

CHAPTER 5-220

AMENDMENTS AND POST-AWARD CHANGES FOR A REGULATORY GRANT

- [5-220-00 What does this chapter do?](#)
- [5-220-10 Where do these requirements come from?](#)
- [5-220-20 When can you request changes to your grant?](#)
- [5-220-30 What changes require a grant amendment?](#)
- [5-220-40 What is the process for a grant amendment?](#)
- [5-220-50 What changes can be made by a letter approval?](#)
- [5-220-60 What changes do not require our prior approval?](#)

5-220-00 What does this chapter do?

This chapter explains the requirements to consider when you need to make programmatic or budget changes to your regulatory assistance agreement. It describes which changes require our approval, how you should request approval, and how we will process your request. This information applies to all regulatory program grants and cooperative agreements awarded by us, the Office of Surface Mining Reclamation and Enforcement (OSM).

5-220-10 Where do these requirements come from?

The requirements for prior approvals for changes to assistance agreements are established in the *Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments*, known as the *Grants Common Rule*, found at 43 CFR 12, subpart C.

5-220-20 When can you request changes to your grant?

- A. If your change requires our written approval, you must request the change and receive our approval before you make the actual change or obligate any funds. If you incur costs before we approve the change, you take the risk that the cost may be unallowable.
- B. We will not approve a request for a change, including time extensions or additional funding, which we receive after the scheduled expiration date of the assistance agreement. The only exception is if there are unforeseen circumstances not under your direct control. You must justify the extenuating circumstances to the satisfaction of our authorized awarding official.
- C. You should send us a request to extend the performance period at least 30 days before the date it is scheduled to end. We will approve only one extension of the normal performance period for not more than one year, unless you adequately justify special or unusual circumstances to the authorized OSM official.

5-220-30 What changes require a grant amendment?

The following changes require a formal amendment to the approved agreement.

AMENDMENTS AND POST-AWARD CHANGES FOR A REGULATORY GRANT

- A. Extending or shortening the performance period
- B. Adding more funds
- C. Deobligating unneeded funds before the end of the performance period.
- D. If the agreement has both construction and non-construction activities, transferring any funds between construction and non-construction.

5-220-40 What is the process for a grant amendment?

- A. An amendment may be initiated by either you or us. However, both parties must be in agreement with the amendment terms.
- B. You may enter amendment applications in an approved electronic grant system or portal. Alternatively, you may send us your application by e-mail or on paper. The amendment application must include the following items.
 - 1. Signed or approved form [SF 424](#), indicating in item 8 the type of change you are requesting.
 - 2. A program narrative explaining and justifying the requested change. You may use the optional [OSM 51](#) form, include the explanation in your transmittal letter, or use another format of your choice.
 - 3. If you are requesting a budget change, provide revised budget information. You may use the optional [OSM 47](#) form or another format of your choice.
- C. We will process amendments in the same way as new agreements ([see Chapter 5-210](#)). We will approve or disapprove your application within 30 days of receiving it. We will notify the Office of Communications for Congressional and public announcement only when the amendment will increase funding by more than \$100,000.
- D. The amendment takes effect when approved by the authorized OSM official, and applies to the entire agreement period unless otherwise Stated.

5-220-50 What changes can be made by a letter approval?

- A. Some changes to the approved agreement require OSM prior approval, but do not require a formal amendment. The following changes are considered revisions to an approved agreement and must be requested and approved in writing.

AMENDMENTS AND POST-AWARD CHANGES FOR A REGULATORY GRANT

1. A change in the scope of the program requires our formal written approval even if there is no other change in the agreement or budget. A scope change is any change in the objectives of the program or the work to be performed that is outside the plans approved in the original grant, and that has the potential to affect the success of the program. For example, contracting out permitting or inspection and enforcement functions would be a scope change.
 2. If OSM's funding is over \$100,000, you must request our approval before or when you transfer a cumulative total of more than 10% of the total budget between direct cost categories
 2. Office of Management and Budget (OMB) Cost Principles (at 2 CFR 225) say that some cost items are allowable only if we approve them in advance. Equipment is one of these cost items. If you need to incur such costs and we did not approve them when we approved your original application, you must request our approval by letter.
- B. To request a letter approval, you must send a letter or e-mail to our awarding office requesting the change as soon as you determine you need it. Your request must explain and justify the requested change. If the budget will change, your request must identify the changes.
- C. Our awarding office will notify you in writing whether or not we approve your request. We will send the decision letter no later than 15 days after we receive your request. If the request is still under consideration at the end of 15 days, the awarding office must inform you in writing when a decision on the request may be expected and the reasons for the delay.

5-220-60 What changes do not require our prior approval?

- A. The *Grants Common Rule* describes the changes which require prior agency approval. OSM may not require prior approvals for any other change.
- B. Programmatic changes other than major scope changes, such as reorganizations, changes in office locations, or new administrative or accounting systems do not require a formal amendment. However, you should advise us of these changes.
- C. Budget transfers that are less than 10% of the total grant amount, or for grants with less than \$100,000 in OSM funds, do not require our approval. Also, if you have previously transferred 10% of costs with our approval, you may transfer up to an additional 10% of the budget without another OSM approval. However, you should document such transfers by including revised budget information with your next performance and financial reports.