligible to receive.
  4. When we distribute certified in lieu funds, we transfer the equivalent amounts in the AML Fund to historic coal and distribute them each year as part of the historic coal distribution.
  5. We will phase in certified in lieu funds at 25% of the total otherwise required in FY 2009, 50% in FY 2010, 75% in FY 2011, and fully fund them in FY 2012 through 2022. We will distribute the amounts we held back during the phase-in as two equal payments in FY 2018 and 2019.

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### **4-110-40 What are our offices responsible for in the mandatory distribution process?**

- A. The Director approves the distribution of Title IV funds.
- B. The Division of Reclamation Support (DRS) issues distribution instructions, reviews the final distribution calculation for correct application of policy and procedures, and recommends approval of the distribution. DRS also has the lead role in answering policy questions regarding AML distribution.
- C. The Division of Financial Management (DFM) determines the amount of Title IV funds to be distributed to each State and Tribe in accordance with this chapter. DFM provides an electronic version of the annual distribution to be posted on the OSM web site. DFM and the Office of Planning, Analysis and Budget (OPAB) coordinate to ensure that the allotments are properly recorded in the financial system. DFM has the lead role in answering questions regarding financial figures used in the distribution.
- D. OPAB works with the DFM to request a warrant from Treasury for the approved amount of Treasury funds to be distributed. OPAB allots all distributed funds to the regions.
- E. The regional directors (RDs) and the regional and field offices provide technical assistance and training to the States and Tribes to explain the annual distribution process and calculations. They review the proposed distribution to verify that their States and Tribes are properly handled. They answer questions about how the distribution affects each program, and the options available to the State or Tribe to use the distributed funds.

### **4-110-50 How do we process the annual AML mandatory distribution?**

- A. DRS will define the distribution parameters based on SMCRA and OSM regulations and directives. Before the reclamation fee collection cut-off date each FY, DRS will send DFM a memorandum with detailed procedures for calculating this FY's mandatory distribution.
- B. DRS will also send DFM an AMLIS report showing the total cost of the unfunded Priority 1 and 2 coal problem areas remaining in each State's or Tribe's inventory. The report will be used to determine eligibility for historic coal and minimum program make-up funds.
- C. DFM will determine the amount of reclamation fee collections for coal produced in the previous FY for each State and Tribe. In order to expedite the distribution, DFM will cut off collections for each FY on November 30 or as close as administratively feasible. Collections for each FY will be net of any adjustments made to prior year collections.
- D. Within seven days of the collections cut-off date, DFM will send their proposed distribution to DRS. DFM will prepare a distribution package showing distribution amounts, calculations, and supporting data.

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- E. DRS will review the calculations to assure correct application of policies and parameters. DRS will also send the proposed distribution to the RDs for their review. DRS will work with DFM to resolve any concerns. Within seven days of receipt of the distribution package from DFM, DRS will prepare a memorandum outlining its acceptance of distribution calculations and requesting the Director's approval.
- F. The OSM Director will approve the AML grant distribution.
- G. OPAB will request a warrant from the Department of the Treasury for the approved amount.
- H. DRS will send the approved distribution package to OPAB and DFM. OPAB and DFM will coordinate implementation of the distribution in the budget and financial systems. The distribution will also be provided to RDs for use in their offices and by States and Tribes. DFM will provide an electronic version of the approved distribution package for posting on the OSM web site.

### **4-110-60 How will we distribute appropriated Title IV Funds to you?**

Congress may appropriate additional Title IV grant funds for State and Tribal reclamation programs each year. We will distribute these funds to you as soon as practicable after we receive the appropriation. DRS will develop distributions based on the requirements of the appropriations law. The Director will approve the distributions. DRS will provide the distribution to OPAB and DFM and the RDs. OPAB and DFM will coordinate implementation of the distribution in the budget and financial systems, and will provide the distribution to the public.

State emergency program grant funding must be appropriated. We will distribute funding based on your requests. DRS will ask the RDs to obtain estimates from you for your emergency program needs in the upcoming fiscal year. Emergency grant estimates should not include amounts for contingencies or extremely large one-time events. State emergency program requests will be reviewed by the ROs. The ROs will send State estimates and regional recommendations to DRS.